

Arunachal Pradesh Forest Act, 2014

[07 May 2014]

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Arunachal Pradesh Forest Act, 2014

[07 May 2014]

An Act for the law relating to consolidation, management, sustainable use and conservation of forests in Arunachal Pradesh
Whereas it is expedient to have a law relating to consolidation, management, sustainable use and conservation of forests in Arunachal Pradesh;

Therefore it is hereby enacted as follows:

CHAPTER 1 PRELIMINARY

1. Title, extent and commencement :-

- (1) This Act may be called the Arunachal Pradesh Forest Act, 2014.
- (2) It extends to whole of the State of Arunachal Pradesh.
- (3) It shall come in to force on such date, as the State Government by notification in the official Gazette, may publish.

2. Definitions :-

In this Act and in all rules made thereunder, unless there is something repugnant in the subject or context -

- (1) "Forest Officer" means any person appointed by name as holding an office by or under the orders of the State Government to be Principal Chief Conservator of Forests, Additional Principal Chief Conservator of Forests, Chief Conservator of Forests, Conservator of Forests, Deputy Conservator of Forests, Assistant Conservator of

Forests, Forest Ranger, Deputy Ranger, Forester, Forest Guard, Forest Watcher or to discharge any function of a Forest Officer under this Act or any rules thereunder;

(2) "Tree" includes palms, stumps and brushwood ;

(3) Timber means trees when they have fallen or have been felled or all wood, whether cut out or fashioned or hollowed out for any purpose or not and include trees when cut into pieces or sizes.

(4) "Forest produce" includes -

(a) the following whether found in, or brought from, forest or not, that is to say - timber, charcoal, bamboos, canes, caoutchoue, catechu, wood - oil, resin, natural varnish, bark, lac, myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say-

(i) trees and leaves and fruits and all other parts or produce, not hereinbefore mentioned of trees,

(ii) plants not being trees, including grass, creepers, reeds and moss, and all parts or produce of such plants,

(iii) wild animals [as defined in Wildlife (Protection) Act 1972], skin, tusk, horns, bones, fishes including other aquatic animals, silk, cocoons, honey and wax and all other parts or produce of animals, and

(iv) peat, soil, rock, boulders, gravels, sand, shingles and minerals (including stone, lime stone, laterite, mineral soils and all products of mines or quarries);

(5) "Forest offence" means an offence punishable under this Act or any rule thereunder;

(6) "cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colt, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids ;

(7) "river" includes also streams, canals, creeks, and other channels natural or artificial;

(8) " land at the disposal of the Government" means land in respect of which no person has acquired -

(a) a permanent, heritable and transferable right of use / occupancy under any law for the time being in force, or

(b) any right created by grant or lease made or continued by or on behalf of the Government.

(9) "Magistrate" means a Magistrate of the first or second class, and includes a Magistrate, when he is especially empowered by the State Government to try Forest offences.

(10) "Anchal Forest Resreve" means an Anchal Forest Reserve

constituted under this Act;

(11) "Anchal Samiti" means an Anchal Samiti constituted under section 54 of the Arunachal Pradesh Panchayat Raj Act, 1997 (No.5 of 2001);

(12) "Gram Panchayat" means a Gram Panchayat constituted under section 10 of the Arunachal Pradesh Panchayat Raj Act, 1997 (No.5 of 2001);

(13) "Official Gazette" means the Arunachal Pradesh Gazette;

(14) "Prescribed" means prescribed by rules made under this Act;

(15) "State Government" means the Government of Arunachal Pradesh;

(16) "Village" means an area recognized to be a village at the commencement of this Act and includes any area which the Government may, by notification, declare to be a village;

(17) "Village Forest Reserve" means the Village Forest Reserve constituted under this Act;

(18) "Year" means the financial year from 1st April of any year to 31st March of the following year.

(19) "Revenue Station" means a Range Forest Office, an Account Beat Office or a Designated Depot.

CHAPTER 2 RESERVED FOREST

3. Power to constitute reserved forest :-

The State Government may constitute any land at the disposal of the Government a reserved forest in the manner hereinafter provided.

4. Notification by State Government of proposal to constitute a reserved forest :-

(1) Whenever it is proposed to constitute any land a reserved forest, the State Government shall publish a notification in the official gazette-

(a) specifying, as nearly as possible, the situation and limits of such land;

(b) declaring that it is proposed to constitute such land a reserved forest; and

(c) appointing an Officer (hereinafter called the Forest Settlement Officer), to enquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of any person in or over any land comprised within such limits, and any

claims relating to the practice within such limits, of jhum cultivation, and to deal with the same as provided in this chapter.

(2) The Forest Settlement Officer shall ordinarily be a person other than a Forest Officer, but a Forest Officer may be appointed by the State Government to assist the Forest Settlement Officer in the inquiry prescribed in the chapter.

5. Proclamation by Forest Settlement Officer :-

When a notification has been published under Section 4, the Forest Settlement Officer shall publish in the language of the country, at the headquarters of each district and sub-division in which any portion of the land comprised in such notification is situated, and in every town and village in the neighborhood of such land, a proclamation -

- (a) specifying, as nearly as possible, the situation and limits of the proposed forest;
- (b) setting forth the substance of the provision of the next following section;
- (c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and
- (d) fixing a period of not less than three months from the date of the publication of such proclamation and requiring every person claiming any right or making any claim referred to or mentioned in Section 4 either to present to such officer within such period a written notice specifying or to appear before him within such period and state the nature of such right or claim and in either case to produce all documents in support thereof.

6. Bar of accrual of forest rights after proclamation :-

(1) During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into, by or on behalf of, the Government or some person in whom such right or power to create such right was vested when the proclamation was published; and on such land, no new house shall be built or plantation formed, no fresh clearing for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided. No right of occupancy shall without the previous sanction of the State

Government be granted, in respect of such land, and every right of occupancy granted without such sanction shall be null and void.

(2) Nothing in this section shall be deemed to prohibit clearing forest for jhum cultivation by persons in the habit of practicing such cultivation on such land, with the permission in writing of the Forest Settlement Officer.

(3) No Civil Court shall, between the date of publication of notification under Section 4 and of the final notification to be issued under Section 17 entertain any suit to establish any right in or over any land or to the forest produce of any land included in the notification of Section 4.

7. Inquiry by Forest Settlement Officer :-

(1) The Forest Settlement Officer shall take down in writing all statements made under Section 5, and shall inquire into all claims made under the section and the existence of any right or practice mentioned in Section 4 in respect of which, no claim is made.

(2) The Forest Settlement Officer; shall at the same time, consider and record any objection which the Forest Officer, if any, appointed under Section 4 to assist him, may make to any such claim or with respect to the existence of any such right or practice.

8. Powers of Forest Settlement Officer :-

For the purposes of such inquiry, the Forest Settlement Officer may exercise-

(a) power to enter, by himself or any Officer authorized by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and

(b) the powers of a Civil Court in the trial of suits.

9. Extinction of right not claimed :-

Right in respect of which no claim has been preferred under Section 5, and of the existence of which no knowledge has been acquired by inquiry under Section 7, shall thereupon extinguish, unless before the publication of such notification, the person claiming them has satisfied the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under Section 5, in which case, the Forest Settlement Officer shall proceed to dispose of the claim as in hereafter provided.

10. Treatment of claims relating to practice of jhum

cultivation :-

(1) In the case of a claim relating to the practice of jhum cultivation, the Forest Settlement Officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the State Government, together with his opinion, as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion, the State Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest Settlement Officer may arrange, for its exercise -

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of suitable kind, and in a locality reasonably convenient for the purposes of the claimants; or

(b) by causing certain portions of the land under settlement to be separately demarcated and giving permission to the claimants to practice jhum cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the State Government.

(4) This practice of jhum cultivation shall in all cases be deemed to be a privilege subject to control, restriction and abolition by the State Government and not to be a right.

11. Power to acquire land over which right is claimed :-

(1) In the case of claim to a right in or over any land other than the following right, namely,-

(a) a right-of way

(b) a right to water-course or to use of water

(c) a right of pasture or to forest produce the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(2) If such claim is admitted wholly or in part, the Forest Settlement Officer may -

(x) come to an agreement with the claimant for the surrender of the right; or

(y) exclude the land from the limits of the proposed forest; or

(z) proceed to acquire such land in the manner provided by the

Land Acquisition Act, 1894.

(3) For the purpose of so acquiring such land -

(i) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894;

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of notice given under Section 9 of that Act ;

(iii) the provisions of preceding sections of that Act shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, or the Court (as defined in the said Act) may award compensation in land, or in money, or partly in land and partly in money.

12. Order on claim to right-of way, water-course or pasture, or to forest produce :-

(1) In the case of claim to right of kind specified in Clause (a), (b) or (c) of Section 11, sub-section (1), the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(2) When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or building, the Forest Settlement Officer shall record the designation, position, and area of such land or the designation and position of such building.

(3) Where the right is a right to forest-produce, the Forest Settlement Officer shall record whether the Forest produce obtained by the exercise of such right may be leased, sold or bartered, and such other particulars as may be necessary in order to define the existence, nature, and extent of the right.

(4) When the claim is for right of way, the Forest Settlement Officer shall specify the names, by whom such right may be enjoyed, the width of the way, and whether for vehicular traffic or for men and cattle, and the conditions, if any, attached to the right.

(5) When the claim is for right to pasture, the Forest Settlement Officer shall specify the number and description of cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasturage is permitted, and any conditions attached to the right.

(6) When the claim is for right to water course or to use of water, the Forest Settlement Officer shall specify by whom and for what purposes the water may be utilized, and any condition attached to

its use.

13. Exercise of rights admitted :-

(1) After making such record, the Forest Settlement Officer, shall to the best of his ability and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(2) For this purpose, the Forest Settlement Officer may -

(a) provide some other reasonably convenient right of way; or

(b) set out some other forest tract of sufficient extent and in a locality reasonably convenient, for the exercise of rights to pasturage or other forest produce, and record an order conferring such rights on the claimants to the admitted extent; or

(c) so alter the limits of the proposed reserved forest as to exclude the tract over which rights of way or water extend or to exclude forest land of sufficient extent and in a locality reasonably convenient for the purpose of the claimants with regard to pasturage or other forest produce and the land so excluded may be either outside the boundaries of the forest as finally settled or within them, in which latter case, it shall be demarcated and notified as an enclosure within which the rules relating to reserved forests shall not apply; or

(d) record an order, continuing to claimants the right of way or to pasturage or other forest produce or water (as the case may be) to the admitted extent, at such seasons within such portions of the proposed reserved forest, and under such rules, as may be prescribed to ensure the continuance but non abuse of such rights.

14. Commutation of such rights :-

Whenever any right of pasture or to forest produce admitted under Section 12 is not provided for in one of the ways prescribed in Section 13, the Forest Settlement Office shall, subject to such rules as the State Government may prescribe in the behalf, commute such right by paying a sum of money in lieu thereof, or with the consent of the claimant, by the grant of land, or in such manner as such Officer thinks fit.

15. Appeal from order passed under foregoing sections :-

Any person who has made a claim under this Chapter (or any

Forest Officer or other person generally or specially empowered by the State Government in this behalf) may within three months from the date of any order passed on such claim by the Forest Settlement Officer under Section 11, 12, 13, or 14, present an appeal from such order to such Officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner as the State Government may by notification in the official Gazette appoint by name, or as holding an office, to hear appeals from such orders.

16. Appeals under the last foregoing section :-

(1) Every appeal under the last foregoing section shall be made by a petition in writing and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the Officer competent to hear the same.

(2) Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in the matters relating to revenue, and except as hereinafter provided, the order passed on the appeal shall be final.

17. Notification declaring forest reserve :-

(1) When the following events have occurred, namely :

(a) the period fixed under Section 5 for preferring claims has elapsed and all claims, if any, made under that section or Section 9 has been disposed of by the Forest Settlement Officer; and

(b) if such claims have been made, the period fixed by Section 15 for appealing from the order passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the Appellate Officer; and

(c) all lands, if any, to be included in the proposed reserved forest which the Forest Settlement Officer has under Section 11, elected to acquire under the Land Acquisition Act, 1894, have become vested in the Government under Land Acquisition Act, 1894; the State Government shall publish a notification in the official Gazette, specifying the limits of the forest which it intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

(2) From the date so fixed, such forest shall be a Reserved Forest.

18. Publication of translation of such notification on neighborhood of forest :-

The Deputy Commissioner of the district in which the forest is situated, shall before the date fixed by such notification, cause a translation thereof in the language of the country, to be published in the manner prescribed for the proclamation under Section 5 in the revenue circle, where such forest is situated, and in every town and village in the neighbourhood of such forest.

19. Power to revise arrangement made under Section 13 or 16 :-

The State Government may within five years from the publication of any notification under Section 17 revise any arrangement made under Section 13 or 16 and may rescind or modify any order made under this Chapter and direct that any one of the proceedings specified in Section 13 be taken in lieu of other such proceeding, or that a right admitted under Section 12 be commuted in the manner mentioned in Section 14.

20. Acquisition of right over reserved forests :-

No right of any description shall be acquired in or over a reserved forest, except by succession or under a grant or contract in writing made by or with the previous sanction of the State Government or some person on whom such right or the power to create such right was vested when the notification under Section 17 was published.

21. Alienation of right in reserved forests :-

(1) Notwithstanding anything contained in Section 20, no right continued under Section 13 shall be alienated by way of grant, sale, lease, and mortgage or otherwise without the previous sanction of the State Government:

Provided that, when any such right is continued for the beneficial enjoyment of any land or building, it may be sold or otherwise alienated with such sanction.

(2) The benefit of any right continued under Section 13 shall not be leased, sold or bartered, except to the extent by the order recorded under that sanction or under Section 16, and any such lease, sale or barter shall be void.

(3) Any person selling, leasing or bartering the benefits of rights under Section 13 in contravention to sub-Section 2, shall on conviction, be punishable with fine, which may extend to Five thousand rupees.

22. Power to stop ways and water courses in reserved Forests :-

Any Forest Officer may, from time to time, with the previous sanction of the State Government or of a Forest Officer or other Officer authorized by the State Government in this behalf, stop any public or private way or water course in reserved forest:

Provided that for the way or water course so stopped, another way or water course, which in the opinion of the State Government is equally convenient, already exists or has been provided by the Forest Officer stopping the way or water-course.

23. Reserve Forests constituted before the passing of this Act :-

(1) Any forest which has been notified as reserve forest under the Assam Forest Regulation 1891 prior to the date on which this Act comes into force, shall be a reserved forest under this Act.

(2) All questions decided, orders issued and records prepared in connection with the constitution of such forests as a reserve forest shall be deemed to have been decided, issued and prepared under this Act, and the provisions of this Act relating to reserved forests shall apply to forests to which the provisions of subsection (1) are applicable.

24. Penalties for trespass or damage in reserved forests :-

Any person, who in a reserved forest -

- (a) trespasses, or pastures cattle, or permits cattle to trespass, or
- (b) causes any damage by negligence in felling any tree or cutting or dragging any timber,

Or who abets committing of any of the above prohibited acts, shall be punished with fine which may extend to Ten thousand rupees or with imprisonment which may extend to one year or with both, or when the damage resulting for his offence amounts to more than one thousands rupees, with fine which is not less than Ten thousand rupees or with imprisonment which is not less than one year but may extend to three years or with both and in addition will be liable to pay such compensation for the damage done to the forests as the convicting court may direct to pay.

25. Acts prohibited in such forest :-

Any person who -

- (a) makes any fresh clearing prohibited by Section 6; or
- (b) sets fire to reserved forest, or in contravention of any rules by the State Government kindles any fire, or leaves fire burning, in such manner as to endanger such a forest; or who in any such forest -
- (c) kindles, keeps or carries any fire except at such seasons and in such manner as Forest Officer specially empowered in this behalf may from time to time notify; or
- (d) fells, cuts, girdles, marks, lops, taps or injures by fire or otherwise any tree; or
- (e) quarries stone, burns lime or charcoal or collects, subject to any manufacturing process, or removes any forest produces; or
- (f) clears or breaks up any land for cultivation or any other purpose; or
- (g) unauthorizedly occupy land for any purpose; or
- (h) poisons or dynamites water; or
- (i) damages, alters or removes any cairn, wall, ditch, embankment, fence, hedge or railing; or
- (j) in contravention of any law or rules enters any reserve forests with fire arms or any other weapon meant for hunting hunts, shoots, fishes or set traps or snares, Or who abets committing of any of the above prohibited acts, shall be punished with imprisonment for a term which is not less than one year but may extend to three years or with fine, which may extend to Ten thousand rupees or with both, and in addition will be liable to pay such compensation for the damage done to the forests as the convicting court may direct to pay.

26. Acts excepted from Section 24 and 25 :-

Nothing in Section 24 or 25 shall be deemed to prohibit -

- (a) any practices of jhum cultivation permitted under Section 10; or
- (b) the exercise in accordance with the rules, if any made by the State Government under Section 13 of any right, continued under that Section; or
- (c) the exercise of any right created by grant or contract in the manner described in Section 21; or
- (d) any act done with the permission in writing of a Forest Officer specially empowered to grant such permission.

27. Penalty for offences committed by persons having rights in reserved forest :-

Whenever fire is caused willfully or by gross negligence in a reserved forest by any person having right in such forest or permission to practice jhum cultivation therein, or by any person in his employment or whenever any person having right in such forest contravenes the provisions of Section 21, the State Government may, notwithstanding the infliction of any punishment under this Act, direct that in such forest, or any specified portion thereof, the exercise of all or any of the right of pasture or the forest produce shall be extinguished, or for such period as it thinks fit be suspended, and with respect to practice of jhum cultivation, may take such action under Section 10, sub-Section (4), as may seem to it to be proper.

28. Power to declare forests no longer reserved :-

(1) The State Government may, by notification in the official Gazette, direct that from a date to be fixed by such notification, any forest or any portion thereof, reserved under this Act shall cease to be reserved.

Provided such de-reservation has the approval of the Central Government.

(2) From the date so fixed, such forest or portion shall cease to be reserved, but the rights, if any, which have been extinguished therein shall not revive in consequence of such cassation.

CHAPTER 3 ANCHAL FOREST RESERVE & VILLAGE FOREST RESERVE

29. Power to constitute Anchal Forest Reserve and Village Forest Reserve :-

(1) The State Government may, by notification in the official Gazette, constitute any land (other than Reserve Forests) at the disposal of the Government as an Anchal Forest Reserve or a Village Forest Reserve in the manner as provided in Chapter II of this Act.

(2) All lands, where forests can be sustainably utilized or where forest plantations can be raised, shall be constituted into Anchal Forest Reserve or a Village Forest Reserve.

30. Applicability of the provisions of the Act :-

(1) The provisions of this Act relating to Reserved Forests shall

apply to the Anchal Forest Reserve and the Village Forest Reserve.

31. Sharing of revenue :-

(1) The revenue earned from, in case of the Anchal Forest Reserve, shall be shared by the State Government and the concerned Anchal Samiti and Gram Panchayats; and, in case of Village Forest Reserve, shall be shared by the State Government and the Gram Panchayat, in the manner hereinafter provided -

(i) The State Government shall meet the ordinary non-recurring and recurring expenditure of any year out of the revenue received during the year from the management of the Anchal Forest Reserve or Village Forest Reserve. The balance left after meeting such expenditure shall hereinafter be referred to as the net revenue of the year.

(ii) The State Government shall retain every year fifty percent of the net revenue of the year. Provided that if in any year, the ordinary nonrecurring and recurring expenditure equals or exceeds the ordinary non-recurring and recurring expenditure over the revenue receipts, such excess expenditure shall be added to capital expenditure for the purpose of clause (iii).

(iii) All capital expenditure in a year shall be borne in the first instance by the State Government, which shall be entitled to recover such capital expenditure at the rate of ten percent per year till such time it is completely recovered. If there is any deficiency in any year in the recovery of capital expenditure as aforesaid, it shall be made out of the net revenue of succeeding year or years, so that total recovery of capital expenditure shall be made without default.

(iv) The State Government shall transfer to the concerned Anchal Samiti and Gram Panchayats every year, in case of Anchal Forest Reserve; and to the concerned Gram Panchayat, in case of Village Forest Reserve, 50% of the net revenue of the year less the amount the State Government is entitled to recover under clause (iii).

(v) The State Government shall arrange to disburse to the Anchal Samiti or the Gram Panchayat, as the case may be, the amount payable under clause (iv) every year.

(vi) The Anchal Samiti and the Gram Panchayat, on receipt of the amount referred to in clause (iv) shall credit it, to the Anchal Samiti Fund and Gram Panchayat Fund respectively in case of Anchal Forest Reserve, and, to the Gram Panchayat Fund in case of Village

Forest Reserve:

Provided that 50% of such amount shall be utilized for the development activities of the village concerned in such manner and by such authority, as may be prescribed under Arunachal Pradesh Panchayat Raj Act 1997.

32. Power to make Rules :-

(1) That State Government may make Rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the aforesaid power, such rules may provide for -

(a) to prescribe and limit the powers and duties of the Anchal Samiti and Gram Panchayat and the Forest Department officers, who will manage the Anchal Forest Reserve and the Village Forest Reserve;

(b) for the preservation, reproduction and disposal of trees and timber and other forest produce in the Anchal Forest Reserve and the Village Forest Reserve;

(c) regulating or prohibiting hunting, shooting, carrying firearms, fishing, poisoning of water or setting traps or snares;

(d) to provide for the ejectment of any person who has encroached upon forest reserves;

(e) for protection, advancement, treatment and management of the forest reserves by local people and to specify their rights and concessions in terms of NWFPs and pasture ; and

(f) to prescribe mode of revenue sharing in case of Anchal Forest Reserve between the State Government, Anchal Samiti and the Gram Panchayat and the proportion of share of revenue amongst the Gram Panchayats and Anchal Samiti equitably on the basis of proportion of the forest land concerning each village;

(g) any other matter, which is required to be or may be prescribed.

33. Anchal Forest Reserves and Village Forest Reserves constituted before the passing of this Act :-

(1) Any forest which has been notified as Anchal Forest Reserve or a Village Forest Reserve under the Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act 1975 (Act No. 1 of 1976), Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Amendment Act 1981 (Act No. 3 of 1981), and Arunachal Pradesh Anchal and Village Forest Reserve (Constitution and Maintenance) Amendment Act 1984 (Act No. 4 of 1984) prior

to the date on which this Act comes into force, shall be an Anchal Forest Reserve or a Village Forest Reserve under this Act.

(2) All questions decided, orders issued and records prepared in connection with the constitution of such forests as an Anchal Forest Reserve or a Village Forest reserve shall be deemed to have been decided, issued and prepared under this Act, and the provisions of this Act relating to reserved forests shall apply to forests to which the provisions of subsection (1) are applicable.

CHAPTER 4 PROTECTED FOREST

34. Protected forests :-

(1) The State Government may, by notification in the Official Gazette, declare the provisions of this Chapter applicable to any forest-land or waste-land, which is not included in a reserved forest but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled.

(2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest".

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved ; Provided that, if, in the case of any forest-land or waste land, the State Government thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the State Government may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

CHAPTER 5 GENERAL PROTECTION OF FOREST AND FOREST PRODUCE

35. Reserved trees in unsettled tracts :-

The State Government may, by notification in the official Gazette -
(a) declare that any trees or any specified class of trees standing on any land at the disposal of the Government shall, from a date to be fixed by such notification, be reserved trees;

(b) vary or cancel any such notification.

36. Protection of reserved trees :-

No person shall fell, cut, girdle, mark, lop, tap, or injure by fire or otherwise any reserved trees, except in accordance with rules made by the State Government in this behalf or as provided by the last Section of this Chapter.

37. Protection of Unclassed State Forest belonging to Government :-

(1) No person shall make use of any forest produce of any land at the disposal of the Government and not included in reserved forest, Village Forest Reserve, Anchal Forest Reserve or Protected Forest except in accordance with rules to be made by the State Government in this behalf, or as provided by the last Section of this Chapter.

(2) Such rules may, with respect to such land -

(a) regulate or prohibit, the practice of jhuming in accordance with The Balipara/Tirap/Sadiya Frontier Tract Jhum Land Regulation 1947 (Regulation III, IV and V of 1947) till such practice continues, or the issue of grants or leases on behalf of the Government;

(b) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(c) regulate or prohibit the felling, cutting, girdling, marking, lopping, tapping or injuring by fire or otherwise of any trees, the sawing, conversion and removal of timber, and the collection and removal of other forest produce;

(d) regulate or prohibit the quarrying of stone, boulders, shingles, sand, soil etc., the boiling of catechu or the burning of lime or charcoal;

(e) regulate or prohibit the cutting of grass and pasturing of cattle and regulate the payment, if any, to be made for such cutting or pasturing;

(f) prohibit the poisoning of water, and prohibit hunting, shooting and the setting of traps or snares;

(g) regulate the sale or free grant of forest produce; and

(h) prescribe, or authorize any Forest Officer to prescribe, subject to the control of the State Government, the fees, royalties or other payments for forest produce, and the manner in which such fees, royalties or other payments are to be levied, in transit, or partly in transit or otherwise.

(3) The State Government may exempt any person or class or persons or any local area, from the operation of any such rule and may cancel such exemption.

(4) The State Government may by notification in the official gazette make rules for classification of Unclassed State Forests into various categories as Reserve Forest, Protected Forest, Anchal Forest Reserve, Village Forest Reserve, Wildlife Sanctuary, National Park, Conservation Reserve, Community Reserve or otherwise as non forest land for the purpose of settlement as per Arunachal Pradesh Land Records Act, 2005.

38. Penalties :-

(1) If any person infringes the provision of Section 36, he shall be punished with imprisonment for a term which is not less than one year but may extend to three years or with fine which may extend to Ten thousand rupees, or with both and in addition will be liable to pay such compensation for the damage done to the forests as the convicting court may direct to pay.

(2) The State Government may, by a rule made under Section 37, attach to the breach of any rule under that Section, any punishment not exceeding that mentioned in sub-Section (1).

39. Nothing in this Chapter to prohibit acts done in certain cases :-

Nothing in this chapter, or in any rule under this chapter, shall be deemed to prohibit any act done in the exercise of any right or with the permission in writing of a Forest Officer specially empowered to grant such permission.

CHAPTER 4 OF THE CONTROL OVER FORESTS AND WASTE LANDS NOT BEING THE PROPERTY OF GOVERNMENT

40. Protection of forests for special purposes :-

(1) The State Government may by notification in the official Gazette, regulate or prohibit, in any forest or waste land not being the property of the Government -

(a) the breaking up or clearing of land;

(b) the pasturing of cattle; or

(c) the burning or clearing of the vegetation; or

(d) the girdling, lopping, pollarding, tapping or burning of any tree or causing any other damage to the tree; or

(e) the cutting, sawing, conversion or removal of trees and timber;
or

(f) the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process; when such regulation or prohibition appears necessary in the public interest for any of the following purposes:

(i) for protection against storms, winds, rolling stones, floods and avalanches;

(ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tract, the prevention of landslips or of the formation of ravines and torrents, deposit thereon of sand, stones or gravel;

(iii) for the maintenance of a water-supply in springs, rivers and tanks;

(iv) for the protection of public roads, public bridges, railways and other line of communication;

(v) for the preservation of the public health.

(2) The State Government may, for any such purpose referred to in sub-Section 1, construct at its own expense, in or upon any forest or waste land, such work as it thinks fit.

(3) No notification shall be made under sub-Section (1) nor shall any work be begun under sub-Section (2) until after the issue of a notice to the owner of such forest or land calling on such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an Officer not below the rank of a Deputy Commissioner duly appointed in that behalf.

(4) All objections filed under the preceding sub-Section, together with the proceeding of the Special Officer relating thereto shall be referred to the State Government for orders. On receipt of such reference, and after hearing such further cause as the objector may have to show, the State Government shall pass such orders as it thinks fit. In any case, in which, an order under sub-Section (1) or action under sub-Section (2) is, in the option of the State Government, likely to disturb substantially the owners right in the land to which such order to action relates, the State Government may award to such owner such compensation as it may deem equitable:

Provided that any compensation so paid shall be deducted from the amount payable to the owner under the provisions of the Land Acquisition Act, 1894, in the event of action being taken under the

provision of Section 42.

(5) Whoever contravenes any of the terms of a notification under sub-Section (1) above, shall, without prejudice to any other action under this Act, be punishable with imprisonment, which may extend to six months or with a fine of Five thousand rupees or with both.

(6) No order of the State Government or a Forest Officer not below the rank of a Dy. Conservator of Forests under this chapter and no notification issued by the State Government under sub-Section (1) above shall be liable to be questioned in any court of law.

41. Power to assume management of forest :-

(1) In case of neglect of, or willful disobedience to, any regulation or prohibition notified under sub-Section (1) of Section 40, or if the purposes of any work to be constructed under that Section so require, the State Government may, after notice in writing to the owner of such forest or land after considering his objection, if any, place the same under the control and management of a Forest Officer and may declare that all or any of the provision of this Act shall apply to such forest or land.

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the same owner.

42. Expropriation of forest in certain cases :-

(1) In any case under this Chapter in which the State Government considers that in lieu of placing the forest or land under the control and management of a Forest Officer, the same should be acquired for public purposes, the State Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894.

(2) The owner of any forest or land comprised in any notification under Section 40, or if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, at any time not less than three or more than twelve years for the date thereof, require that such forest or land shall be acquired for public purposes and the State Government shall acquire such forest or land accordingly.

43. Protection of forests at the request of owners :-

(1) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate

to at least two thirds thereof may, with a view, to the formation or conservation of forest thereon, represent in writing to the Deputy Commissioner their desire -

(a) that such land be managed on their behalf by the Forest Officer on such terms as may be mutually agreed upon ; or

(b) that all or any of the provisions of this Act be applied to such land.

(2) In either case, the State Government may, by notification in the official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

CHAPTER 7 DUTY ON IMPORTED FOREST PRODUCE

44. Power to impose duty on forest produce :-

(1) The State Government may levy a duty in such manner, at such places and at such rates as it may prescribe by notification in the official Gazette, on all forest produce which is brought into the territories to which this Act extends from any place beyond those territories.

CHAPTER 8 CONTROL OF FOREST PRODUCE IN TRANSIT

45. Power to make rules to regulate transit of forest produce :-

(1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all forest produce in transit by land, air or water, is vested in the State Government, and the State Government may make rules to regulate the transit of any forest produce.

(2) Such rules may, among other matters-

(a) prescribe the routes by which alone forest produce may be imported into, exported from or moved within the territories to which this Act extends;

(b) prohibit the import, export, collection or moving of forest produce without a pass from an officer duly authorized to issue the same or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production and return of such passes;

(d) fix, or authorize any Forest Officer, subject to control of the State Government to fix, the fees payable for such passes;

(e) in the case of timber formed into a raft or fastened to the

shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government;

(f) provide for the stoppage, reporting, examination and marking of forest produce in transit, in respect of which there is reason to believe that any money is payable to the Government or to which it is desirable for the purposes of this Act, to affix a mark;

(g) provide for establishment of check posts or the erection of barriers at such places as the State Government may direct, with a view to prevent or check commission of forest offences in respect of forest produce and for the stoppage, reporting and examination of goods carried by any vehicle or vehicle at such check posts or barriers;

(h) establish revenue-stations to which forest produce is to be taken by the person in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it, and prescribe, or authorize, a Forest Officer, subject to such control as aforesaid, to prescribe the condition under which forest produce is to be brought to, stored at and removed from such revenue station;

(i) provide for the management and control of such revenue station, and for regulation of the appointment and duties of persons employed thereat ;

(j) authorize the transport of timber across any land, and provide for the award and payment of compensation for any damage done by the transport of such timber;

(j) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce and the throwing of grass, brushwood branches or leaves into any such river or any other act which may cause such river to be closed or obstructed;

(k) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river and for recovering the cost of such prevention or removal from the person causing such obstruction;

(l) prohibit absolutely, or subject to conditions and rules, the establishment of saw mills, saw pits or any other sawing contrivance, veneer mills, plywood factories and any kind of forest based industries for the purpose of conversion, manufacturing, peeling, slicing, cutting, burning, processing, distilling, concealing, marking or super marking of the timber or other forest produce, the altering or effacing any of the marks on the same and possession or

carrying of marking hammers or other implements used for marking timber; and

(m) regulate (including requiring the owner or proprietor to obtain a licence or to get it renewed) the existing saw pits, starting new saw pits, saw mills or any other sawing contrivance;

(n) provide for levy of fee for grant or renewal of licence for saw mills, saw pits or other sawing contrivances;

(o) regulate the use of property-marks for timber and the registration of such marks, authorize the refusal or cancellation of the registration of any property marks, prescribe the time for which the registration of property-marks shall hold good, limit the number of such marks which may be registered by any one person and provide for the levy of fees for such registration and renewal.

(3) The State Government may direct that any rule made under this Section may not apply to any specified class of timber or other forest produce or to any specified local area.

46. Penalties for breach of rules under last foregoing Section :-

(1) The State Government may, by a rule under the last foregoing Section, attach to the breach of any rule under that Section any punishment not exceeding imprisonment for a term, which may extend to three years or fine which may extend to Ten thousand rupees or both.

(2) In cases where the offence is committed after sunset and before sunrise or after preparation for resistance to execution of any law or any legal process or where the offender has been previously convicted of a like offence, the convicting court may inflict double the penalty prescribed for such offences.

47. All persons bound to aid in case of accident at revenue station and State Government and Forest Officers not liable for damage to forest produce at revenue station .

(1) In case of any accident or emergency involving danger to any property at a revenue-station established under a rule made under Section 45, every person employed at such revenue station, whether by the Government or by any private person, shall render assistance to any Forest Officer or Police Officer demanding his aid in averting such danger and securing such property from damage or loss.

(2) The State Government shall not be responsible for any loss or damage, which may occur in respect of any forest produce while at

a revenue station established under the rules made under Section 45, or while detained elsewhere for the purpose of this Act, and no Forest Officer shall be responsible for any such loss or damage, unless he causes such loss or damage willfully, negligently, maliciously or fraudulently.

CHAPTER 9 COLLECTION OF DRIFT, STRANDED AND OTHER TIMBER

48. Certain kinds of timber to be deemed the property of the State Government until title thereto proved :-

(1) Timber falling under any of the following description namely:

- (a) timber found adrift, breached, stranded or sunk,
- (b) timber bearing marks which have not been registered under rules made under Section 45;
- (c) timber which has been super-marked, or on which marks have been obliterated, altered or defaced by fire or otherwise, and
- (d) in such area as the State Government directs, all unmarked timber, shall be deemed to be the property of the State Government unless and until any person establishes his right and title thereto, as provided in this chapter.

(2) Such timber may be collected by any Forest Officer or other person entitled to collect the same, and may be brought to such revenue stations as a Forest Officer specially empowered in their behalf may, from time to time, notify as revenue stations for the reception of drift timber.

(3) The State Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this Section and withdraw such exemption.

49. Notice to claimants of timber of those kinds :-

(1) Public notice shall, from time to time or on occasions as may be required, be given by the Forest Officer specially empowered in this behalf of timber collected under the last foregoing Section.

(2) Such notice shall contain a description of the timber and shall require any person claiming the same to present to such Officer, within a period of not less than one month from the date on which such notice is given, a written statement of such claim.

50. Procedure on claim preferred to such timber :-

(1) When any such statement is presented as aforesaid, the Forest

Officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing or accept so and deliver the timber to the claimant.

(2) If such timber is claimed by more than one person, the Forest Officer may either deliver the same to any of such person whom he deems entitled thereto or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

(3) Any person whose claim has been rejected under this Section, may within three month from the date of such rejection, institute a suit to recover possession of the timber claimed by him, but no person shall recover any compensation or costs against the State Government or against any Forest Officer on account of such rejection, or the detention or removal of any timer or the delivery thereof to any other person under this Section.

(4) No such timber shall be subject to process of any Civil, Criminal or Revenue Court until it has been delivered or a suit brought as provided under this Section has been decided.

51. Disposal of unclaimed timber :-

When no statement is presented in the manner and within the period prescribed by notice issued under Section 49 or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice under Section 49 or where such statement having been so presented and the claim rejected, the claimant omits to institute a suit to recover possession of such timber, it shall vest in the State Government free from all encumbrances, or when such timber has been delivered to another person under Section 50, in such other person free from all encumbrances not created by him.

52. State Government and its officers not liable for damage to such timber :-

The State Government shall not be responsible for any loss or damage, which may occur in respect of any timber collected under Section 48 and no Forest Officer shall be responsible for any such loss or damage, unless he causes such loss or damage willfully, negligently, maliciously or fraudulently.

53. Payment to be made by claimant before timber is delivered to him :-

No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until such sum as may be due has been paid by him to the Forest Officer or other person entitled to receive such sum.

54. Power to make rules and prescribe penalties :-

(1) The State Government may make rules to regulate the following matters, namely:

(a) the salving, collection and disposal of all timber mentioned in Section 48;

(b) the use and registration of boats and any other contrivance used in salving and collecting timber;

(c) the amount to be paid for salving, collecting, moving, storing and disposing of such timber; and

(d) the use and registration of hammers and other implements to be used for marking in such timber.

(2) The State Government may by a rule made under this Section, attach to the breach of any rule under this Section, punishment with imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees or both.

CHAPTER 10 PENALTIES AND PROCEDURE

55. Seizure of property liable to confiscation :-

(1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, vehicles or cattle or any other property used in committing any such offence, may be seized by any Forest Officer or Police Officer.

(2) Any Forest Officer or Police Officer may, if he has reason to believe that a vehicle has been or is being used for the transport of forest produce in respect of which there is reason to believe 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, as soon as maybe, make a report of such seizure -

(a) where the offence on account of which the seizure has been made is in respect of timber, ivory, dalchini bark, canes, firewood, medicinal plants or charcoal, which is the property of the State Government, to the concerned Authorized Officer under Section 68; and

(b) in other cases, to the magistrate having jurisdiction to try the offence on account of which the seizure has been made ; Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

56. Powers of Forest Officer in the matter of Investigation :-

(1) Any Forest Officer not below the rank of a Range Forest Officer and within such specified area as the State Government may, by notification specify, may as regards offences under this Act exercise powers conferred on an Officer in-charge of a police station by the provision of the Code of Criminal Procedure, 1973 ; Provided that any such power shall be subject to such restrictions and modifications, if any, as the State Government may specify.

(2) For the purpose of Section 156 of the Code of Criminal Procedure 1973, the area in regard to which the Forest Officer is empowered under sub-Section (1), shall be deemed to be a police station and such Officer shall be deemed to be the Officer in-charge of such station.

57. Report by Investigation Officer :-

If on any investigation by a Forest Officer empowered under sub-section (1) of Section 56, it appears that there is sufficient evidence to justify the prosecution of the accused person, the investigating officer shall submit a report (which shall, for the purposes of Section 190 of the Code of Criminal Procedure, be deemed to be a police report) to a Magistrate having jurisdiction to enquire into or try the case and empowered to take cognizance of offences on police reports.

58. Certificate of Forest Officer to be an evidence :-

Any document purporting to be a certificate under the hand of a

Forest Officer not below the rank of a Range Forest Officer who has undergone training in the examination of forest produce and who is so authorized by the State Government in this behalf in respect of forest produce, submitted to him for examination and report, may be used as evidence of the facts stated in such certificate in any proceedings under this Act, but the court may, if it thinks fit, and shall on the application of the prosecution or the accused person, summon and examine any such Forest Officer as to the subject matter of his certificate.

59. Power to release property seized under section 55 :-

Any Forest Officer of a rank not inferior to that of a Forest Ranger who, or whose subordinate, has seized any tools, boats, vehicles or cattle under Section 55 may, subject to Section 74 release the same on production of a Bank guarantee equal to the value as estimated by such officer (which shall be renewable from time to time till the final disposal of the criminal proceedings instituted in respect of the alleged offence) and on the execution by the owner thereof of a bond for the production of the property so released if and when so required before the magistrate having jurisdiction to try the offence on account of which the seizure had been made.

60. Penalty for unauthorizedly taking possession of land constituted as reserved forest, anchal forest reserve, village forest reserve, protected forest and any other land under the control of the Forest Department :-

(1) Any person unauthorizedly occupying any land in reserved forest, anchal forest reserve and village forest reserve, protected forest and any other land under the control of the Forest Department may, without prejudice to any other action that may be taken against him under any other provision of this Act or any other law for the time being in force, be summarily evicted, by a Forest Officer not below the rank of an Assistant Conservator of Forests and any crop including trees raised in the land and any building or other construction erected thereon shall, if not removed by him within such time as the Forest Officer may fix, be liable to forfeiture ; Provided that before evicting a person under this sub-section, he shall be given a reasonable opportunity of being heard.

(2) Any property forfeited under sub-Section (1) shall be disposed of in such manner as the Forest Officer may direct and the cost of removal of any crop, building or other work and of all works

necessary to restore the land to its original condition shall be recoverable from the person evicted in the manner provided in Section 100.

(3) Any person aggrieved by an order of the Forest Officer under sub-Section (1) may, within such period and in such manner as may be prescribed, appeal against such order to the State Government or to such officer as may be authorized by the State Government in this behalf and the order of the Forest Officer shall, subject to the decision in such appeal, be final.

61. Forest produce, tools, etc., when liable to forfeiture :-

(1) All timber or forest produce which is not the property of Government and in respect of which a forest offence has been committed and all tools, boats, vehicles and cattle used in committing any forest offence, shall, subject to Section 74, be liable by order of the convicting court to forfeiture to the State Government.

(2) Such forfeiture may be in addition to any other punishment prescribed for such offence.

62. Disposal, on conclusion of trial for forest offence, of produce in respect of which it was committed :-

When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the property of Government or has been forfeited, be taken charge of by a Forest Officer, and, in any other case may, subject to Section 74, be disposed of in such manner as the court may direct.

63. Procedure when offender is not known or cannot be found :-

(1) When the offender is not known or cannot be found, the magistrate, may, if he finds, that an offence has been committed, subject to Section 74, order the property in respect of which the offence has been committed to be forfeited to the State Government together with tools, boats, vehicles or cattle and other articles used in committing the offence and taken charge of by the Forest Officer, or to be made over to the person whom the Magistrate deems to be entitled to the same ;

Provided that no such order shall be made until the expiration of

thirty days from the date of seizing the property, or without hearing the person, if any, claiming any right thereto, and, the evidence, if any, which he may produce in support of his claim.

64. Procedure as to perishable property seized under Section 55 :-

Subject to such rules as may be prescribed, the Forest Officer who made the seizure under Section 55 or any other Forest Officer, may, notwithstanding anything contained in this Act or any other law, sell any property seized under Section 55 and subject to speedy and natural decay and may deal with the proceeds as he would have dealt with such property if it had not been sold and shall report about every such sale to his official superior.

65. Appeal from orders under Sections 61, 62 and 63 :-

The officer who made the seizure under Section 55 or any of his official superiors or any person claiming to be interested in the property so seized may, within thirty days from the date of any order passed under Sections 61, 62 or 63, appeal there from to the court to which orders made by such magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

66. Vesting of forfeited property in State Government :-

When an order for the forfeiture of any property has been passed under Section 61 or Section 63, as the case may be, and the period specified by Section 65 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 order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the State Government free from all encumbrances.

67. Saving of power to release property seized :-

Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under Section 55, which is not the property of Government, and the withdrawal of any charge made in respect of such property.

68. Confiscation by Forest Officers in certain cases :-

(1) Notwithstanding anything contained in the foregoing provisions of this Chapter or in any other law, where a forest offence is believed to have been committed in respect of timber, ivory, dalchini bark, canes, firewood, medicinal plants and charcoal which is the property of the State Government, the officer seizing the property under sub-Section (1) of Section 55 shall, without any unreasonable delay produce it, together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence, before an officer authorized by the State Government in this behalf by notification in the official Gazette, not being below the rank of an Assistant Conservator of Forests (hereinafter referred to as the authorized officer).

(2) Where an authorized officer seizes under sub-Section (1) of Section 55 any timber, ivory, firewood, dalchini bark, canes, medicinal plants and charcoal which is the property of the State Government or where any such property is produced before an authorized officer under sub-Section (1) and he is satisfied that a forest offence has been committed in respect of such property, such authorized officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence.

(3) (a) Where the authorized officer, after passing an order of confiscation under subSection (2), is of the opinion that it is expedient in the public interest so to do, he may, order the 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 68 is set aside or annulled by an order under Sections 70 or 71, be paid to the owner thereof or to the person from whom it was seized, as may be specified in such order.

69. Issue of show cause notice before confiscation under Section 68 :-

(1) No order confiscating any timber, charcoal, firewood, medicinal plants, dalchini bark, canes, ivory, tools, ropes, chains, boats, vehicles or cattle shall be made under Section 68 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 authorized 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, vehicle or cattle shall be made under Section 68, if the owner of the tool, rope, chain, boat, vehicle or cattle proves to the satisfaction of the authorized officer that it was used in carrying the timber, charcoal, firewood, medicinal plants, dalchini bark, canes or ivory without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

70. Revision :-

Any Forest Officer not below the rank of Conservator of Forests specially empowered by the State Government in this behalf by notification in the official Gazette may, before the expiry of thirty days from the date of the order of the authorized officer under Section 68, suo motu call for and examine the records of that order and may make such inquiry or cause such inquiry to be made 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.

71. Appeal :-

(1) Any person aggrieved by any order passed under Section 68 or Section 70 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 authorized officer or the officer specially empowered under Section 70, as the case may be to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2) An order of the Sessions Judge under sub-Section (1) shall be final and shall not be questioned in any court of law.

72. Award of Confiscation not to interfere with other punishments :-

The award of any confiscation under Section 68 or Section 70 or Section 71 shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

73. Property confiscated when to vest in Government :-

When an order for confiscation of any property has been passed under Section 68 or Section 70 or Section 71 and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, or if it has been sold under subSection (3) of Section 68, the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.

74. Bar of jurisdiction in certain cases :-

Whenever any timber, ivory, dalchini bark, canes, firewood, medicinal plants or charcoal belonging to the State Government, together with any tool, rope, chain, boat, vehicle or cattle used in committing any offence is seized under sub-Section (1) of Section 55, the authorized officer under Section 65 or the officer specially empowered under Section 70 or the Sessions Judge hearing an appeal under Section 71 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 orders with regard to the custody, possession, delivery, disposal or distribution of such property.

75. Punishment for wrongful seizure :-

(1) Any Forest Officer or Police Officer, who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to forfeiture under this Act shall, on conviction, be punishable with imprisonment which may extend to six months, or with fine, which may extend to five thousand rupees, or with both.

(2) Any fine so imposed, or any portion thereof, shall, if the convicting court so directs, be given as compensation to the person aggrieved by such seizure.

76. Penalty for counterfeiting or defacing marks on trees or timber and for altering boundary marks :-

Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code, -

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or such tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(b) unlawfully affixes to any timber or standing tree a mark used by Forest Officers ; or

(c) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest Officer; or

(d) alters, moves, destroys or defaces any boundary mark of any forest or wasteland to which the provisions of this Act are applicable ; shall, on conviction, be punishable with imprisonment which is not less than three years and may extend to seven years, or with fine which is not less than five thousand rupees, or with both.

77. Power to arrest without warrant :-

(1) Any Forest Officer or Police Officer may, without orders from a magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Any person arrested under this section shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest magistrate having jurisdiction in the case within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

78. Power to release on a bond a person arrested :-

Any Forest Officer of a rank not inferior to that of a Forest Ranger,

who or whose subordinate has arrested any person under the provisions of Section 77 may release such person on his executing a bond with proper surety to appear, if and when so required, before the magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station.

79. Power to prevent commission of offence :-

Every Forest Officer and Police Officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.

80. Prevention of Commission of offences etc :-

Any forest officer may if necessary use as much force and do as much injury to persons and property to prevent the commission of any offence under this Act and under Chapter VI of the Wild Life (Protection) Act, 1972, or to apprehend any person who has committed or is engaged in commission of any offence under the said Acts, or for seizure of any weapons, vehicles, cart, boat, any other conveyance, tools, or any other things used to commit offence under the said Acts or to carry, transport, conceal or keep the forest produce in respect of which the offence is committed.

81. Power to try offences summarily :-

Any magistrate of the first class specially empowered in this behalf by the State Government may try summarily under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), any forest offence punishable with imprisonment, which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

82. Operation of other laws not barred :-

Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission, which constitutes a forest offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made thereunder ;

Provided that no person shall be punished twice for the same offence.

83. Power to compound offences :-

- (1) The State Government may, subject to such conditions as may be specified, by notification, empower a Forest Officer,-
- (a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence under Section 75 or Section 76, a sum of money not exceeding fifty thousand rupees, by way of composition for the offence which such person is suspected to have committed;
- (b) when any property has been seized as liable to confiscation subject to Section 74, to release, the same on payment of the value thereof as may be prescribed.
- (2) On the payment of such sum of money, or such value, or both, as the case maybe, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.
- (3) A Forest Officer shall not be empowered under this section, unless he is a Forest Officer of rank not inferior to that of a Assistant Conservator of Forests.

84. Presumption that forest produce belongs to Government
:-

When in any proceedings taken under this Act or in consequence of anything done under this Act or under any other law for the time being in force, a question arises as to whether any forest produce is the property of the State Government, such produce shall be presumed to be the property of the State Government until the contrary is proved, and in case of any prosecution, the burden of proving the contrary shall lie on the accused.

85. Compensation for damage caused by commission of offence
:-

- (1) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees, or of injuring them by fire or otherwise in contravention of this Act or of any rule made thereunder, the convicting court may, in addition to any other punishment which it may award, order that person to pay to the State Government such compensation, for each tree with respect to which the offence was committed, as it deems just.
- (2) If the person convicted of the offence committed it as the agent or servant of another person, the convicting court may, unless after

hearing that other person, it is satisfied that the commission of the offence was not a consequence of his instigation or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in sub-Section (1).

(3) An appeal from any order under sub-Section (1) or sub-Section (2) shall lie to the court to which orders made by the convicting court are ordinarily appealable, and the order passed on such appeal shall be final.

86. Forfeiture of leases :-

When the holder of any lease, licence or contract whatsoever granted or continued by or on behalf of the State Government for any of the purposes of this Act, or when any such offence is committed by any agent or servant of the holder of any such lease, licence or contract, and the State Government is satisfied that the commission of the offence was a consequence of the instigation of such holder or of any willful neglect or default on his part, the State Government or a Forest Officer duly empowered by the State Government in this behalf, may, by order in writing, declare the lease, licence, or contract to be forfeited in whole or in part with effect on and from a date to be specified in the order.

87. Criminal liability of licensee for acts of servants :-

Where any offence under this Act or rules made there under, is committed by any person in the employment and acting on behalf of the holder of a licence or permit granted under this Act, such holder shall also be punishable with a fine which may extend to rupees fifteen thousand as if he had committed the said offence unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence ;
Provided that no person other than the actual offender shall be punishable with imprisonment except in default of payment of fine.

88. Offence by Companies etc :-

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be liable to be proceeded against and punished accordingly ;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-Section (1) where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the Company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER 11 CATTLE TRESPASS

89. Cattle Trespass Act, 1871 to apply :-

Cattle trespassing in a reserved forest, protected forest, anchal forest reserve, village forest reserve or in any land under the possession of the forest department shall be deemed to be cattle doing damage to a public plantation within the meaning of Section 11 of the Cattle Trespass Act, 1871 and may be seized and impounded as such by any Forest Officer or Police Officer.

90. Power to alter fines fixed under the Act :-

The State Government may by notification in the official gazette, direct that, in lieu of the fines fixed by Section 12 of the Cattle Trespass Act 1871, there shall be levied for each head of cattle impounded under Section 89 of this Act such fines as it thinks fit but not exceeding the following, namely :

	Rs.
For each elephant	10000
For each buffalo	2000
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer,	1000
For each calf, ass, pig, rams, ewe, sheep, lamb, goat or kid	500

CHAPTER 12 FOREST OFFICERS

91. Investiture of Forest Officers with certain powers :-

(1) The State Government may invest any Forest Officer by name, or as holding an office, with all or any of the following powers, namely :

- (a) power to enter upon any land and to survey, demarcate, and make a map of the same;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects ;
- (c) powers to issue search-warrants under the Code of Criminal Procedure, 1973;
- (d) power to hold inquiries into forest offences, and in the course of such inquiries, to receive and record evidence;
- (e) powers to notify the season and manner in which fire may be kindled, kept or carried in a reserved forest;
- (f) power to grant any permission referred to in Section 26;
- (g) power to notify stations for the reception of drift timber;
- (h) power to give public notice of timber collected under Section 48;
- (i) powers to take possession of property under this Act;
- (j) power to direct the release of property or withdrawal of charges;
- (k) power to stop and check any vehicle suspected to carry forest produce ;
- (l) power to do any other act, which in the opinion of the State Government, is conducive to the better protection and security of forest wealth belonging to the State Government.

(2) Any evidence recorded under Clause (d) of sub-Section (1) shall be admissible in any subsequent trial, before a Magistrate, of the alleged offender ;

Provided that it has been taken in the presence of the accused person and recorded in the manner provided by Section 274, Section 275 of the Code of Criminal Procedure, 1973.

92. Forest Officers deemed to be public servant :-

All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

93. Indemnity for acts done in good faith :-

No suit or criminal prosecution or other legal proceeding shall lie against any Forest Officer for anything done in good faith or omitted to be done likewise under this Act or the rules or orders made thereunder.

94. Suits or prosecution in respect of acts done under color of duty not to be entertained without sanction of the State Government :-

(1) In any case of alleged offence or of wrong alleged to have been committed by any Forest Officer, by any act done under color or in excess of any such duty or authority under this Act, or wherein it shall appear to the court that offence if committed was of the character aforesaid, the prosecution or suit shall not be entertained except with the previous sanction of the State Government.

(2) In the case of an intended suit on account for such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer one months notice at least of the intended suit with sufficient description of the wrong complained of, failing which such suit shall be dismissed.

(3) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if so, what tender of amends have been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed with a declaration by the plaintiff of the time and manner of the service thereof.

95. Forest Officers not to trade :-

No Forest Officer shall, as principal or agent, trade in forest produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in India or in any foreign territory.

CHAPTER 13 SUPPLEMENTAL PROVISIONS

96. Additional powers to make rules :-

(1) The State Government may, by notification, make rules to carryout all or any of the purposes of this Act.

(2) In particular and without prejudice and generality to the foregoing power, rules may be made -

(a) to prescribe and limit the powers and duties of any forest officer under this Act ;

(b) to regulate procedure of Forest Settlement Officers;

(c) to provide for ejectment of any person who has entered into unauthorised occupation in a reserve forest, protected forest, anchal forest reserve and village forest reserve or any other area

under the occupation of the forest department and for the disposal of any crops raised, or any building or other construction erected without authority in such forest areas;

No Civil Court shall exercise jurisdiction in any matter provided for by the rules made under this clause;

(d) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act or otherwise ;

(e) to prescribe the fees to be levied in respect of licences, permits, passes or permission issued under this Act or Rules made thereunder;

(f) in respect of any other matter, which is required or allowed by this Act

(g) generally, to carry out the provisions of this Act.

97. Rules when to have force of law :-

All rules made by the State Government under this Act shall be published in the official Gazette and shall thereupon have the force of law.

98. Penalties for contravention of Act & Rules :-

Any person contravening any provision of this Act or any Rule made under this Act, for the contravention of which, no special penalty has been provided, shall, on conviction be punishable with imprisonment for a term which may extend to six months or fine which may extend to Ten Thousand rupees or both.

99. Persons bound to assist Forest Officer and Police Officer :-

(1) Every person who exercises any right in a reserved forest, protected forest, anchal forest reserve and village forest reserve, or who is permitted to remove any forest produce from or to pasture cattle or practice jhum cultivation in such forest; and every person who is employed by such person in such forest and every person in any village contiguous to such forest, who is employed by the Government for services to be performed to the community, shall be bound to furnish, without unnecessary delay, to the nearest Forest Officer or Police Officer any information which he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest offence and

shall assist any Forest Officer or Police Officer demanding his aid -

- (a) in extinguishing any fire occurring in such forest;
 - (b) in preventing any fire which may occur in vicinity of such forest from spreading to such forest.;
 - (c) in preventing the commission in such forest of any forest offence; and
 - (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.
- (2) Any person, who being bound to do so, without lawful excuse (the burden of proving which shall lie upon such person) fails :
- (a) to furnish without unnecessary delay to the nearest forest officer or the police officer any information required by sub section (1) ;
 - (b) to take steps as required by sub section (1) to extinguish any forest fire in a reserved forest, protected forest, anchal forest reserve, village forest reserve ;
 - (c) to prevent as required by sub section (1) any fire in the vicinity of such forest from spreading to such forest ; or
 - (d) to assist any forest officer or police officer demanding his aid in preventing the commission in such forest of any forest offence, or, when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender ;
- shall on conviction, be punishable with imprisonment for a term which may extend to one month, or fine, which may extend to Five Thousand rupees, or with both.

100. Recovery of money due to the Government :-

(1) All money, other fines, payable to the Government under this Act, or under any rule made thereunder, or on account of the price of any forest produce or of expenses incurred in the execution of the Act in respect of any forest produce, may if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

(2) Notwithstanding anything contained in sub-Section (1) or in any other law for the time being in force, on an application made by a Forest Officer, for the recovery of arrears of any sum due by any person towards lease, rent, royalty, price of any forest produce, or any other sum due under this Act, or any rule, order or notification made or issued thereunder, the Chief Conservator of Forests may after making an inquiry and giving a reasonable opportunity of being heard to such person, decide the sum due,

and issue a certificate for recovery of the said sum.

(3) An order made under sub-Section (2), shall be binding on the person, against whom it is made and shall, if not carried out, on a certificate signed by the Chief Conservator of Forests be deemed to be a decree of Civil Court, and shall be executed in the same manner as a decree of such court.

101. Lien on forest produce for such money :-

(1) When any such money is payable for, or in respect of any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest Officer specially empowered in this behalf and may be retained by him until such amount has been paid.

(2) If such amount is not paid when due, such Forest Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount:

Provided that when no price is offered or the price offered in such auction is considered inadequate, the sale by such auction shall be stopped and such Forest Officer shall sell the produce in such other manner as the State Government may direct in this behalf.

(3) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Government.

102. Land required under this Act to be deemed to be needed for public purpose :-

Whenever it appears to the State Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of Section 4 of the Land Acquisition Act, 1894.

103. Recovery of penalties due under bond :-

(1) When any person, in accordance with any provision of this Act or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act or covenants by any bond or any instrument that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in Section 74 of the Indian Contract Act, 1872, be recovered from him in case of

such breach as if it were an arrear of land revenue.

(2) If any question arises -

(a) whether there has been a contravention of any of the conditions of such bond or instrument ;

(b) as to the sum to be paid for such contravention ;

(c) as to the person or persons liable to pay such sum ; the question shall be referred to and after giving notice to the person concerned and after considering his objections, if any, be decided by an officer not below the rank of a Deputy Conservator of Forests authorized by the State Government in this behalf. The person aggrieved by the decision of such officer may, within a period of sixty days from the date of such decision, appeal to the State Government or such appellate authority as the Government may, by notification, appoint in this behalf. The decision of such officer, subject to an appeal to the appellate authority, and the decision of the appellate authority on such appeal, shall be final.

104. Repeal and Savings :-

(1) The Assam Forest Regulation, 1891 in its application to the State of Arunachal Pradesh, The Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act 1975 (Act No. 1 of 1976), Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Amendment Act 1981 (Act No. 3 of 1981), and Arunachal Pradesh Anchal and Village Forest Reserve (Constitution and Maintenance) Amendment Act 1984 (Act No. 4 of 1984) and The Arunachal Pradesh Forest (Removal of Timber) Regulation Act, 1983 are hereby repealed. Provided that the repeal shall not affect -

(a) The previous operation of any law so repealed or anything duly done or suffered thereunder ;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed ; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed ; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy, may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed :

Provided further that, subject to the preceding proviso, anything

done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, form or scheme framed, certificate obtained, permit or licence granted, or registration effected) under any law shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

105. Power to remove difficulty :-

If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by notification, make such provisions as appear to it to be necessary or expedient for removing the difficulty.