

## **INDIAN FOREST ACT, 1927**

**16 of 1927**

**[21st September, 1927]**

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## **INDIAN FOREST ACT, 1927**

**16 of 1927**

**[21st September, 1927]**

An Act to consolidate the law relating to forests, the transit of forest- produce and the duty leviable on timber and other forest- produce. WHEREAS it is expedient to consolidate the law relating to forests, the transit of forest- produce and the duty leviable on timber and other forest- produce; It is hereby enacted as follows

### CHAPTER 1

#### Preliminary

#### **1. Short Title and extent :-**

(1) This Act may be called the Indian Forest Act.

<sup>1</sup>(2) It extends to the whole of India except the territories which immediately before the 1st November, 1956 were comprised in Part B States <sup>2</sup>[other than Hyderabad area of the State of Maharashtra."]

(3) It applies to the territories which, immediately before the 1st November, 1956, were comprised in the States of Bihar, Bombay, Coorg,

<sup>3</sup> Provided that on the commencement of the Indian Forest (Maharashtra Unification and Amendment) Act, 1960 this Act shall be in force in the Hyderabad area of the State of Maharashtra."

1. Substituted for the former sub-sections (2) and (3) by A.L.O., 1956

2. Added by Maha. Act 6 of 1961, section 3 (3-2-1961)

3. Added by Maha. Act 6 of 1961, Section 3 (3-2-1961).

**2. Interpretation clause :-**

In this Act, unless there is anything repugnant in the subject or context,

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

(2) "Forest officer" means any person whom <sup>1</sup>[ \* \* \* \* ] the <sup>2</sup>[\*State] Government or any officer empowered by <sup>1</sup>[\* \* \* \* ] the <sup>2</sup>[\*State] Government in this behalf may appoint to carry out all or any of the purposes of this Act or to do anything required by this or any rule made thereunder to be done by a Forest-Officer;

(3) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;

(4) "forest-produce" includes :

(a) the following whether found in, or brought from a forest or not, that is to say timber, charcoal, caoutchouc, catechu wood oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds <sup>5</sup>[, kuth <sup>6</sup>[apta and temburni leaves] <sup>7</sup> [rosha grass, including oil derived therefrom, rauwofia serpentina"] ] and myrobalans; and

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

(i) trees and leaves, flowers 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 and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts of produce of animals, and

(iv) peat, surface soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);

[(4-A) "owner" includes a Court of Wards in respect of property under the superintendence or charge of such Court :]

[(4-B) "Police Officer" means a Police officer as defined in the Bombay Police Act, 1951;

(4C) "Revenue Officer" means a Revenue Officer as defined in Maharashtra Land Revenue Code, 1966.

(5) "river" includes any stream, canal, creek or other channels, natural or artificial;

(6) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and

(7) "tree" includes palms, bamboos, stumps, brush-wood canes.

1. Words "the Governor-General in Council or" omitted by A.O., 1937.

2. Substituted for "Provincial" by A.L.O. 1950.

5. Inserted by the Indian Forest (Amendment) Act, 1930 (26 of 1930), Section 2

6. Inserted by Bom. Act 24 of 1955, Section 2 (22-6-1955).

7. Added by Maha. Act 27 of 1968, Section 2 (28-8-1968).

## **2A. Construction of certain references to Central or Bombay Acts :-**

In the application of this Act to any area of the State of Maharashtra other than the Bombay area thereof, any reference to a provision of a Central or Bombay Act shall, where no such Act is in force in that area, be construed as a reference to the provision of the corresponding law, if any, in force in that area.

## **CHAPTER 2**

### **Of Reserved Forests**

## **3. Power to reserve forests :-**

The <sup>1</sup> [State] Government may constitute any forest-land or waste-land 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, a reserved forest in the manner hereinafter provided.

1. Substituted for "Provincial" by A.L.O. 1950

## **4. Notification by State Government :-**

(1) Whenever it has been decided to constitute any land, a reserved forest, the <sup>1</sup>[State] Government <sup>2</sup>[or subject to the general or special orders of the State Government, the Commissioner] shall issue a notification in the <sup>3</sup> [Official Gazette]-

(a) declaring that it has been decided to constitute such land a

reserved forest;

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

(c) appointing an officer (hereinafter called the "the Forest Settlement Officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this Chapter.

Explanation For the purpose of clause (b), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries,

(2) The officer appointed under clause (c) of sub-section (1) shall ordinarily be a person not holding any forest-office except that of Forest Settlement Officer.

(3) Nothing in this section shall prevent the 16[State] Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement Officer under this Act.

1. Substituted for "Provincial" by A.L.O. 1950

2. Inserted by Maha. Act 8 of 1958. S.3 (4) r/w Maha. Gazette 13-6-1980, Part 1V-B, Extra., page 488.

3. Substituted for "Local Official Gazette" by A.L.O. 1937.

#### **5. Bar of accrual of forest-rights :-**

After the issue of a notification under section 4, 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 <sup>1</sup>[Government] or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the <sup>2</sup> [State Government] in this behalf.

1. Substituted for "Crown" by A.L.O. 1950.

2. Substituted for "Provincial Government" ibid.

#### **6. Proclamation by Forest Settlement Officer :-**

When a notification has been issued under Section 4, the Forest Settlement Officer shall publish in the local vernacular in every

town and village in the neighbourhood of the land comprised therein, a proclamation

(a) specifying, as nearly as possible, the situation and limits of the proposed forest;

(b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement Officer a written notice specifying or to appear before him and state the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

### **7. Inquiry by Forest Settlement Officer :-**

The Forest Settlement Officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or sec.5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

### **8. Powers of Forest Settlement Officer :-**

For the purpose of such inquiry, the Forest Settlement Officer may exercise the following powers, that is to say :

(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 rights :-**

Rights in respect of which no claim has been preferred under section 6 and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under Section 6.

### **10. Treatment of claims relating to practice of shifting**

## **cultivation :-**

(1) In the case of a claim relating to the practice of shifting 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 settlement to the <sup>1</sup>[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 settlement and opinion, the <sup>1</sup>[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 a 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 shifting cultivation therein under such conditions as he may prescribe.

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the <sup>1</sup>[State Government].

(5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the <sup>1</sup>[State Government].

1. Substituted for "Provincial Government" by A.L.O. 1950.

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

(1) In the case of a claim to a right in or over any land, other than a right-of-way or right of pasture, or a right to forest-produce, or a water-course, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Forest Settlement Officer shall either

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

(ii) come to an agreement with the owner thereof for the surrender

of his rights; or

(iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894.

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

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

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

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

(d) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

**12. Order on claims to rights of pasture or to forest-produce :-**

<sup>1</sup>(1) In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

<sup>1</sup> (2) A copy of the order passed under sub-section (1) shall be furnished to the claimant by the Forest Settlement Officer and another copy of that order shall be forwarded to the Forest Officer who attended the inquiry or, if no such officer attended, to the Divisional Forest Officer.

1. Sub-section (2) was inserted *ibid*.

**13. Record to be made by Forest Settlement Officer :-**

The Forest Settlement Officer when passing any order under Section 12, shall record, so far as may be practicable,-

(a) the name, father's name, caste, residence and occupation of the person claiming the right; and

(b) the designation, position and area of all fields or groups of fields, (if any), and the designation and position of all buildings, (if any), in respect of which the exercise of such rights is claimed.

**14. Record where he admits claim :-**

If the Forest Settlement Officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest- produce which he is from time to time authorized to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

#### **15. 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) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or

(b) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient for the purposes of the claimants; or

(c) record an order, continuing to such claimants a right of pasture or to forest-produce, as the case may be, to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by the <sup>1</sup> [State Government].

1. Substituted for "Provincial Government" by A.L.O. 1950.

#### **16. Commutation of rights :-**

In case if the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the reserved forest to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall, subject to such rules as the <sup>1</sup> [State Government] may make in this behalf, commute such rights, by the payment to such persons of a sum of

money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

1. Substituted for "Provincial Government" by A.L.O. 1950.

**17. Appeal from order passed under section 11, section 12, section 15 or section 16 :-**

Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the <sup>1</sup>[State Government] <sup>2</sup>[or subject to the general or special orders of the State Government, the Commissioner] in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section 11, section 12, section 15 or section 16, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector, as the <sup>3</sup>[State Government] <sup>4</sup>[or subject to the general or special orders of the State Government, the Commissioner] may by notification in the <sup>5</sup>[Official Gazette], appoint to hear appeals from such orders :

Provided that the <sup>3</sup>[State Government] <sup>4</sup>[or subject to the general or special orders of the State Government, the Commissioner] may establish a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the <sup>3</sup>[State Government] <sup>4</sup> [or subject to the general or special orders of the State Government, the Commissioner] and, when the Forest Court has been so established, all such appeals shall be presented to it.

1. Substituted for "Provincial Government" by A.L.O. 1950.

2. Inserted by Maha. Act 8 of 1958. S.3 (4) and Sch. r/w Maha. Gazette 19-4-1981, Pt. IV-B, Extra., page 1916.

3. Substituted for "Provincial Government" by A..L.O.1950.

4. Inserted by Mah. Act 8 of 1958. S.3 (4) and Sch. r/w Maha. Gazette 19-4-1981, Pt. IV-B, Extra., page 1916.

5. Substituted for "Local Official Gazette" by A.O. 1937

**18. Appeal under section 17 :-**

(1) Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the authority competent to hear the same.

(2) If the appeal be to an officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

(3) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

(4) The order passed on the appeal by such officer or Court, or by the majority of the members of such Court, as the case may be, shall, subject only to revision by the <sup>1</sup> [State Government], be final.

1. Substituted for "Provincial Government" by A..L.O.1950.

### **19. Pleadings :-**

The <sup>1</sup> [State Government], or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

1. Substituted for "Provincial Government" by A..L.O.1950.

### **20. Notification declaring forest reserved :-**

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

(a) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement Officer ;

(b) If any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of the appellate officer or Court; and

(c) all lands (if any) to be included in the proposed forest, where the Forest Settlement Officer has, under section 11, elected to acquire under the Land Acquisition Act, 1894, have become vested in the Government under section 16 of that Act, the <sup>1</sup>[State Government] <sup>2</sup>[or subject to the general or special orders of the State Government, the Commissioner] shall publish a notification in t h e <sup>3</sup> [Official Gazette], specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by a notification.

(2) From the date so fixed such forest shall be deemed to be a

reserved forest.

1. Substituted for "Provincial Government" by A.L.O. 1950.
2. Inserted by Mah. Act 8 of 1958. S.3 (4) and Sen. r/w Maha. Gazette 19-11-1981, Pt. IV-B, • p. 1916(1917).
3. Substituted for "Local Official Gazette" by A.O. 1937.

**21. Publication of translation of such notification in neighbourhood of forest :-**

The Forest-Officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.

**22. Power to revise arrangement made under section 15 or section 18 :-**

The <sup>1</sup> [State Government] may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

1. Substituted for "Provincial Government" by A.L.O. 1950.

**23. No right acquired over reserved forest, except as here provided :-**

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 on behalf of the <sup>1</sup> [Government] or some person in whom such right vested when the notification under section 20 was issued.

1. Substituted for "Crown" by A.L.O. 1937.

**24. Rights not to be alienated without sanction :-**

(1) Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the <sup>1</sup> [State Government].

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.

1. Substituted for "Provincial Government" by A.L.O. 1950.

**25. Power to stop ways and watercourse in reserved forests**

**:-**

The Forest-Officer may, with the previous sanction of the <sup>1</sup>[State Government] or of any officer duly authorised by it in this behalf, stop any public or private way or watercourse in a reserved forest, provided that a substitute for the way or watercourse so stopped, which the <sup>1</sup> [State Government] deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-Officer in lieu thereof.

1. Substituted for "Provincial Government" by A.L.O. 1950.

**26. Acts prohibited in such forest :-**

32(1) Any person who

(a) makes any fresh clearing prohibited by section 5, or

(b) sets fire to a reserved forest or to a forest in a land in respect of which a notification declaring the decision of the State Government to constitute it a reserved forest has been issued under Section 4, or in contravention of any rules made by the State Government in this behalf, kindles in such forest any fire, or leaves any fire burning in such manner as to endanger such a forest; or who, in a reserved forest

(c) kindles, keeps or carries any fire except at such seasons as the Forest Officer may notify in this behalf;

(d) trespasses or pastures cattle, or permits cattle to trespass;

(e) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(f) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages, the same;

(g) quarries stone, bums lime or charcoal, or collects, subjects to any manufacturing process, or remove, any forest-produce ;

(h) clears or breaks up any land for cultivation or any other purpose,

(i) in contravention of any rules made in this behalf by the <sup>1</sup>[State Government] hunts, shoots, fishes, poisons water or sets traps or snares; or

(j) in any area in which the Elephants' Preservation Act, 1879, is not in force, kills or catches elephants in contravention of any rules so made; shall be punishable with imprisonment for a term which, may extend to <sup>2</sup>[one year or with fine which may extend to one thousand rupees], or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

(2) Nothing in this section shall be deemed to prohibit

(a) any act done by permission in writing of the Forest-officer, or under any rule made by the <sup>1</sup>[State Government]; or

(b) the exercise of any right continued under clause (c) of subsection (2) of section 15, or created by grant or contract in writing made by or on behalf of the Government under section 23.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the <sup>1</sup>[State Government] may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

<sup>5</sup> (4) When a person is convicted under clause (d) or (h) of subsection (1)

(a) a Forest Officer not below the rank of a Ranger.

(b) a Police officer not below the rank of a Sub-Inspector, or Tehsildar"

(c) a Revenue officer not below the rank of a Mahalkari or may evict him from the forest or land in relation to which he has committed the offence.

1. Substituted for "Provincial Government" by A. L. O. 1950.

2. Substituted by "six months or with fine which may extend to five hundred rupees" Mah. Act 7 of 1985, Section 3 (1-6-1985).

5. Inserted by Mah. Act 6 of 1961, Section 6 (9-2-1961).

**27. Power to declare forest no longer reserved :-**

(1) The [State Government]<sup>1</sup>[or subject to the general or special orders of the "State Government", the 'Commissioner']] may, <sup>2</sup>[\* \* \*] by notification, in the <sup>3</sup> [Official Gazette], direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

(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 cessation.

1. Inserted by Maha. Act 8 of 1958. Section 3(4) and Sch. r/w Maha. Gazette 13-6-1980, Part IV-B, page 488 (489).

2. The words "subject to the control of the Governor-General in Council" were omitted by A.O. 1937.

3. Substituted for "local official Gazette" by A. L. O. 1950.

### CHAPTER 3

#### Of Village Forests

### **28. Formation of village- forests :-**

(1) <sup>1</sup>[State Government] may assign to any village-community <sup>2</sup>[village panchayat established under <sup>3</sup>[the Bombay Village Panchayats Act, 1958], co-operative society registered or deemed to be registered under [the Bombay co-operative Societies Act, 1960]] the rights of Government to or over any land which has been constituted a reserved forest <sup>4</sup>[or called a protected forest".], and may cancel such assignment. All forests so assigned shall be called village-forests.

(2) The <sup>1</sup>[State Government] may make rules for regulating the management of village-forests, prescribing the conditions under which the community <sup>6</sup>[panchayat or society"] to which any such assignment is made may be provided with timber or other forest produce or pasture, and their duties for the protection and improvement of such forest.

(3) All the provisions of this Act relating to reserved <sup>7</sup>[or protected] forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests <sup>5</sup> [according as the forests assigned are reserved or protected forests.]

1. Substituted for "Provincial Government" by A. L. O. 1950.

2. These words and figures inserted by Bom. Act 24 of 1955, section 3, (22-6-1955); Maha \Act 6 of 1961; section 2 (9-2-1961) \In these, the words and figures, "the Bombay Village Panchayats

Act, 1933 was substituted with the words and figures "the Bombay Village Panchayats Act, 1958; and the words and figures "the Bombay Co-operative Societies Act, 1925 were substituted with the words and figures, "the Maharashtra Co-operative Societies Act, 1950" vide Mah. Act 7 of 1985, S.4(1-6-85)

3. Substituted by Mah. Act 7 of 1985, Section 4. Substituted *ibid*.

4. These words were inserted by Mah. Act 6 of 1961, Section 2 (9-2-1961).

6. These words were inserted by Bom. Act 24 of 1955, section 3, (22-6-1955); Maha Act 6 of 1961; Section 2 (9-2-1961)

7. These words inserted by Bom. Act 62 of 1948, section 2, (4-12-1948); Maha Act 6 of 1961; Section 2 (9-2-1961)

#### CHAPTER 4

##### Of Protected Forests

### **29. Protected forests :-**

The <sup>1</sup>[State Government] <sup>2</sup>[or subject to the general or special orders of the "State Government", the 'Commissioner'] may by notification, in the <sup>3</sup> [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 settlement, or in such other manner as the <sup>50</sup>[State Government] thinks sufficient. Every such record shall 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] [or subject to the general or special orders of the "State Government", the 'Commissioner'] 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.

1. Substituted for "Provincial Government" by A. L. O. 1950.

2. Inserted by Maha. Act 8 of 1958. Section 3(4) r./w. Maharashtra Government Gazette, \19-11-81, Pt. IV-B, p. 1916.

3. Substituted for "local official Gazette" by A.L.O. 1950.

### **30. Power to issue notification reserving trees, etc :-**

The <sup>1</sup>[State Government] may, by notification in the <sup>2</sup>[Official Gazette]

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification.

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the <sup>1</sup> [State Government] thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed; or

(c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or, removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

1. Substituted for "Provincial Government" by A.L.O. 1950.

2. Substituted for "local official Gazette" by A.L.O. 1950.

### **31. Publication of translation of such notification in neighbourhood :-**

The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

### **32. Power to make rules for protected forests :-**

The <sup>1</sup> [State Government] may make rules to regulate the following matters, namely :

(a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce, from protected forests;

(b) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other

forest-produce for their own use, and the production and return of such licences by such persons ;

(c) the granting of licences to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licences by such persons.

(d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for. permission to cut such trees, or to collect and remove such timber or other forest-produce;

(e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;

(f) the examination of forest-produce passing out of such forests ;54

(g) the clearing and breaking up of land for cultivation or other purposes in such forests;

(h) the protection from fire of timber lying in such forests and of trees reserved under section 30;

(i) the cutting of grass and pasturing of cattle in such forests;

(j) hunting, shooting, fishing, poisoning water and setting traps or snares in such forest, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879, is not in force.

(k) the protection and management of any person of a forest closed under section 30; and

(l) the exercise of rights referred to in section 29.

1. Substituted for "Provincial Government" by A.L.O. 1950.

### **33. Penalties for acts in contravention of notification under section 30 or of rules under section 32 :-**

(1) Any person who commits any of the following offences, namely :

(a) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from, or otherwise, damages, any such tree ;

(b) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce ;

(c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest;

(d) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under section 30, whether standing, fallen, or felled, or to any closed portion of such forest;

(e) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion;

(f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid;

(g) permits cattle to damage any such tree;

(h) infringes any rule made under section 32;

<sup>1</sup>[one year or with fine which may extend to two thousand rupees], or with both.

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest the <sup>2</sup>[State Government] may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

<sup>3</sup> (3) When a person is convicted of an offence under sub-section (1),

(a) a Forest Officer not below the rank of a Ranger,

(b) a Police officer not below the rank of a Sub-Inspector, or

(c) a Revenue officer not below the rank of a Mahalkari or Tehsildar" may evict him from the forest or land in relation to which he has committed the offence.

1. These words were substituted for "six months or with fine which may extend to five \hundred rupees" by Mah. Act 7 of 1985, Sec. 5 (1-6-85).

2. Substituted for "Provincial Government" by A.L.O. 1950.

3. Inserted vide Maha. Act 6 of 1961, section 8 (3-2-1961).

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

Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-Officer, or in accordance with rules made under section 32, or except as regards any portion of a forest closed under section 30, or as regards any rights the exercise of which has been <sup>1</sup> suspended under section 33, in the exercise of any right recorded under section 29.

1. Section 34-A as inserted by Bom. Act 62 of 1948 repealed by Maha. Act 29 of 1975, \sec. 24(30-8-1975).

**34A. . :-**

Repealed by Mah. Act 29 of 1975, s. 24 (30-8-1975).

**CHAPTER 5**

Of the Control Over Forests and Lands Not being the Property of Government

**35. . :-**

Repealed by Mah. Act 29 of 1975, s. 24 (30-8-1975).

**36. . :-**

**36C. . :-**

Repealed ibid.

**37. . :-**

Repealed ibid.

**38. Protection of forests at 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 forests thereon, represent in writing to the Collector their desire

(a) that such land be managed on their behalf by the Forest-Officer as a reserved or a protected forest 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 <sup>1</sup>[State Government] may, by notification in the <sup>2</sup> [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.

1. Substituted for "Provincial Government" by A.L.O. 1950.
2. Substituted for "local official Gazette" by A.L.O. 1937.

#### CHAPTER 6

Of the Duty on Timber and Forest-Produce

### **39. Power to impose duty on timber and other forest produce :-**

(1) The <sup>1</sup>[Central Government] may levy a duty in such manner, at such places and at such rates as it may declare by notification in the <sup>2</sup>[Official Gazette] on all timber or other forest-produce

(a) which is produced in the <sup>3</sup>[the territories to which this Act extends], and in respect of which the <sup>4</sup>[Government] has any right.

(b) which is brought from any place outside <sup>60</sup>[the territories to which this Act extends], <sup>5</sup>[\* \* \* \* \*]

(2) In every case in which such duty is directed to be levied ad valorem, the <sup>6</sup>[Central Government] may fix by like notification the value on which such duty shall be assessed.

(3) All duties on timber or other forest-produce which at the time when this Act comes into force in any territory, are levied therein under the authority of the <sup>7</sup>[State Government] shall be deemed to be and to have been duly levied under the provisions of this Act.

[4] Notwithstanding anything in this section, t h e <sup>7</sup>[State Government] may, until provision to the contrary is made by <sup>9</sup>[Parliament], continue to levy any duty which it was lawfully levying before the commencement of the <sup>10</sup>[the Constitution], under this section as then in force:

Provided that nothing in this sub-section authorizes the levy of any duty which as between timber or other forest-produce of the <sup>11</sup>[State] and similar produce of the locality outside the <sup>10</sup>[State] discriminates in favour of the former, or which, in the case of timber or other forest-produce of localities outside the <sup>10</sup> [State] discriminater between timber or other forest- produce of one locality and similar timber or other forest-produce of another locality.

1. Substituted for "local Government" by A.L.O. 1937.
2. Substituted for "local official Gazette" by A.L.O. 1937.
3. Substituted for "Part A States and Part C States" by 3 A.L.O., 1956
4. Substituted for "Crown" by A.L.O. 1950.
5. Proviso was omitted by A.O. 1937.
6. Substituted for "local Government" by A.L.O. 1937.
7. Substituted for "Provincial Government" by A.L.O. 1950.
9. Substituted for "Central Legislature" by A.L.O. 1950.
10. Substituted for "Part III of the Government of India Act, 1935", ibid.
11. Substituted for "Province", ibid.

**40. Limit not to apply to purchase money or royalty :-**

Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase money or royalty on any timber or other forest- produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

CHAPTER 7

Of the Control of Timber and Other Forest Produce in Transit.

**41. 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 timber and other forest- produce in transit by land or water, is vested in the <sup>1</sup>[State Government] and it may make rules <sup>2</sup>to regulate the transit of all timber and other forest- produce.

<sup>3</sup>(1A) Notwithstanding anything contained in any law for the time being in force, the State Government may make rules to regulate by grant of licences, within the forest limits or such distance therefrom not exceeding eighty kilometres as may be determined, the converting or cutting of timber in a saw mill, and prescribe fees and conditions, subject to which such

(2) In particular and without prejudice to the generality of the foregoing powers such rules may

(a) prescribe the routes by which alone timber or other forest- produce may be imported, exported or moved into, from or within the State ;

(b) prohibit the import or export or moving of such timber or other 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 and for the payment of fees therefor ;

(d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to the 73[Government] on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark;

(e) provide for the establishment and regulation of depots to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it; and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots ;

(f) 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 act which may cause such river to be closed or obstructed ;

(g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

(h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing or making of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber ;

<sup>4</sup>(hh) \* \* \*

(i) regulate the use of property marks for timber, and the registration of such marks, prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

(3) The <sup>5</sup> [State Government] may direct that any rule made under

this section shall not apply to any specified class of timber or other forest- produce or to any specified local area.

1. Substituted for "Provincial Government" by A.L.O. 1950.
2. Bombay Transit of Forest Produce (Vidarbha Region) Rules 1960- Bom. Gaz. 28-4-1960, Pt. IV A, p. 143; Orissa Timber and Other Forest Produce Transit Rules, 1967 - Orissa Govt. Gaz. 4-8-1967, Pt. III. p. 987; Andaman Forest Produce Transit Rules, 1966 - Andaman and Nicobar Islands Gazette, 18-4-1967, Extra: Manipur Forests (Transit of Timber and Forest Produce ) Rules, 1966- See Manipur Gaz. Extra, d. 10-6-1967.
3. Sub-section (1 -A) was inserted by Mah. Act 23 of 1984, Section 2.
4. Deleted by Maha. Act 23 of 1984, Section 2.
5. Substituted for "Provincial Government" by A.L.O. 1950.

**41A. Powers of Central Government as to movements of timber across customs frontiers :-**

<sup>1</sup> Notwithstanding anything in section 41, the Central Government may make rules to prescribe the route by which alone timber or other forest-produce may be imported, exported or moved into or from [the territories to which this Act extends] across any customs frontier as defined by the Central Government, and any rules made under section 41 shall have effect subject to the rules made under this section.

1. Inserted by A. L. O., 1937.

**42. Penalty for breach of rules made under section 41 :-**

(1) The <sup>1</sup>[State Government] may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to <sup>2</sup> [one year, or fine which may extend to two thousand rupees], or both.

(2) Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

1. Substituted for "Provincial Government" by A. L. O. 1950.
2. These words were substituted for "six months or with fine which may extend to five hundred rupees" by Mah. Act 7 of 1985, Section 6 (1-6-85).

**43. Government and Forest-Officers not liable for damage to forest-produce at depot :-**

The <sup>1</sup> [Government] shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act, and no Forest-Officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

1. Substituted for "Crown" by A. L. O. 1950.

**44. All persons bound to aid in case of accident at depot :-**

In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the <sup>1</sup> [Government] or by any private person, shall render assistance to any Forest-Officer or police-officer demanding his aid in averting such danger or securing such property from damage or loss.

1. Substituted for "Crown" by A. L. O. 1950.

CHAPTER 8

Of the Collection of Drift and Stranded Timber

**45. Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly :-**

(1) All timber found adrift, breached stranded or sunk ; all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise; and <sup>1</sup>[State Government] directs, all unmarked wood and timber shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(2) Such timber may be collected by a Forest-Officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depot which the Forest-Officer may notify as a depot for the reception of drift timber.

(3) The <sup>1</sup>[State Government] may, by notification in the <sup>3</sup> [Official Gazette], exempt any class of timber from the provisions of this section.

1. Substituted for "Provincial Government" by A.L.O. 1950.
3. Substituted for "local official Gazette" by A.L.O. 1950.

**46. Notice to claimants of drift timber :-**

Public notice shall from time to time be given by the Forest- Officer of timber collected under section 45. 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 not less than two months from the date of such notice, a written statement of such claim.

**47. 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 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 persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

(3) Any person whose claim has been rejected under this section may within three months 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 <sup>1</sup> [Government], or against any Forest- Officer, on account of such rejection, or the detention or removal of any timber, 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 has been brought, as provided in this section.

1. Substituted for "Crown" by A.L.O. 1950.

**48. Disposal of unclaimed timber :-**

If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another

person under section 47, in such other person free from all encumbrances not created by him.

**49. Government and its officers not liable for damage to such timber :-**

The <sup>1</sup> [Government] shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-Officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

1. Substituted for "Crown" by A.L.O.1950.

**50. Payments 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 he has paid to the Forest-Officer or other person entitled to receive it, such sum on account thereof as may be due under any rule made under section 51.

**51. Power to make rules and prescribe penalties :-**

(1) <sup>1</sup>[State Government] may make rules to regulate the following matters, namely :

(a) the salving, collection and disposal of all timber mentioned in section 45;

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

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

(d) the use and registration of hammers and other instruments to be used for making such timber.

(2) The <sup>85</sup> [State Government] may prescribe, as penalties for the contravention of any rules made under this section imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees, or both.

\* . Substituted for the word "confiscation" vide Maha. Act 7 of 1985, S. 7 (1-6-1985).

**CHAPTER 9**

**Penalties and Procedure**

## **52. Seizure of property liable to \*[confiscation and forfeiture] :-**

(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, 86[vehicles] or cattle used in committing any such offence, may be seized by any Forest-office or Police Officer.

<sup>1</sup>(1A) 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

(2) Every officer seizing any property under this section shall place on such property <sup>2</sup>[or the receptacle or vehicle (if any) in which it is contained] a mark indicating that the same has been so seized, and shall, as soon as may be, 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, 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.

<sup>3</sup> [Provided further that, where the offence on account of which the seizure has been made is in respect of timber, sandalwood, firewood, charcoal or such other forest-produce as may be notified by the State Government from time to time (hereinafter referred to as the 'notified forest- produce') and which is the property of the State Government, such officer shall make a report of such seizure also to the concerned authorised officer under section 61-A.

Explanation For the purpose of this Chapter, the expressions "property of Government" and "property of the State Government" include the property belonging to the Forest Development Corporation of Maharashtra, Limited" ;

1. Inserted vide Maha.Act 25 of 1953 S. 2 (12-5-53).

2. These words and brackets added vide Maha. Act 7 of 1985, S. 7 (1-6-85).

3. This proviso was added vide Maha. Act 7 of 1985, S. 7 (1-6-85).

## **53. Power to release property seized under section 52 :-**

Any forest-officer of a rank not inferior to that of a Ranger who or whose subordinate, has seized any tools, boats, <sup>1</sup>[vehicles] or

cattle <sup>2</sup> [under Section 52, may subject to section 61-G release] the same on the execution by the owner thereof of a bond for the production of the property so released, if any, when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

1. Substituted for "carts" vide Bom. Act 25 of 1953, Section 2 (12-5-53) and Bom. Act 25 of 1953, Section 2.
2. Substituted for words "under section 52, may release" vide Maha. Act 6 of 1961, Section 8 (3-2-1961).

#### **54. Procedure on receipt by Magistrate of report of seizure**

:-

**92** . Upon the receipt of any report under sub-section (2) of section 52, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and, subject to section 58 and 61G for the disposal of the property according to law.

\*. This word was substituted for the word "confiscation", vide Maha. Act 7 of 1985, Section 10(1-6-1985).

#### **55. 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, <sup>1</sup>[vehicles] or cattle, used in committing any forest- offence, <sup>2</sup>[shall subject to section 61G, be liable by order of the convicting court to forfeiture.]

(2) Such <sup>3</sup> [forfeiture] may be in addition to any other punishment for such offence.

1. Substituted for "carts" vide Bom. Act 25 of 1953, Section 2 (12-5-53) and Bom. Act 25 of 1953, Section 2.
2. These words were substituted for the words "shall be liable", vide Maha. Act 7 of 1985, Section 10(1-6-1985).
3. This word was substituted for the word "confiscation", vide Maha. Act 7 of 1985, Section 10(1-6-1985).

#### **56. 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 <sup>1</sup>[forfeited], be taken charge of by a Forest-officer, and <sup>2</sup> [in any other case may, subject to section 61G, be disposed of], in such manner as the

Court may direct.

1. Substituted for the word "Confiscated." by Mah. Act 7 of 1985, Section 11 (1-6-1985).
2. These words, figures and letter were substituted for the words "in any other case, may be disposed of, *ibid*."

**57. Procedure when offender not known, or cannot be found :-**

When the offender is not known or cannot be found,<sup>1</sup> [the Magistrate may, if finds that an offence has been committed, subject to section 61-G order the property in respect of which the offence has been committed to be forfeited 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 one month from the date of seizing such 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.

1. These words were substituted for the words "the Magistrate may, if finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated" vide Maha. Act 7 of 1985, S.12 (1-6-1985).

**58. Procedure as to perishable property seized under section 52 :-**

<sup>1</sup> The Forest-officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law sell any property seized under section 52 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.

1. This section was substituted for section 58 vide Maha. Act 7 of 1985, S.13 (1-6-1985).

**59. Appeal from orders under section 55, section 56 or section 57 :-**

The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may within one month from the date of any order passed under section 55, section 56 or section 57 appeal

therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

**60. Property when to vest in Government :-**

When an order for the <sup>1</sup> [forfeiture] of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such 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 Government free from all encumbrances.

1. Substituted for the word "confiscation" vide Mah. Act 7 of 1985, Section 14 (1-6-1985).

**61. 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 <sup>1</sup> [seized under section 52 which is not the property of Government and the withdrawal of any charge made in respect of such property.]

1. Substituted for words " seized under section 52" vide Maha. Act 7 of 1985, Section 15 \ (1-6-85).

**61A. Confiscation by Forest-officers of forest-produce where forest- offence is believed to have been committed :-**  
**1**

(1) Notwithstanding anything contained in the foregoing provisions of this chapter or any other law, where a forest-offence is believed to have been committed in respect of timber, sandalwood, firewood, charcoal or any other notified forest produce which is the property of the State Government, the officer seizing the property under sub-section (1), of section 52 shall, without any unreasonable delay produce it, together with all tools, boats, vehicles and cattle used in committing such offence, before an officer authorised by the State Government in this behalf by notification in the Official Gazette, not being an officer below the rank of an Assistant Conservator of Forests (hereinafter referred to as "the authorised officer").

(2) The State Government may authorise one or more officers for

any local area under sub-section(1).

(3) Where an authorised officer seizes under sub-section (1) of section 52 any timber, sandalwood, firewood, charcoal or any other notified forest- produce which is the property of the State Government or any such property is produced before an authorised officer under sub-section (1) and he is satisfied that a forest-offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest-offence, order confiscation of the property so seized together with all tools, boats, vehicles and cattle used in committing such offence.

(4)

(a) Where any authorised officer, after passing an order of confiscation under sub-section (3), 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 and the tools, boats, vehicles and cattle to be sold by public auction.

(b) Where any confiscated property or the tools, boats, vehicles and cattle are 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 this section is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

1. Sections 61 A, to 61G inserted vide Mah. Act 7 of 1985, Section 16 (1-6-85).

**61B. Issue of show cause notice before confiscation under section 61 A :-**

(1) No order confiscating any timber, sandalwood, firewood, charcoal or any other notified forest-produce, tools, boats, vehicles or cattle shall be made under section 61A except after giving notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so, and considering his objections, if any:

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

(2) Without prejudice to the provisions of sub-section (1), no order confiscating any tool, boat, vehicle or cattle shall be made under section 61 A, if the owner of the tools, boats, vehicles or cattle proves to the satisfaction of the authorised officer that it was used in carrying the timber, sandalwood, firewood, charcoal or other notified forest-produce without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tools, boats, vehicles or cattle and that each of them had taken all reasonable and necessary precautions against such use.

**61C. 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, suo moto call for and examine the record of the order of the authorised officer under section 61A; and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit:

Provided that no such record shall be called for after the expiry of 30 days from the date of such order, and no order, under this section shall be passed if, in the meanwhile, an appeal has been filed under section 61D against the order of the authorised officer:

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

**61D. Appeal :-**

(1) Any person aggrieved by any order passed under section 61A or section 61C 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 and the tools, boats, vehicles and cattle to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the authorised officer or the officer specially empowered under section 61C, 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.

**61E. Award of confiscation not to interfere with other punishments :-**

The award of any confiscation under section 61-A or section 61C or section 61D shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act or any other law for the time being in force.

**61F. Property etc. confiscated when to vest in Government**

:-

When an order for confiscation of any property or any tools, boats, vehicles or cattle is passed under section 61 A, section 61C, or section 61D and any such order has become final in respect of the whole or a portion of such property or portion thereof or tool, boat, vehicle or cattle or if it has been sold under clause (a) of sub-section (4) of section 61 (A), the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.

**61G. Bar of jurisdiction in certain cases :-**

Whenever any timber, sandalwood, firewood, charcoal or any other notified forest-produce which is the property of the State Government, together with tool, boat, vehicle or cattle used in committing any offence is seized under sub-section (1) of section 52, the authorised officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have, and notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973, or in 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 and any tool, boat, vehicle or cattle.

**62. Punishment for wrongful seizure :-**

Any Forest-Officer or Police-Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable for imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**63. Penalty for counterfeiting or defacing marks on trees and 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 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) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer; or

(c) alters, moves, destroys or defaces any boundary-mark of any forest of wasteland to which the provisions of this Act are applied, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

#### **64. Power to arrest without warrant :-**

(1) <sup>1</sup> [Any Forest-Officer, police-officer or Revenue-Officer] without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police- station.

(3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV unless such act has been prohibited under clause (c) of section 30.

1. Substituted for the words "Any forest-officer or police-officer" vide Maha. Act 6 of 1961 \Section 10 (3-2-1961).

#### **65. Power to release on a bond a person arrested :-**

Any Forest-officer of a rank not inferior to that of <sup>1</sup>[a Ranger, any police officer of a rank not inferior to that of sub-inspector or any Revenue officer of a rank not inferior to that of a Mahalkari] who, or whose subordinate, has arrested any person under the provisions of section 64, <sup>2</sup> [may, subject to and without prejudice to the provisions of section 65-A, release such person] on his executing a bond 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.

1. Substituted for the words "a Ranger" vide Mah. Act 6 of 1961,

Sec. 11 (3-2-1961).

2. Substituted for the words "may release such person" by Mah. Act 7 of 1985, Section 18 \ (1-6-85).

**65A. Certain offences to be non-bailable :-**

<sup>1</sup> Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 :

(a) The offences under sections or clauses of sections mentioned in clause (b) shall be non-bailable.

(b) the sections and clauses of sections of this Act referred to in clause (a) are the following namely : Section 26, clauses (a), (b), (f), (g), (h) and (i) of sub-section (1). Section 33, clauses (a), (b), (c), (d) (f) and (h) of sub-section (1). Section 42. Section 63.

(c) No person accused of any offence referred to in clause (b), shall, if in custody, be released on bail or on his own bond unless ,

(i) the prosecution has been given an opportunity to oppose the application for such release, and

(ii) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

1. Inserted vide Maha. Act 7 of 1985, S. 19 (1-6-85).

**66. Power to prevent commission of offence :-**

<sup>1</sup> [Every Forest-officer, Police-officer and Revenue officer] shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

1. These words were substituted for "Every Forest-officer and Police-officer" vide Maha. Act \6 of 1961, Section 12 (3-12-1961).

**67. Power to try offences summarily :-**

<sup>1</sup>[Any Magistrate of the first class specially empowered in this behalf by the <sup>2</sup>[State Government] in consultation with the High Court] may try summarily, under the <sup>3</sup>[Code of Criminal Procedure; 1973], any forest-offence punishable with imprisonment for a term

<sup>4</sup> [not exceeding one year, or fine not exceeding two thousand rupees, or both, and the provisions of section 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial; but, notwithstanding anything contained in the said Code, in the case of conviction for any offence in a summary trial under this section, it shall be lawful for the Magistrate to pass sentence of

imprisonment for any term for which such offence is punishable under this Act].

1. These words were substituted for " The District Magistrate or any Magistrate of the first \class specially empowered in this behalf by the State Government" vide Bom. Act 23 of \1951, S.2 and Sch. (5-7-1951): vide Maha. Act 6 of 1961, Section 2 (3-2-1961).
2. Substituted for "Provincial Government" by A. L. O. 1950.
3. These words were substituted for "Code of Criminal Procedure; 1898" vide Mah. Act 7 of \1985, Section 20 (1-6-85).
4. These words were substituted for " not exceeding six months or fine not exceeding five \hundred rupees"by Mah. Act 7 of 1985, Section 20 (1-6-85).

## **68. Power to compound offences :-**

**1**

(1) Subject to the provisions of sub-section(3), the State Government may, by notification in the Official Gazette, 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 specified in section 62 or section 63, a sum of money, or at his discretion, an undertaking in writing to pay a sum of money, by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation to release the same on payment of, or at his discretion, on acceptance of an undertaking in writing to pay, the value thereof as named by such officer.

(2) On the payment of, or on acceptance of an undertaking in writing to pay, such sum of money, or such named value, or both, as the case may be, to such an officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released and no further proceedings, other than those under section 82 where necessary, shall be taken against such person or property.

(3) Any Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to atleast one hundred rupees, and the sum of money accepted or agreed to be accepted as compensation under clause (a) of sub-section (1), shall in no case exceed the sum of five hundred rupees.

1. This section was substituted for section 68. vide Maha. 6 of 1961, 8. 13(3-2-1961)

**69. Presumption that forest-produce belongs to Government :-**

When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

CHAPTER 10

Cattle-Trespass

**70. Cattle-trespass Act, 1871 to apply :-**

Cattle-trespassing in a reserved forest or in any portion of a protected forest-which has been lawfully closed to grazing 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.

**71. Power to alter fines fixed under that Act :-**

The <sup>1</sup>[State Government] may, by notification in the Official Gazette, direct that, in lieu of the fines fixed under section 12 of the Cattle- trespass Act, 1871, there shall be levied for each head of cattle impounded under section 70 of this Act, such fines as it thinks fit, but not exceeding the following, that is to say : For each elephant ..... ten rupees. For each buffalo or camel ... .. two rupees. For each horse, mare, gelding, pony, colt, filly, one rupee, mule, bull, bullock, cow or heifer ..... For each calf, ass, pig, ram, ewe, sheep, lamp, <sup>2</sup> [fifty naye paise] goat or kid .....

1. Substituted for "Provincial Government" by A. L. O. 1950.

2. Substituted for "eight annas" vide Maha. Act 6 of 1961, Section 14 (3-2-1961).

CHAPTER 11

Of Forest - Officers

**72. State Government may invest Forest- officers with certain powers :-**

(1) The <sup>1</sup> [State Government] may invest any Forest-officer with all or any of the following powers, that is say :

(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) Power to issue a search warrant under 114[Code of Criminal Procedure, 1973] and

(d) Power to hold an inquiry into forest offences, and, in the course of such enquiry to receive and record evidence.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in all subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

1. Substituted for "Provincial Government" by A. L. O. 1950.

**73. Forest-officers deemed public servants :-**

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

**74. Indemnity for acts done in good faith :-**

No suit shall lie against any public servant for anything done by him in good faith under this Act.

**75. Forest-officers not to trade :-**

Except with the permission in writing of the <sup>1</sup> [State Government] , no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside 116[the territories to which this Act extends.

1. Substituted for "Provincial Government" by A. L. O. 1950.

**CHAPTER 12**

**Subsidiary Rules**

**76. Additional powers to make rules :-**

The <sup>1</sup> [State Government] may make rules

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

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

(c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and

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

1. Substituted for "Provincial Government" by A. L. O. 1950.

**77. Penalties for breach of rules :-**

Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

**78. Rules when to have force of law :-**

(1) All rules made by the <sup>1</sup>[State Government] under this Act shall be published in the <sup>2</sup> [Official Gazette], and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

118[(2) All rules made by the State Government under this Act shall be laid for not less than thirty days before each House of the State Legislature as

1. Substituted for "Provincial Government" by A. L. O. 1950.

2. Substituted for "local official Gazette" by A. L. O. 1937.

**CHAPTER 13**

**Miscellaneous**

**79. Persons bound to assist Forest- officers and Police-officers :-**

(1) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person in any village contiguous to such forest who is employed by the <sup>1</sup>[Government], or who receives emoluments from the <sup>1</sup> [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 he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police- officer or not,

(a) to extinguish any forest fire in such forest of which he has knowledge or information.

(b) to prevent by any lawful means in his power, any fire in the vicinity of such forest of which he has knowledge or information

from spreading to such forest and shall assist any Forest-officer or Police officer demanding his aid

(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 so to do, 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 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 or protected forest;

(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;

1. Substituted for "Crown" by A. L. O. 1950.

## **80. Management of forest the joint property of Government and other persons :-**

(1) If the Government and any person be jointly interested in any forest or wasteland, or in the whole or any part of the produce thereof, the <sup>1</sup>[State Government] may either

(a) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same; or

(b) issue such regulations for the management of the forest, waste-land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

(2) When the <sup>1</sup>[State Government] undertakes under clause (a) of sub-section (1) the management of any forest, waste-land or produce, it may by notification in the <sup>3</sup> [Official Gazette], declare that the provisions contained in Chapter II and IV shall apply to such forest, waste-land or produce, and thereupon such provisions

shall apply accordingly.

1. Substituted for "Provincial Government" by A. L. O. 1950.
3. Substituted for "local official Gazette" by A. L. O. 1937.

**80A. Power of Government to apply provisions of this Act to certain lands of Government or local authority :-**

<sup>1</sup> The State Government may by notification in the Official Gazette, declare that any of the provisions of this Act shall apply to all or any lands on the banks of canals or the sides of roads which are the property of the State Government or a local authority and thereupon such provisions shall apply to such lands accordingly.

1. Inserted vide Maha. Act 6 of 1961, Section 2 (3-2-1961).

**81. Failure to perform service for which a share in produce of Government forest is enjoyed :-**

If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the <sup>1</sup>[State Government] that such service is no longer so performed:

Provided that no such share shall be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the <sup>1</sup> [State Government].

1. Substituted for "Provincial Government" by A. L. O. 1950.

**82. Recovery of money due to Government :-**

All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce [or on account of compensation or value of property agreed to be paid under section 68], 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.

**83. 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 until such amount has been paid.

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

(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 <sup>1</sup> [Government].

1. Substituted for "Crown" by A. O. 1937.

**84. Land acquired under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894 :-**

Whenever it appears to the <sup>1</sup> [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.

1. Substituted for "Provincial Government" by A. L. O. 1950.

**85. 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 instrument that he, or 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 the 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 breach of any of the conditions of such bond or instrument,

(b) as to the sum to be paid for such breach,

(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 objection (if any) be decided by an officer, not below the rank of a Sub-Divisional Forest-officer, authorised 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 other appellate authority as the State Government may 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.

**85A. Saving for rights of Central Government :-**

Nothing in this Act shall authorize a Government of any State to make any order to do anything in relation to any property not vested in that State or otherwise prejudice any rights of the Central Government or the Government of any other State without the consent of the Government concerned.

**86. Repeals :-**

Repealed by the Repealing and Amending Act, 1948 (II of 1948), section 2 and Schedule.]

Enactments repealed : [Repealed by the Repealing and Amending Act, 1948 (II of 1948), section 2 and Schedule.]