

**THE INDIAN FOREST (HIMACHAL PRADESH SECOND  
AMENDMENT) ACT, 1991**

**ARRANGEMENT OF SECTIONS**

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AMENDMENT) ACT, 1991**

**(ACT NO. 15 OF 1991)<sup>1</sup>**

(Received the assent of the President on the 9<sup>th</sup> July, 1991 and was published both in Hindi and English in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 24<sup>th</sup> July, 1991, pp. 1647-1657.)

**An Act further to amend the Indian Forest Act, 1927 (Central Act No. 16 of 1927) in its application to the State of Himachal Pradesh.**

**BE** it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-second Year of the Republic of India as follows:-

**1. Short title.-** This Act may be called the Indian Forest (Himachal Pradesh Second Amendment) Act, 1991.

**2. Amendment of section 2.-** In section 2 of the Indian Forest Act, 1927 (16 of 1927) (hereinafter called the principal Act)-

(a) in clause (6), the word "and" occurring at the end shall be omitted;

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1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see the Rajpatra, Himachal Pradesh (Extra-ordinary), dated 14<sup>th</sup> March, 1991, pp. 322 and 327.

(b) in clause (7), for the sign ".", the sign and word "and" shall be substituted; and

(c) after clause (7) so amended, the following clause (8) shall be added, namely:-

"(8) "Vehicle" means a wheeled conveyance of any description which is capable of being used for movement on land and includes a cart, trolley vehicle and a trailer but does not include bicycle and cattle."

**3. Amendment of sections 26, 33 and 42.-** In sections 26, 33 and 42 of the principal Act, for the words "six months" and "five hundred", the words "two years" and "five thousand" shall be substituted respectively.

**4. Amendment of section 52.-** For sub-section (2) of section 52 of the principal Act, the following sub-sections (2) and (3) shall be substituted, namely :-

"(2) Any Forest Officer or Police Officer may, if he has reasons to believe that a vehicle has been or is being used for the transport of timber (excluding fuelwood) resin, khair wood and katha in respect of which a forest offence has been or is being committed, require the driver or other person-in-charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in the possession of such driver or other person-in-charge of the vehicle.

(3) Every Officer seizing any property under this section shall place on such property a mark indicating that the same has been seized, and shall, as soon as may be, make a report of such seizure-

- (a) where the offence, on account of which the seizure has been made, is in respect of timber (excluding fuel wood), resin, khair wood and katha which is the property of the State Government, to the concerned authorised officer under sub-section (1) of section 52-A; and
- (b) in other cases, to the magistrate having jurisdiction to try the offence on account of which the seizure is made."

**5. Insertion of sections 52-A and 52-B.-** After section 52 of the principal Act, the following sections 52-A and 52-B shall be inserted, namely:-

**"52-A. Confiscation by Forest Officers in certain cases.-** (1) Notwithstanding anything contained in this Chapter, where a forest offence is believed to have been committed in respect of timber (excluding fuelwood), resin, khair wood and katha, which is the property of the State Government, the Officer seizing the property

under sub-section (1) of section 52 shall without any unreasonable delay produce it, together with all tools, ropes, chains, boats or vehicles used in committing such offence before an officer, authorised by the State Government in this behalf by notification published in the Official Gazette, not below the rank of an Assistant Conservator of Forests (hereinafter referred to as the authorised officer).

(2) Where an authorised officer seizes under sub-section (1) of section 52 any timber (excluding fuelwood), resin, khair wood and katha, which is the property of the State Government, or where any such property is produced before an authorised officer under sub-section (1), once he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of the property so seized together with all tools, ropes, chains, boats or vehicles used in committing such offence.

(3) (a) Where the authorised officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order confiscated property or any part thereof to be sold by public auction.

(b) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses relating thereto, shall where the order of confiscation made under section 52-A is set aside or annulled by an order under section 59 or section 59-A, be paid to the owner thereof or the person from whom it was seized as may be specified in such order.

**52-B. Issue of show cause notice before confiscation under section 52-A.**-(I) No order confiscating any timber (excluding fuel wood), resin, khair wood and katha, ropes, chains, boats or vehicles shall be made under section 52-A except after notice in writing to the person from whom it is seized and considering his objections, if any :

Provided that no order confiscating a motor vehicle shall be made except, after giving notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so, and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any tool, rope, chain, boat or vehicle shall be made under section 52-A if the owner of the tool, rope, chain, boat or vehicle proves to the satisfaction of the authorised officer that it was used in carrying the timber (excluding fuelwood), resin, khair wood and katha without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the tool, rope, chain, boat or vehicle and that each of them had taken all reasonable and necessary precaution against such use."

**6. Amendment of section 53.-**At the end of section 53 of the principal Act but before the sign ".", the words, brackets, figures, sign and alphabet "or before the authorised officer under sub-section (1) of section 52-A" shall be inserted.

**7. Amendment of section 58.-** After the words "The Magistrate" occurring in the beginning of section 58 of the principal Act, the words, brackets, figures and alphabet "or subject to such rules as may be prescribed, the authorised officer under sub-section (1) of section 52-A" shall be inserted.

**8. Amendment of section 59.-** In section 59 of the principal Act-

(a) in the heading after the words "orders under section" but before the figure "55", the figure, alphabet and sign "52-A," shall be inserted ;

(b) the existing section shall be re-numbered as sub-section (1) ; and

(c) after sub-section (1) so renumbered, the following sub-section (2) and sub-section (3) shall be added, namely:-

"(2) Any person aggrieved by any order passed under section 52-A or section 59-A may, within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the authorised officer or the officer specially empowered under section 59-A, as the case may be, to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(3) The order of the Sessions Judge under sub-section (2) shall be final and shall not be questioned in any court of law."

**9. Insertion of sections 59-A and 59-B.-** After section 59 of the principal Act, the following sections 59-A and 59-B shall be inserted, namely:-

**"59-A. Revision.-** Any forest officer not below the rank of Conservator of Forests, specially empowered by the State Government in this behalf by notification published in the Official Gazette, may, before the expiry of thirty days from the date of order of the authorised officer under section 52-A, *suo-moto* call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such orders as he deems fit:

Provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

**59-B. Bar of jurisdiction in certain cases.-** Whenever any timber (excluding fuelwood), resin, khair wood and katha together with any tool, rope, chain, boat or vehicle used in committing any forest offence is seized under section 52, the authorised officer under sub-section (1) of section 52-A or the officer specially empowered

under section 59-A or Sessions Judge hearing an appeal under sub-section (2) of section 59 shall have, and notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in any other law for the time being in force, any other officer, Court, Tribunal or authority shall not have, jurisdiction to make order with regard to custody, possession, delivery, disposal or distribution of such property."

**10. Substitution of section 60.-** For section 60 of the principal Act, the following shall be substituted, namely:-

"60. When an order for the confiscation of any property has been passed under section 52-A or section 55 or section 57, as the case may be, or where on revision application made under section 59-A such order for confiscation has not been set aside, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred or when, on such an appeal being preferred, the Appellate Court confirms such orders in respect of the property or a portion of such property, such property or such portion thereof, or if it has been sold under sub-section (3) of section 52-A, the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances."

**11. Amendment of section 61.-** After the figure "52" but before the sign "." occurring at the end of section 61 of the principal Act, the signs and words, "which is not the property of the Government, and the withdrawal of any charge made in respect of such property" shall be inserted.

**12. Amendment of section 67.-** For the words, brackets and figures "the Code of Criminal Procedure, 1898 (5 of 1898)" occurring in section 67 of the principal Act, the words, brackets and figures "the Code of Criminal Procedure, 1973 (2 of 1974)" may be substituted.

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