

Assam Forest Regulation (Amendment) Act, 1995

14 of 1995

[30 April 1995]

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PREAMBLE

An

Act

further to amend the Assam Forest Regulation, 1891 (Regulation VII of 1891).

Whereas it is expedient further to amend the Assam Forest Regulation, -1891 (Regulation VII of 1891), hereinafter referred to as the principal Regulation.

It is hereby enacted in the Forty-sixth Year of the Republic of India, as follows:-

1. Short title and Commencement :-

(1) This Act may be called the Assam Forest Regulation (Amendment) Act, 1995.

(2) It shall come into force on such date as the State Government may by notification, published in the Official Gazette, appoint.

2. Amendment of Section 3 :-

In the principal Regulation, in Section 3, for sub-section (3), the following shall be substituted, namely:

"(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 includes trees when cut into pieces or sizes or peeled out or sliced out (veneer) for manufacturing of plyboard, block board or any other purposes or not."

3. Amendment of Section 24 :-

In the principal Regulation, in Section 24, for the portion beginning with the words "shall be" and ending with the words "such damage", occurring after the clause (b), the following shall be substituted, namely:

"Shall be punished with fine which may extend to five thousand rupees or with imprisonment which may extend to one year or with both, or when the damage resulting from his offence amounts to more than one thousand rupees, with fine which is not less than five thousand rupees or with imprisonment which is not less than one year but may extend to three years or with both."

4. Amendment of Section 25 :-

In the principal Regulation, in Section 25, for the portion beginning with the words "shall be" and ending with the words "with both", occurring after the clause (g), the following shall be substituted, namely:

"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 five thousand rupees or with both."

5. Amendment of Section 35 :-

In the principal Regulation, in Section 35, for sub-section (1), the following shall be substituted, namely :

"(1) If any person infringes the provisions of Section 33, 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 five thousand rupees, or with both."

6. Amendment of Section 40 :-

In the principal Regulation, in Section 40, in sub-section (2), for clause(1), the following shall be substituted, namely :

"(1) prohibit absolutely, or subject to conditions, rules, within specified local limits, the establishment of saw mills, saw pits, veneer mills, plywood factories and any kind of forest based industries for the purpose of conversion, manufacturing, peeling, slicing, cutting, burning concealing, marking or supermarking the timber, altering or effecting any of the marks on the same and possession or carrying of marking hammers or other implements, used for marking timber; and"

7. Amendment of Section 41 :-

In the principal Regulation, in Section 41, for the sub-section (1), the following shall be substituted, namely:

"(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 five thousand rupees or both."

8. Amendment of Section 49 :-

In the principal Regulation, for Section 49, the following shall be substituted, namely :

49. "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, motorised boats, vessels, cattle, carts rafts, machinaries, vehicles, trucks, ropes, chains or any other implements, articles or materials used in the commission of such offence may be seized by any Forest Officer not below the rank of a Forester or any Police Officer not below the rank of a Sub-Inspector of Police.

(2) Every Officer, seizing any property under sub-section (1), shall place on such property or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized and shall, as soon as may be, either produce the property seized before

an officer not below the rank of Assistant Conservator of Forests authorised by the State Government in this behalf by notification in the Official Gazette (hereinafter referred to as the Authorised Officer) or where it is, having regard to the quantity or the bulk or any other genuine difficulty, not practicable to produce the property seized before the Authorised Officer, or where it is intended to launch prosecution against the offender, immediately make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made: Provided that where the forest produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the Officer makes, as soon as may be, a report of the circumstance to his official superiors.

(3) 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 any forest produce in respect of which any forest offence has been committed, require the driver or any other person or persons 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 possession of such driver or other person in-charge of the vehicle.

(4) Subject to the provisions of sub-section (5) and (6), where the Authorised Officer upon production before him of the property seized or upon receipt of a report about seizure, as the case may be, and after such personal inspection or verification as he may deem fit and necessary, is satisfied that a forest offence has been committed in respect thereof, he may by order in writing and for reasons to be recorded therein, confiscate the forest produce so seized together with all tools, vehicles, cattle, trucks, motorised boats, boats, carts, machineries, rafts, vessels, ropes, chains or any other implements or articles used in committing such offence. A copy of the order of confiscation shall, without any undue delay, be forwarded to the Circle Conservator of Forests of the Circle in which the forest produce has been seized and the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

(5) No order confiscating any property shall be made under the preceeding provisions unless the Authorised Officer-

(a) sends an intimation in the prescribed form about the initiation of the proceeding for confiscation of property to the Magistrate

having jurisdiction to try the offence on account of which the seizure has been made;

(b) issue a notice in writing to the person from whom the property is seized, and to any other person who may appear to the Authorised Officer to have some interest in such property and in cases of motorised boats, vessels, vehicles, trucks, etc. having a registered number to the registered owner thereof;

(c) affords to the persons referred to in clause (b) above a reasonable opportunity of making a representation within such reasonable time as may be specified in the notice, against the proposed confiscation; and

(d) gives to the Officer effecting the seizure and the person or persons referred to in clause (b) or (c) above, a reasonable opportunity of being heard on a date or dates to be fixed for the purpose.

(6) Notwithstanding anything contained in the foregoing provisions, no order of confiscation under sub-section (4) of any tools, boats, motorised boats, vessels, cattle, carts, rafts, machinaries, vehicles, trucks, ropes, chains or any other implements, articles (other than timber or forest produce) shall be made if any person referred to in clause (b) of sub-section (5) proves to the satisfaction of the Authorised Officer that such tools, vehicles, machinaries, trucks, vessels, boats, motorised boats, rafts, carts, cattle, ropes, chain or any other implements, articles were used without his knowledge or connivance or abetment or as the case may be, without the knowledge or connivance or abetment of his servant or agent and that all reasonable and due precautions had been taken against the use of the object aforesaid for the commission of forest offence."

9. Amendment of Section 49-A :-

In the principal Regulation, for Section 49-A, the following shall be substituted, namely:

49-A. "Power to release property seized under Section 49.

Any Forest Officer not below the rank of a Forest Ranger, whose subordinate has seized any tools, vehicles, trucks, vessels, rafts, machinaries, boats, motorised boats cattle, ropes, chains or any other implements, articles, etc. under Section 49, may release the same on the execution by the owner or the person in-charge 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 or before any Authorised Officer whenever required

for the purpose as mentioned under Section 49 to proceed ahead with the offence on account of which the seizure has been made: Provided that whenever such release is made, the Officer releasing the property shall immediately make a report to the Authorised Officer describing the circumstances and the reasons for the release of the property to the claimant or the owner or the person in charge of the property."

10. Insertion of new Section 49-B and 49-C :-

In the principal Regulation, after Section 49-A, the following new sections shall be inserted respectively as Sections 49-B and 49-C, namely:

49-B. "Review.

Any Forest Officer not below the rank of a Conservator of Forests specially empowered by the State Government in this behalf by notification in the Official Gazette may, suo-motu or on application by the aggrieved person call for and examine any record or any order under Section 49 (4) and may make such enquiry or cause such enquiry to be made and may pass such order as he deems fit: Provided that no order under this Section shall be made if in the meantime an appeal has been preferred under Section 49-C :

Provided further that no order prejudicial to any person shall be passed without giving him a reasonable opportunity of being heard.

49-C. Appeal.

Any person aggrieved by an order under Section 49(4) or Section 49-B may, within thirty days from the date of communication to him of such order prefer an appeal to the District Judge having jurisdiction over the area in which the property has been seized and the District Judge shall after giving a reasonable opportunity of being heard to the parties, pass such order either varying, confirming, modifying, annulling or setting aside the order appealed against and the order of the Court so passed shall be final.

Explanation:

The time required for obtaining the certified copy of the order of confiscation or the order passed under Section 49-B shall be excluded while computing the period of thirty days referred to in this Section."

11. Amendment of Section 50 :-

In the principal Regulation in Section 50, the full stop mark occurring at the last part shall be substituted by a colon mark and a

proviso thereto as under shall be inserted, namely:

"Provided that before passing any order for disposal of property, the Magistrate shall satisfy himself that no intimation under sub-section (5) of Section 49 has been received by his Court or by any other Court having jurisdiction to try the offence on account of which the seizure of the property has been made."

12. Amendment of Section 59 :-

In the principal Regulation, in Section 59, for the words "it may extend to two years or with fine or with both" occurring at the last part, the following shall be substituted, namely:

"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."

13. Amendment of Section 62 :-

In the principal Regulation in Section 62 for sub-section (3), the following shall be substituted namely:

"(3) No Forest Officer shall be empowered under this section unless he is of the rank of an Assistant Conservator of Forests or above and the sum of money accepted as compensation under subsection (1), clause (a) shall in no case exceed five thousand rupees."

14. Amendment of Section 64 :-

In the principal Regulation, in Section 64, for the sub-section (1), the following shall be substituted, namely:

"(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 Regulation or of any rules thereunder, the convicting Court may, in addition to the other punishment which it may award, order that person to pay to the State Government such compensation, not less than one thousand rupees for each tree with respect to which the offence was committed, as it may deem just."

15. Amendment of section 70 :-

In the principal Regulation, for Section 70, the following shall be substituted, namely:

70. "Indemnity for acts done in good faith.

No suit or criminal prosecution or other legal proceeding shall lie

against any public servant or anything done in good faith or omitted to be done likewise under these Regulations or the rules or orders made thereunder."

16. Repeal and savings :-

The Assam Forest Regulation (Amendment) Ordinance, 1994 (Assam Ordinance No. XI of 1994), is hereby repealed:

Provided that notwithstanding such repeal all orders made, action taken or notification issued or proceeding taken up shall be deemed to have been validly made or taken under the corresponding provisions of this Act as if this Act came from the date the Ordinance came to force.