

Uttar Pradesh Private Forests Act, 1948

4 of 1949

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Uttar Pradesh Private Forests Act, 1948

4 of 1949

An Act to provide for the conservation of private forests and groves and for the afforestation of waste lands in the Uttar Pradesh Whereas it is expedient to provide for the conservation of forests and groves and for the afforestation of waste lands which are not vested in the Government or in respect of which notifications and orders issued under the Indian Forests Act, 1927, are not in force; It is hereby enacted as follows : 1. Published in Uttar Pradesh Government Gazette, Extraordinary, dated May 11, 1949.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the United Provinces Private Forests Act, 1948.

(2) It extends to the whole of Uttar Pradesh.

(3) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force in such areas and on such dates as the State Government may, by notification specify and for this purpose different dates may be specified for different provisions of this Act and for different areas.

2. Act Not To Apply To Certain Lands :-

This Act shall not apply--

(a) to any land which is vested in the Government; or

(b) to any land in respect of which notifications and orders issued under the Indian Forests Act, 1927, are in force; or

(c) to any land where the Kumaun Forest Panchayat Rules apply.

3. Definitions :-

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

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

(2) "Collector" includes any officer empowered by the State Government to discharge the duties of the Collector under this Act;

(3) "Forest" means any land which the State Government may, by notification declare to be a forest for the purposes of this Act;

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

(5) "Forest Officer" means any person whom the State Government may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer;

(6) "Forest Settlement Officer" means an officer who shall ordinarily be a Revenue Officer, appointed by the State Government to perform the duties of a Forest Settlement Officer under this Act, the State Government may, however, appoint any number of officers, not exceeding three, not more than one of whom shall be a person holding any forest office, to perform the duties of a Forest Settlement Officer under this Act;

(7) "Forest produce" includes the following whether found in, or

brought from, a forest or not, that is to say--

(a) timber, fuel, charcoal, caoutchouc, catechu, wood-oil, resin, gum, natural varnish, lac, mahua flowers, mahua seeds, mango, jamun, chiraunji, kuth and myrobalans; and

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

(ii) plants not being trees (including grass, creepers, reed 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 and rock.

(8) "felling permit" means a permit to fell trees granted by the Forest Officer under Section 6 of this Act;

(9) "felling licence" means a licence to fell trees granted to the landlord by the Forest Officer under Section 12 of this Act;

(10) "landlord" means the owner of the estate or tenure in which a forest or wasteland is situated who is entitled to exercise any right in such forest and waste land;

(11) "owner" includes any mortgagee in possession, lessee, manager, receiver appointed by a competent court and any person holding any property in trust and also includes a Court of Wards in respect of property under the superintendence or charge of such Court;

(12) "notification" means a notification published in the Official Gazette;

(13) "notified area" means an area specified in a notification issued under Section 4 of this Act;

(14) "notified forest" means forest specified in a notification issued under Section 4 of this Act;

(15) "private forest" means a forest which is not the property of the Government or over which the Government has no proprietary rights or to the whole or any part of the forest produce of which the Government is not entitled.

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

(17) "State Government" means the Government of Uttar Pradesh;

(18) "right-holder" means a person who has by custom a right of cutting or collecting in, and removing from a forest timber, fuel and other forest produce for his domestic and agricultural purposes and of pasturing his cattle in a forest;

(19) "rule" means a rule made under this Act.

(20) "trees" includes timber trees, fruit trees, palms, bamboos, stumps, (brushwood, bushes, hedges) and canes;

(21) "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;

(22) "vested forest" means a forest of which the control has been vested in a "Forest Officer" by notification issued under sub-section (1) of Section 32;

(23) "waste, land", means any land which the State Government may, by notification, declare to be a waste land for the purposes of this Act;

(24) "working plan" means a written scheme for the management and treatment of a forest;

(25) "year" means a year beginning on the first day of April and ending on 31st day of March of the following year;

(26) words and expressions used in this Act and defined in the Indian Forest Act, 1927 (XVI of 1927), and not defined in this Act have the meanings respectively assigned to them in the Indian Forest Act, 1927.

CHAPTER 2

GENERAL PROVISIONS RELATING TO THE MANAGEMENT OF AND EXERCISE OF RIGHT IN A NOTIFIED AREA OR A FOREST

4. Power To Prohibit The Cutting Of Trees :-

The State Government may, by notification and subject to such conditions as may be prescribed by the Forest Officer concerned, prohibit the cutting of any trees in such area or forest as may be specified.

5. Rights In Notified Area Or Forest To Be Exercisable In Accordance With This Act :-

In the area or forest notified under Section 4 of this Act the rights of the landlord and, notwithstanding anything contained in any record-of-rights prepared under any law for the time being in force, the rights of any person to cut, collect or remove trees, timber or other forest produce in or from, or to pasture cattle in any area or forest shall not be exercised in contravention of the provisions made in or under this Act.

6. Restrictions On Rights To Cut, Collect, Or Remove Timber, Etc. For Domestic Or Agricultural Needs :-

A person who has the right to cut, collect or remove trees, fuel, or

timber from any notified area or notified forest shall not cut, collect or remove such trees, fuel or timber for his domestic or agricultural needs except under a felling permit granted by the Forest Officer.

7. Restrictions On Right To Re-Claim Forest For Purposes Of Cultivation :-

A person who has the right to reclaim any land in a notified area or forest for the purpose of cultivation and the landlord of such a notified area or forest shall not reclaim any land therein for purpose of cultivation except in accordance with such conditions as may be prescribed by the Forest Officer.

8. Height Of Which Trees And Age Of Bamboo Culms That May Be Cut :-

No person with a felling permit shall in a notified area of forest cut down any trees at a height of more than six inches from the ground or any bamboo culm less than one year old.

9. Certain Persons Not To Sell Or Transfer Timber Cut In Any Forest :-

No person, not being a landlord, a person acting under the authority of the landlord or an officer acting under the provisions of this Act or rules made thereunder shall sell or otherwise transfer any timber obtained by him in the exercise of a right to cut timber in any notified area or forest.

10. Restrictions On Rights Of Landlord, Or Persons Claiming Through Landlord To Cut And Remove Timber Or Forest Produce :-

A landlord, or a lessee or other person claiming through the landlord, shall not cut or remove, or permit any person to cut or remove, any trees, timber or forest produce in or from any notified area or forest to such an extent as to deprive the right-holders of such quantity as the rules permit them to take in the exercise of their rights in the said notified area or forest.

11. Restrictions On Right To Graze Cattle :-

No person shall in the exercise of any customary or other right, pasture or cause to be pastured in any notified area or forest any

cattle of which he is not the owner.

12. Grant Of Permits To Fell Trees :-

A Forest Officer may on application of the landlord grant a felling licence for the felling of trees for such purpose and with such conditions as he may deem proper and thereupon it shall be lawful for the landlord to carry out felling in accordance with the terms of the felling licence.

13. Management Of Forests By Owner Under An Approved Working Plan :-

(1) The Forest Officer may direct any owner of a notified forest to prepare within a specified period a working plan in the prescribed manner for management of the forest.

(2) The owner of such notified forest may either himself prepare the working plan or request the Forest Officer to prepare a working plan on his behalf.

(3) The Forest Officer may, after considering each working plan submitted to him, by an order in writing, accept or modify such working plan in such manner as he may consider necessary or substitute another working plan for it.

(4) If any owner of such notified forest does not submit a working plan within the period specified under sub-section (1) or does not request the Forest Officer to prepare one on his behalf within the period specified in sub-section (2), the Forest Officer may prepare a working plan in respect of such forest.

(5) The cost of the preparation of the working plan under sub-sections (2) and (4) will be borne by the owner in the case of forests which will be run at a profit and by Government in the case of forests run at a loss. Where the cost is payable by the owner such cost may be realised as arrears of land revenue upon the landlord failing to pay it within a period to be specified by the Forest Officer.

14. Management Of The Forest :-

The forest for which an approved working plan exists will be managed by the owner himself according to the prescriptions made in such working plan, with the assistance of such trained staff as may be prescribed in the working plan and under the superintendence of the Forest Officer. No deviation from the

prescriptions of the working plan will be permitted without the previous sanction of the Forest Officer.

15. Offences Under This Chapter And Trial Of Such Offences And Penalties Thereof :-

(1) Any person who contravenes any of the provisions of this Chapter deviates from the prescriptions of a sanctioned working plan without the previous sanction of the Forest Officer shall be punishable with fine not exceeding one hundred rupees for the first offence and with fine not exceeding one thousand rupees or simple imprisonment not exceeding three months or both for the second or any subsequent offence.

(2) Offences under this section shall be triable by a Magistrate of the Second or Third class, and proceedings under this section may be instituted on a complaint made by the landlord of the notified area or forest in respect of which the offence is alleged to have been committed or by any right-holder of such a notified area or forest or by the Forest Officer or by any officer specially empowered by the State Government in this behalf.

(3) When any person is convicted of an offence under this section, any trees, timber or other forest produce in respect of which the offence is committed may be liable to forfeiture. If such trees, timber or other forest produce has or have been destroyed or converted or otherwise disposed of by him, the value thereof may be recoverable from him, in the same way as a fine imposed on him under sub-section (1).

(4) Any trees, timber or other forest produce forfeited under this section shall be disposed of in such manner as the Collector may, subject to rules, if any, directs.

CHAPTER 3 **VESTED FOREST**

16. Power To Constitute A Vested Forest :-

(1) If the State Government is satisfied at any time that the provisions of Chapter II of this Act are not or have not been sufficient to secure the due protection of any notified area or forests or that it is necessary in the public interest to apply the provisions of this Chapter to any private area or forest whether notified or not, it may constitute such forest or area, a vested forest in the manner hereinafter provided.

(2) If it appears from the report of a Forest Officer that any waste

land the area of which is not less than 50 acres which is lying uncultivated for more than seven years and is suitable for afforestation and the owner of such land is unwilling or unable to cultivate it by growing therein agricultural crops,- or to use it for purposes of horticulture to the satisfaction of such Forest Officer or to afforest it the State Government may after satisfying itself that such land cannot be more advantageously used for the purposes of agriculture or horticulture than for the purposes of afforestation, constitute such waste land as vested forest in the manner hereinafter provided.

17. Notification By State Government :-

(1) Whenever it is proposed by the State Government to constitute any area whether private forest or waste land a vested forest, the State Government shall issue a notification--

(a) declaring that it is proposed to constitute such area a vested forest;

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

(c) stating that any landlord whose interests are likely to be affected if such area is constituted a vested forest may, within such period, not being less than three months from the date of the notification, as shall be stated in the notification, present to the Collector in writing any objection to such area being constituted a vested forest.

(2) A copy of such notification shall be served on the landlord in the prescribed manner.

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

18. Hearing Of Objections :-

(1) The Collector shall in the prescribed manner hear any objection presented under clause (c) of Section 17 and shall pass an order--

(a) dismissing such objection, or

(b) directing that the proposal to constitute the said area a vested forest shall be dropped either in respect of the whole of the said area or in respect of a part of it to be specified in the order.

(2) Any landlord who is aggrieved by an order passed by the Collector under sub-section (1) or any Forest Officer or other person generally or specially empowered by the State Government in this

behalf may file a revision application to the State Government whose orders would be final.

(3) If no objection is presented under clause (c) of Section 17 or if such objection is presented and is finally disposed of under the provisions of this section, the State Government may, where it considers that any area included in the notification issued under Section 17 should be constituted a vested forest issue a notification--

(a) declaring that it has been decided to constitute such area a vested forest;

(b) specifying as nearly as possible the situation and limits of that area; and

(c) appointing a "Forest Settlement Officer" to inquire into and determine the existence, nature and extent of any rights other than landlords rights alleged to exist in favour of any person in or over any area comprised within such limits, or in or over any forest produce and to deal with the same as provided in this Chapter.

(4) The Forest Settlement Officer appointed under clause (c) of sub-section (3) shall, in the prescribed manner, give an opportunity to the landlord to be heard in the inquiry referred to in that clause.

19. Proclamation By Forest Settlement Officer :-

When a notification has been issued under sub-section (3) of Section 18, the Forest Settlement Officer shall publish in Hindi in every town and village in the neighbourhood of the area comprised therein, a proclamation--

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

(b) explaining the consequences which, as hereinafter provided, will ensue when such area is constituted a vested 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 sub-section (3) of Section 18 (other than landlords rights) 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.

20. Inquiry By Forest Settlement Officer :-

The Forest Settlement Officer shall take down in writing all statements made under Section 19 and shall at some convenient

place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in sub-section (3) of Section 18 other than landlords rights and not claimed under Section 19 so far as the same may be ascertainable from the records of Government and the evidence of any person likely to be acquainted with the same.

21. Power Of Forest Settlement Officer :-

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

- (a) power to enter, by himself or to authorise any officer to enter 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.

22. Order On Claims To Rights Of Pasture Or To Forest Produce :-

In the case of a claim to rights of pasture or to forest produce the Forest Settlement Officer shall pass, subject to the provisions of Sections 23 and 24, an order admitting or rejecting the same in whole or in part.

23. Manner In Which Forest Settlement Officer Should Pass Orders :-

(1) The Forest Settlement Officer shall, when passing order under Section 22--

- (a) prepare a list of the right-holders with their fathers names, castes, residences and occupations of each;
- (b) decide what fraction of the timber and other forest produce of the forest notified under sub-section (3) of Section 18 shall be allotted to the right-holders;
- (c) decide the maximum amount of timber and other forest produce which each right-holder is entitled;
- (d) determine the number and description of the cattle, if any, which the claimant is from time to time entitled to graze in the area and the season during which such pasture is permitted; and
- (e) consider the capacity of the area to supply without danger to its conservation, the requirements of the right-holders.

(2) In deciding what fraction of the timber and other forest produce shall be allotted to the right-holders, the Forest Settlement Officer

shall have regard to--

- (a) the entries in any record-of-rights prepared and finally published under any law for the time being in force and value to be attached to such entries under such law;
- (b) the amount of forest produce which the right-holders have taken from the area notified under sub-section (3) of Section 18 for their fuel or other domestic or agricultural purposes;
- (c) the attempts, if any, made from time to time by the landlords or the right-holders to preserve the said forest or utilize the said waste land;
- (d) any other material showing the respective rights of the landlord and right-holders in the said area; and
- (e) the extent of land not included in the area notified under sub-section (3) of Section 18 and is still available for exercise of the rights of right-holders.

24. Suspension Of Rights When Required For The Conservation Of A Forest :-

When passing an order under Section 22 on any claim, the Forest Settlement Officer is of opinion, that the conservation of the forest or the utilization of the wasteland concerned so requires, he may, instead of permitting the exercise of the full rights proved by the claimant, order that the exercise of such rights shall be suspended wholly or in part, for such period and subject to such conditions as may be specified in the order :

Provided that it shall be necessary for the Forest Officer to make adequate arrangements of the grazing of cattle.

25. Extinction Of Rights :-

Rights (other than landlords rights) in respect of which no claim has been preferred under Section 19 and regarding the existence of which nothing has come to notice during the enquiry under Section 20, shall be extinguished unless before the publication of the notification under Section 32, 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 19.

26. Prohibition Of Further Contracts :-

After the issue of a notification under Section 17, the landlord of the forest or the area specified in such notification shall not enter

into any contract with any person conferring on such person the right to cut, collect or remove timber or other forest produce or trees in or from such area and any such contract entered into after the issue of the said notification under Section 17, shall be void :.

Provided that this restriction shall, without prejudice to the other provisions of the Act, cease, if the proposal to constitute the area concerned a vested forest is dropped or the area is eventually constituted a vested forest.

27. Prohibition Of Cutting Of Trees :-

(1) At the time of issuing a notification under Section 17 or at any time thereafter, the State Government may make an order prohibiting, until the date of the publication of a notification under Section 32, and subject to such conditions and exceptions as may be specified in the order, the cutting, collection and removal of any trees, or any class of trees, in the area in respect of which such notification is issued and effect shall be given to such order notwithstanding anything contained in any contract, grant or record-of-rights to the contrary :

Provided that the order shall not apply to an area the proposal to constitute which as a vested forest is dropped.

(2) Every such order shall be published in the neighbourhood of the said area in the prescribed manner.

(3) The provisions of Section 15 shall apply to any person who contravenes an order under sub-section (1).

28. Procedure For Dealing With Claims Of Forest Contractors :-

(1) In the case of a person who claims to have a right under any contract with, or grant made by, the landlord before the issue of a notification under Section 17 to cut, collect or remove any forest produce in or from, or to pasture cattle in, an area notified under sub-section (3) of Section 18 or any part thereof, and who claims compensation for the loss or modification of such right, the Forest Settlement Officer shall determine the amount which should, in his opinion, be awarded as compensation to such claimant, and, subject to the provisions of sub-section (3) shall direct that the amount, if any, so determined shall be awarded to the claimant.

(2) In determining the amount of compensation to be awarded to such claimant the Forest Settlement Officer shall take into consideration the following and no other matters, namely :--

- (a) any payment made by the claimant to the landlord;
 - (b) whether or not such payment was a reasonable and bona fide payment;
 - (c) whether or not the exercise by the claimant of his rights under any contract entered into between the claimant and the landlord or under any grant made by the landlord contravened or tended to contravene the provisions of Section 7;
 - (d) any expense reasonably incurred by the claimant in order to cut, collect or remove trees, timber or other forest produce; and
 - (e) the value of the trees, timber or other forest produce cut, collected or removed by, or with the permission of the claimant.
- (3) Instead of directing the award of compensation in cash, the Forest Settlement Officer may direct that the claimant shall be permitted to cut, collect and remove from the said area such quantity of timber or other forest produce as shall not exceed in value the amount determined by the Forest Settlement Officer under sub-section (1).
- (4) The claimant shall not cut, collect or remove any timber or other forest produce except in such manner and at such times and in such parts of the said area as may be specified in rules or in instructions issued by the Forest Officer.
- (5) The Forest Officer shall decide when the claimant has cut, collected and removed trees, timber or other forest produce to the aggregate value mentioned in sub-section (3) and the decision of the Forest Officer shall, subject to any order that may be passed in revision by the Conservator of Forest, Working Plans Circle, be final.

29. Appeal From Orders Passed Under Section 22, Section 24 Or Section 28 :-

Any person who has made a claim under Section 19-or Section 28 or any Forest Officer or other person generally or specially empowered by the State Government in this behalf may, within three months of the date of the order passed by the Forest Settlement Officer under Section 22 or Section 24 or Section 28, present an appeal from such order to the prescribed authority.

30. Appeal Under Section 29 :-

(1) Every appeal under Section 29 shall be made by petition in writing and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the prescribed authority referred to in that section.

(2) The petition of appeal received from the Forest Settlement Officer shall be heard in the manner provided for the time being for the hearing of appeals in matters relating to land revenue.

(3) The order passed on the appeal shall, subject only to revision by the State Government, be final.

31. Pleders :-

The State Government, or any person who has made a claim or presented an objection under this Act, may appoint any person to appear, plead and act on its or his behalf before the Collector or the Forest Settlement Officer, or the appellate court, in the course of any inquiry, hearing or appeal under this Act.

32. Notification Declaring An Area To Be A Vested Forest :-

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

(a) the period fixed under Section 19 for preferring claims has elapsed and all claims, if any, made under Sections 19 and 28 have been disposed of by the Forest Settlement Officer; and

(b) if any such claims have been made, the period limited by Section 29 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer, the State Government shall publish a notification in the Official Gazette, specifying definitely according to boundary marks erected or otherwise, the limits of the area which is to be constituted a vested forest, and declaring the same to be a vested forest from a date fixed by the notification, and from the date so fixed such forest shall be deemed to be a vested forest :

Provided that, if in the case of any area in the respect of which a notification under Section 17 has been issued, the State Government considers that the inquiries, procedure and appeals referred to in this Chapter will occupy such length of time as to endanger in the meantime the conservation of the forest, the State Government may, pending the completion of the said inquiries, procedure and appeals, declare such area to be a vested forest, but not, except as provided in Sections 26 and 27 so as to prejudice or affect any existing rights.

(2) Any declaration made in respect of any area by the State Government under the provision to sub-section (1) shall cease to have effect from the date of any final order passed under Section 18 directing that the proposal to constitute such area a vested

forest shall be dropped, or of any order passed under sub-section (1).

33. Publication Of Translation Of Such Notification In Neighbourhood Of Forest :-

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

CHAPTER 4

CONTROL AND MANAGEMENT OF VESTED FORESTS AND POWERS OF FOREST OFFICERS

34. Control And Management Of Vested Forests To Vest In The State Government :-

The control and management of every forest shall vest, in the State Government.

35. Appointment Of Forest Officers For Vested Forests :-

The State Government shall, by notification, appoint a Forest Officer for the purposes of one or more vested forests or of a specified portion thereof.

36. Power To Invest Forest Officers With Certain Powers :-

The State Government may invest any Forest Officer with all or any of the following powers, that is to say--

- (a) power to enter upon a land and to survey, demarcate and make a map of the same;
- (b) the power of a Civil Court to compel the attendance of witnesses and the production of documents and material objects; and
- (c) power to hold inquiry into forest offences and in the course of such inquiry to receive and record evidence.

37. Demarcation Of Vested Forests :-

The Forest Officer shall demarcate the vested forest or portion of the vested forest for which he is appointed in such manner as may appear to be necessary in the circumstances of the case.

38. Extent To Which Landlord Is To Be Allowed To Remove Timber And Other Produce From Vested Forest :-

The Forest Officer appointed for any vested forest shall, subject to the requirements of any working plan prepared for the forest, allow the landlord of such forests to cut, collect or remove therefrom such quantity of trees, timber or other forest produce as may, in the opinion of the Forest Officer, be required for his reasonable agricultural or domestic needs.

39. State Government To Receive All Revenues From And Incur Expenditure On Vested Forest :-

The State Government shall receive all revenues accruing from the working and management of a vested forest and shall pay the whole expenditure incurred in the working and management of such forest, and the landlord of such forest or any other person shall not be entitled to make any objection to any expenditure that the State Government may consider it necessary to incur on such working and management.

40. Maintenance Of Revenue And Expenditure Account :-

The State Government or any authority appointed by them in this behalf, shall maintain in the prescribed manner a revenue and expenditure account, the working and management of every vested forest and shall supply an abstract of the yearly account to the landlord of such forest.

41. Payment Of Allowances For, And Net Profits Of Vested Forests To Landlord :-

(1) The State Government shall during the period of its control and management of any vested forest pay, at prescribed intervals, to the landlord of the area comprising--

I. Forest--

(a) an allowance calculated on the total area of the forest as determined by the Forest Officer at the rate of four annas per acre per annum or such higher rate not exceeding eight annas per acre per annum as the Forest Officer may, from time to time, by general or special order, determine, and

(b) the net profits, if any, accruing from the working and management of the forest will be paid to the owner after deducting 10 per cent as the share of the State Government.

II. Waste land--

- (a) No allowance will be paid; and
 - (b) When all expenses incurred by the State Government for the afforestation of any such land have been recouped, the profits resulting from such afforestation shall, during the period the control of such land remains vested in a Forest Officer be paid to the owner after deducting 10 per cent as the share of the State Government.
- (2) For the purposes of calculating the net profits the total expenditure incurred on the working and management of the forest shall be adjusted against the total income from the working and management up to the date of account and the amount of any deficit shall be carried forward without interest from year to year till such amount is made up and surplus is effected.
- (3) For the purpose of sub-section (2)--
- (a) the total expenditure shall include the allowance paid to the landlord concerned under clause (a) of sub-section (1) and any sum determined as compensation under sub-section (1) of Section 28 or the value of anything taken from the forest under sub-section (3) of that section, and
 - (b) the total income shall include the proceeds of confiscations or forfeitures for forest offences not committed by the landlord in respect of the forest or the forest produce thereof after deducting from such proceeds--
 - (i) the rewards, if any, paid to informers and officers out of such proceeds, and
 - (ii) such incidental expenses as may be fixed by the Forest Officer including that incurred for the storage, transport and sale of the articles of forest produce forfeited or confiscated.

42. Right Of Right-Holders To Be Exercised In Accordance With Rules :-

The rights of right-holders in a vested forest shall be exercised in accordance with the rules.

43. Grouping Of Forests For Management :-

The Forest Officer, may, with a view to the more efficient management and control of the forests, order that the vested forests under his control in more than one village and under more than one landlord shall be grouped together.

44. System Of Annual Coupes :-

(1) When the Forest Officer has ordered the grouping of vested forests under Section 43 he may direct that the rights of right-holders in a vested forest shall be exercised in such portion of such group as he may order.

(2) In passing order under sub-section (1) the Forest Officer shall have regard to the conveniences of the right-holders so far as that is possible without prejudicing the efficient administration and conservation of the vested forest.

45. Extent Of Rights Of Right-Holders To Be Varied By Forest Officer :-

When the right-holders share of the produce of a vested forest is insufficient in any year to meet the maximum requirements of the right-holders the Forest Officer shall determine for that year the amount of such produce which each right-holder may take in accordance with the rules.

46. Release Of Vested Forests :-

(1) The State Government may at any time, by notification, declare that the provisions of this Chapter shall cease to apply to a vested forest from such date as may be specified in the notification and that, with effect from that date, the forest shall cease to be a vested forest.

(2) If on the date of the publication of a notification under sub-section (1) the balance-sheet of the revenue and expenditure / account prepared under Section 40 shows that any amount is due to the State Government in respect of the management and working of such forest, such amount shall be recovered from the owner as may be determined generally or specially by the State Government.

CHAPTER 5

PENALTIES AND PROCEDURE

47. Forest Offences :-

Any person who, without the permission of the Forest Officer, in writing or in contravention of any provision of this Act or any rule or order made thereunder--

(a) fells, girdles, lops, taps or burns any tree in a vested forest, or strips off the bark or leaves from, or otherwise damages, any such trees, or

- (b) quarries any stone, or burns any lime or charcoal, or collects, subject to any manufacturing process, or- removes any forest produce from a vested forest, or
- (c) breaks up or clears, for cultivation or any other purpose any land in a vested forest, or
- (d) sets fire to a vested forest or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest, or
- (e) permits cattle to damage any tree in a vested forest, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

48. Penalties For Breach Of Rules :-

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

49. Seizures Of Property Liable To Confiscation :-

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

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such a seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

50. Procedure Thereupon :-

Upon the receipt of any report made under sub-section (2) of Section 49 the Magistrate shall with all convenient despatch take such measures as may be necessary for the apprehension of and trial of the offender and the disposal of the seized property according to law.

51. Power To Release Property Seized Under Section 49 :-

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

whose subordinate has seized any tools, boats, or carts, or cattle under sub-section (1) of Section 49, may release the same on the execution by the owner thereof, of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

52. Trees, Timber, Forest Produce, Tools Etc., When Liable To Confiscation :-

(1) All trees, timber or other forest produce in respect of which a forest offence has been committed and all tools, boats, carts and cattle used in committing any forest offence, shall be liable to confiscation.

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

53. Disposal Or 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 tree, timber or other forest produce in respect of which such offence has been committed shall, if it has been confiscated, be taken charge of by a Forest Officer and, in any other case, may be disposed of in such manner as the Court may subject to rules, if any, direct.

54. Procedure When Offender Not Known Or Cannot Be Found :-

When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated 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:

55. Procedure As To Perishable Property Seized Under Section 49 :-

The Magistrate may, notwithstanding anything hereinbefore

contained, direct the sale of any property subject to speedy and natural decay, seized under sub-section (1) of Section 49 and may deal with the proceeds as he would have dealt with such property if it had not been sold.

56. Appeal From Orders Under Sections 52, 53 Or 54 :-

The officer who made the seizure under Section 49 or any of his official superior, or any person claiming to be interested in the property so seized, may within one month from the date of any orders passed under Sections 52, 53 or 54, appeal against the order of acquittal or conviction, as the case may be, the court to which orders made by such Magistrate are ordinarily appealable and the order passed on such appeal shall be final.

57. Property When To Vest In The State Government :-

When an order for the confiscation of any property has been passed under Section 52 or Section 54, as the case may be, and the period prescribed by Section 56 for an appeal from such order has expired and no such appeal has been preferred or when, on 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, save as otherwise provided in clause (b) of sub-section (3) of Section 41, vest in the State Government for the purposes of the State free from all encumbrances.

58. Saving Of Power To Release Property Seized :-

Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under sub-section (1) of Section 49.

59. 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 trees a mark used by Forest Officers to indicate that such timber or (sic) belongs to a vested forest or is the property 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 in a vested forest or on timber lying in or removed from any such forest by or under the authority of a Forest Officer, or
(c) alters, removes, destroys or defaces any boundary mark of any vested forest, shall be punishable with imprisonment for a term which may extend to ten months or with fine or with both.

60. Power To Arrest Without Warrant :-

(1) When any person is reasonably suspected of having committed any forest offence punishable with imprisonment for one month or upwards and refuses on the demand of a Forest Officer or police officer to give his name and address, or gives a name or address which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and address may be ascertained.

(2) When the true name and address of such person have been ascertained, he shall be released. If the true name and address of such person are not ascertained within twenty-four hours from the time of his arrest, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction or to the officer-in-charge of the nearest police station.

61. Power To Prevent Commission Of Offence :-

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

62. Power To Compound Offence :-

(1) The State Government may, by notification, empower a Forest Officer--

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in Section 59 or Section 60, a sum of money by way of compensation for the offence which such person is suspected to have been committed, and

(b) to release any property which has been seized and is liable to confiscation on payment of the value thereof as estimated by such officer and to deal with any amount so paid for offences (other than offences suspected to have been committed by the landlord), in

respect of a vested forest or the forest produce thereof, as proceeds of confiscation, relating to the forest for the purposes of clause (b) of sub-section (3) of Section 41.

(2) On the payment of such sum of money, or such value, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) No Forest Officer below the rank of a Ranger shall be empowered under this section, and the sum of money which may be accepted as compensation under clause (a) of sub-section (1) shall in no case exceeds the sum of fifty rupees.

63. Presumption That Forest Produce Belongs To Vested Forest :-

Whenever in connection with any forest offence a question arises as to whether any trees, timber or other forest produce seized within the limits of a vested forest belongs to such forest, such trees, timber or other forest produce shall be presumed to belong to such forest until the contrary is proved.

CHAPTER 6

CATTLE TRESPASS

64. Application Of Cattle Trespass Act (I Of 1871) :-

Cattle trespassing in any portion of a vested forest shall be deemed to be causing damage to public plantation within the meaning of Section 11 of the Cattle Trespass Act, 1871, and any such cattle may be seized and impounded by any Forest Officer or Police Officer.

65. Power To Alter Fines Fixed Under Cattle Trespass Act, 1871 :-

The State Government may, by notification 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 64 of this Act such fines as it thinks fit.

CHAPTER 7

FOREST OFFICERS

66. Forest Officers Deemed Public Servants :-

All Forest Officers shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

67. Forest Officer Not To Trade :-

Except with the permission in writing of the State Government no Forest Officer shall, as principal or agent, trade in trees, timber or other forest produce, or be or become interested in any lease of any forest or in any contract for working any forest.

68. Bar Of Suits And Other Proceedings :-

When a notification has been issued in respect of any forest under Section 17 or under sub-section (1) of Section 32 or when an order has been made under sub-section (1) of Section 27 or under sub-section (3) of Section 28 no suit or other proceedings shall save as otherwise provided in this Act, lie in, or be entertained by, any civil, criminal or revenue court--

(a) in respect of any modification, suspension or extinction, as a result of any such modification or order or as a result of the restriction imposed by Section 25 or Section 26 of any right which any person was entitled by virtue of any contract or otherwise to exercise in such forests;

(b) to vary or set aside any order passed by Forest Settlement Officer under Sections 22, 24 or 28, or any order passed in appeal or revision under sub-section (2) or (3) of Section 30;

(c) against the State Government or any servant of the State in respect of anything done or omitted to be done in a vested forest by the State Government or any such servant of the State while such was under the control or management of the State Government, or in respect of any profits claimed by the landlord to be due to him in respect of management and working of such forest; and

(d) in respect of anything done or purporting to be done in good faith by any servant of the State in the discharge of any duty or the exercise of any power imposed or conferred on him by or under this Act.

69. Persons Bound To Assist Forest Officers And Police Officers :-

(1) Every person who exercise any right in a vested forest or who is

permitted to take any forest produce from, or to cut and remove trees or timber in or from, or to pasture cattle, in such forest, and every person, who is employed by such person in such forest, and every person in any village contiguous to such forest who is employed by the Government or who receives emoluments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest Officer or Police Officer any information he may possess respecting the commission of, or intention to commit, any forest offences, 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), or

(b) to take steps, as required by sub-section (1) to extinguish any forest fire in a vested forest, or

(c) to assist any Forest Officer or Police Officer demanding his aid in preventing the commission in such forest of any forest offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

CHAPTER 8

CONTROL OF GROVES

70. Management Of Groves And Grove-Lands :-

The State Government may, by notification declare that whereas it is necessary to provide for the regulation of matters described in

Section 4 and Section 10 in respect of groves and grove-lands, as defined in Section 3 of the U.P. Tenancy Act, 1939, the provisions of this Chapter are being applied to the said grove or grove-land.

71. Application Of The Act To Groves :-

The State Government may by notification declare that the provisions of this Act, either in whole or in part or subject to such restrictions and modifications as it may think fit, shall apply to the groves and grove-lands notified under Section 70.

CHAPTER 9

MISCELLANEOUS

72. Recovery Of Money Due To Government :-

All money payable to the State Government under this Act, or under any rule made under this Act, or on account of the price of any forest produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

73. Lien On Forest Produce For Money Due To Government :-

(1) When any such money is payable for or in respect of any forest produce, the amount thereof shall be deemed to be 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 six months from the date of the sale by the person entitled thereto, shall be forfeited to the President of the Indian Republic.

74. Recovery Of Penalties Due Under Bond :-

When any person in accordance with any provisions of this Act, or in compliance with any rule 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 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.

75. Power To Make Rules :-

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

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate all or any of 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 vested forest;

(b) the granting of licences to the inhabitants of towns and villages in the vicinity of vested 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 for felling or removing trees or timber or other forest produce in or from such forests for the purposes of trade, and the production and return of such licence by such persons;

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

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

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

(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 trees;

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

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

Provided that the rules made under this clause shall not require the landlord of a vested forest or any person authorised by him and by the Forest Officer to obtain a permit, or to pay any fee to hunt, shoot or fish in such forests;

(k) the burning of charcoal, or the subjection of any forest produce

to any manufacturing process in such forests;

(1) the exercise in such forests of any rights of right-holders;

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

(n) to regulate working of mines and quarrying for minerals for purposes of Section 74 of this Act;

(o) the powers and duties of a Forest Officer under this Act;

(p) the items to be included as a revenue and items to be included as expenditure in the account mentioned in Section 40, and the manner in which such account shall be prepared; and

(q) any matter which is by this Act expressly required or authorised to be prescribed or to be provided for by rules.

(3) (a) The power to make rules under this section shall be subject to the condition of their being made after previous publication.

(b) All rules made under this section shall be published in the official Gazette and they shall, unless a different date has been specified, come into force from the date of notification.

(c) All rules made under this section shall, as soon as possible, be laid before the U.P. Legislative Assembly but with a clear notice of not less than 14 days, and the Legislative Assembly may, modify the rules, during the session in which they have been placed before it.

76. Savings :-

Nothing in this Act shall affect any right to minerals lying in or under any vested forest and the State Government shall make adequate provisions for exercise of this right by the person, or persons legally entitled to this right in accordance with any rule made by the State Government in this behalf.