

Subject : Forest Bill before the Parliament  
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You might be aware that a comprehensive Bill regulating forest is likely to come before the Parliament during the coming session. The Bill, if passed will affect adversely the Adivasis' rights over forest land and forest produce. Three mass organizations viz. Kashtakari Sanghatana, Bhoomisena and Shramik Sanghatana have published a statement about the Bill which appeared in the Economic and Political Weekly dated 5th September, 1981. I have also prepared a long note on the Bill which has been published in the Economic and Political Weekly, dated 16th January, 1982. A number of organizations have expressed desire to obtain a copy of the Bill. Academy of Development Science has cyclostyled this 80 page Bill. You can obtain a copy of the Bill by sending a Money order of Rs.10/- only to the Academy on the following address :

Academy of Development Science,  
At Post : Kashele, Taluka : Karjat  
Dist. Raigad (Kulaba) PIN 410201

(17)

Yours sincerely,

Sharad Kulkarni.

Centre for Tribal Conscientization,  
2071, 'Yashodhan', Vijayanagar Colony,  
Pune 411030

THE INDIAN-FOREST ACT, 19 .....

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TENTATIVE DRAFT

THE FOREST BILL, 1980  
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A  
BILL

to consolidate and amend the law relating to forests,  
the transit of forest-produce and the duty leviable,  
on timber and other forest-produce, to make special  
provisions for the regulation of felling and replanting  
of trees in urban areas and rural areas and sandalwood,  
and for matters connected therewith.

BE it enacted by Parliament in the Thirty-first Year of the  
Republic of India as follows :-

CHAPTER I

Preliminary

Short title  
extend and  
commencement

1. (1) This Act may be called the Forest Act, 1980.
- (2) It extends to the whole of India except the States of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different States and any reference in any such provision to the commencement of this Act shall be constructed as a reference to the coming into force of that provision in relation to such State to which this Act has been brought into force.

Definitions

2. In this Act, unless the context otherwise requires :-
- (1) "cattle" means cows, oxen and bulls and includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, yak and fowls;
- (2) "Divisional Forest Officer" means the Forest Officer in charge of territorial Forest Division or a Forest-officer having jurisdiction over a portion or portions of one or more such divisions when constituted into a Forest Division for any special purpose;

(3) "forest" includes any land containing trees and shrubs, pasture lands and any land whatsoever which the State Government may by notification declare to be forest for the purpose 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 or any officer empowered by the 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 Act or any rule made thereunder to be done by a Forest Officer;

(6) "forest produce" includes -

(a) the following whether found in, or brought from, a forest or not that is to say;

(i) timber, charcoal, caoutchouc, catachu, wood-oil, gum, resin, natural varnish, bark, lac;

(ii) mahua flowers, mahua seeds, kuth, myrabolams, tendu leaves;

(iii) wild animals, skins, tusks and horns and all other parts or produce of wild animals;

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

(i) trees, leaves, flowers, fruits, latex and all other parts or produce of trees not here-in-before mentioned;

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

(iii) silk, cocoons, honey and wax;

(iv) peat, humus, surface soil, rock, and minerals (including lime-stone, sand, laterite mineral oils, and all products of mines or quarries);

(v) standing agricultural crops and produce thereof;

(c) such other produce as the State Government may by notification in the Official Gazette, specify from time to time;

(7) "land" includes river or any water-body;

(8) "owner" in relation to a forest, includes a mortgages with possession, lessees or other person having right to the possession and enjoyment of the forest, and a Court of Wards in respect of property under the superintendence or charge of such Court;

(9) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(10) "Revenue-Officer" means any officer employed in or about the business of the land-revenue, or of the surveys, assessment, accounts or records connected therewith;

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

(12) "rural area" means any other area which is not an "urban area";

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

(14) "tree" includes palms, bamboos, reeds, stumps, brush-wood and canes;

(15) "urban area" means an area which is included within the limits of a Municipal Corporation, Municipality, Notified Area Committee, Town Area Committee, Cantonment Board or of a Development Authority.

CHAPTER II

RESERVED FORESTS

Power to  
reserve  
forests

3. The State Government may constitute any 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.

Notification  
by State  
Government

4. (1) Whenever it has been decided to constitute any land a reserved forest, the State Government shall issue a notification in the 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 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 land 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, provided that a forest officer may be appointed by the State Government to represent it in the inquiry conducted under this Chapter by the Forest Settlement Officer.

(3) Nothing in this section shall prevent the 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.

Bar on  
accrual of  
fresh rights  
and prohibition  
of certain  
acts

5. (1) (a) After the issue of a notification under section 4 no rights shall be acquired in or over the land comprised in such notification except by succession or under a grant of contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued;

(b) no new house shall be built or plantation formed, no fresh clearing nor breaking up of land for cultivation or for any other purpose shall be made on such land nor any tree therein felled, girdled, chopped, tapped or burnt or its bark or leaves stripped off, or the same otherwise damaged, nor any forest produce removed there from except in accordance with such rules as may be made by the State Government in this behalf;

Provided that nothing shall prohibit the doing of any act specified in this clause with the permission in writing of the Forest Settlement Officer; and

(c) no person shall set fire or kindle or leave burning any fire in such manner as to endanger or damage such land or forest produce.

(2) No patta in such land shall be granted by or on behalf of the State Government.

(3) Save as otherwise provided in this Act, no civil court shall between the dates of publication of the notification under section 4 and under section 20, entertain any suit to establish any right in or over any land or to the forest produce of any land included in the notification published under section 4.

Proclamation  
by Forest  
Settlement  
Officer

6. When a notification has been issued under section 4, the Forest Settlement Officer shall publish in the local language 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 reserved forest;

(b) explaining the consequences which, as herein after provided, will ensure on the constitution of such reserved forest and;

(c) fixing a period of not less than three months and not more than six 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.

Inquiry by  
Forest  
Settlement  
Officer

7. (1) 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 section 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 acquired with the same.

(2) The Forest Settlement Officer shall record and consider any representation which the Forest Officer is any representing the State Government may make in respect of any such claim or objection thereto.

Powers of  
Forest  
Settlement  
Officer

8. For the purpose of such enquiry, the Forest Settlement Officer may exercise the following powers, that is to say,

(a) power to enter by himself or any officer authorised 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.

Extinction  
of rights

9. 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.

Treatment of  
claims relating  
to the practice  
cultivation

10. (1) The claims relating to the practice of shifting cultivation shall not ordinarily be entertained except as in hereafter provided.

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

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

(4) 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 purpose 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.

(5) All arrangements made under subsection (4) shall be subject to the previous sanction of the State Government.

(6) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the State Government.



Power to acquire  
land over which  
right is claimed

11. (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 reserved 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. (Act 1 of 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, (Act 1 of 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 section 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.

Orders on claim  
to rights of pasture  
or to forest-produce  
or a right of way or  
water-course

12. In the case of a claim to rights of pasture or to forest-produce or a right of way or water-course the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

Record to be made  
by Forest Settlement  
Officer

13. 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 building (if any) in respect of which the exercise of such right is claimed.

Record where Forest  
Settlement Officer  
admits claim

14. 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 authorised to take or receive and such other particulars as the case may require.

Exercise of  
rights admitted

15. (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, in such seasons, within such portions of the proposed reserved forest, and under such rules, as may be made in this behalf by the State Government.

(3) In the case of right of way or water course, the Forest Settlement Officer shall record, by whom and for what purpose, it may be utilised and the conditions attached to its use.

Commutation of rights

16. In case 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 State Government may make in this behalf, compute 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.

Supply of copy of order passed under section 11, section 12, section 15 or section 16 to certain persons

17. A copy of every order passed under section 11, section 12, section 15 and section 16 shall be furnished to the claimant by the Forest Settlement Officer and also to the Forest Officer who represented the State Government at the enquiry or where no such officer was appointed to the Divisional Forest Officer concerned free of cost within thirty days of passing of such order.

Appeal from order  
passed under  
section 12, section  
11, section 15 or  
section 16

18. Any person who has made a claim under this Act or any Forest Officer or person generally or specially empowered by the State Government in this behalf, may, within three months from date of the order passed on such claims by the Forest Settlement Officer under section 11, section 12, section 15 or section 16, present an appeal from such order to the District Judge.

Provided that the State Government may establish a court (hereinafter called the Forest Court) composed of three persons to be appointed by the State Government and when the Forest Court has been so established, all such appeals shall be presented to it.

Appeal under  
section 18

19. (1) Every appeal under section 18 shall be made by petition in writing within fifteen days of the date of receipt of the order of the Forest Settlement Officer to the authority competent to hear the same.
- (2) 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.
- (3) The District Judge, or the Forest Court as the case may be, may after giving to the party an opportunity of being heard, confirm, set aside or modify the orders under appeal or remand the case to the Forest Settlement Officer with such directions as he thinks fit.
- (4) During the pendency of the appeal the District Judge or the Forest Court, as the case may be, may for sufficient cause, stay on such terms if any, as he thinks fit, the operation of the order appealed from and pass any incidental or consequential order.

(5) If the order is reversed or modified in appeal, the Forest Settlement-officer shall proceed to deal with it in like manner as it had been in the first instance made by himself.

(6) The order passed on the appeal by the District Judge or the Forest Court, or by the majority of the members of such Court, as the case may be, shall, subject only to provision of section 24, be final.

Pleaders.

20. The 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 for the Forest Settlement officer or the appellate authority in the course of any inquiry or appeal under this Act.

Notification  
declaring  
forest  
reserved.

21. (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 18 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 authority and

(c) all lands (if any) to be included in the proposed reserved forest, which the Forest Settlement-officer has under section 11, elected to acquire under the Land Acquisition Act, 1894, have become vested in the Government under section 16 of that Act, the State Government shall publish a notification in the official Gazette, specifying definitely, according to boundary marks erected or otherwise, the limits of the land which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

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

Forest land or wasteland when deemed to be reserved forest.

22. Notwithstanding anything contained in this Act or any other law for the time being in force, any forest land or waste land in the territories comprised within an Indian State, immediately before the date of its merger in any of the integrating States now forming part of any State or Union Territories in the Indian Union (hereinafter in this Section referred to as the merged territories)

(a) Which was deemed to be a reserved forest under any enactment in force in that State, or

(b) which had been recognised or declared by the Ruler of Such State as a reserved forest under any law (including any enactment, rule, regulation, order, notification, custom or usage having the force of law) for the time being in force; or

(c) which was dealt with as a reserved forest in any administration report or in accordance with any working plan or register maintained and acted upon under the authority of the Ruler;

shall be deemed to be and since the said date to have continued to be a reserved forest for the purpose of this Act subject to the same rights and concessions, if any, in favour of any person as were in force immediately before the said date.

Publication of translation of such notification in neighbourhood of forest.

23. The Forest-officer shall, before the date fixed by such notification under section 21 cause a translation thereof into the local language to be published in every town and village in the neighbourhood of reserved forest.

Power to revise arrangement made under section 15 or section 19.

24. The state Government may, within five years from the publication of any notification under section 21, revise any arrangement made under section 15 or on appeal under section 19,

and may for this purpose rescind or modify any order made under section 15 or on appeal under section 19, 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.

Power to commute rights.

25. The State Government may at any time from the publication of the notification under section 21 commute rights admitted under section 12 or section 15 or under appeal under section 19 to such extent as it may deem necessary.

Power of the Government to redefine the limits of reserved forests in certain cases.

26. (1) Where the description of the limits of any reserved forest notified under section 21 is defective or is not clear in reference to existing facts, the Government may by notification in the Official Gazette, declare their intention to redefine the limits of such reserved forest so as to remove the defect or to make the description clear in reference to existing facts and such notification shall specify as nearly as possible the correction which it is proposed to effect to the limits of the reserved forest.

(2) On the issue of a notification under subsection (1), the Divisional Forest Officer shall publish in the official Gazette and in such other manner as may be prescribed by rules made in that behalf, a notice -

(a) specifying the corrections proposed by the notification under sub-section (1) and

(b) stating that any objections which may be made in writing to the Divisional Forest Officer within a period of thirty days from the date of publication of the notice, will be considered by him.

(3) After the expiry of the period referred to in clause (b) of sub-section (2) and after considering the objections, if any, the

Divisional Forest officer, after giving an opportunity to the aggrieved party to be heard in person, shall submit to the Government the record of the proceedings held by him together with a report thereon.

(4) The Government may, after considering the report of the Divisional Forest Officer, by notification in the official Gazette re-define the limits of the reserved forest, as proposed by the notification under sub-section (1) with such modifications as they think fit or without any modifications.

(5) Save as provided in this section it shall not be necessary to follow the procedure laid down in section 4 to section 19 before issuing a notification under sub-section (4).

No right acquired over reserved forest, except as here provided.

27. 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 Government or some person in whom such right as vested when the notification under section 21 was issued.

Rights not to be alienated without out sanction.

28. (1) Notwithstanding anything contained in section 27, 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 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.



Power to stop  
ways and water  
Courses in reserved  
forests.

29. The forest-officer may stop any public or private way or water-course in a reserved forest. Provided that a substitute for the way or water-course so stopped, already exists or has been provided or constructed by the Forest-Officer in lieu thereof.

Acts prohibited  
in such  
forests.

30. (1) Any person who -  
(a) Contravenes the provisions of clause (b) or clause (c) of sub-section (1) of section 5. or

(b) sets fire to a reserved forest, or in contravention of any rules made by the State Government in this behalf, kindles 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) tresspasses or permits cattle to trespass and pastures cattle;

(e) causes any damage by negligence in felling any tree or cutting or dragging or removing 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, burns lime or charcoal. or collects, damages subjects to any manufacturing process, or removes, any forest products;

(h) clears or breaks up any land for cultivation or any other purpose, or cultivates or attempts to cultivate any land in any other manner;

(i) in contravention of any rules made in this behalf by the State Government hunts, shoots or attempts to shoot, fishes, poisons water kills or catch elephants or sets traps or snares in any area where the wild life (Protection) Act, 1972 is not in force; (52 of 1972).

(j) damages, alters or removes any wall, ditch embankment fence, hedge or railings;

(k) sells or barter any timber or other forest-produce obtained in exercise of any rights or concessions;

(1) shall in addition to such compensation for damages caused to the forest as the court may direct to be paid, be punishable -

(i) with imprisonment for a term which shall not be less than three months but may extend to three years and also with fine which shall not be less than rupees five hundred and may extend to five thousand rupees or with both in case of offences relating to sandalwood, rosewood, red sanders wood and such other forest - produce as the state Government may by notification in the official Gazette specify; and

(ii) with imprisonment which may extend to one year with fine which may extend to one thousand rupees or with both in the case of all other offences mentioned in this sub-section.

(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 State Government ; or

(b) the exercise of any right continued under clause (c) of sub-section (2) of section 15.

or created by grant or contract in writing made by or on behalf of the Government under Section 27.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest. or theft of forest-produce occurs on such a scale as to be likely to imperil the future yield of such forest. the 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.

(4) Where a person contravenes the provision of clause (d) or (h) of Subsection (i) -

- (i) a Forest-officer, or
- (ii) a Police-officer not below the rank of a Sub-inspector of
- (iii) a Revenue-officer not below the rank of a Deputy Tehsildar or as may be notified by the State Government.

may evict the person from the forest or the land, pertaining to which the contravention has taken place and demolish any building or other construction and remove anything grown or deposited on it;

(5) Where any agricultural or other crop as grown on the land in contravention of clause (h) of subsection (i) or any building or other construction is put up on such land any such crop. building or other construction shall be liable to confiscation by an order of the Divisional Forest-Officer.

Power to  
declare  
forest on  
loncer  
recerved

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

Provided that on such notification shall be issued unless a resolution to that effect has been passed by the State legislatures or by both Houses of the State legislatures in cases where there exist two Houses of legislature.

(2) From the date so fixed, such land 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.

CHAPTER III

PROTECTED FORESTS

Protected  
Forests.

32. (1) The State Government may, by notification in the official Gazette, declare the provisions of this Chapter applicable to any 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 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 land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient;

Provided that, if in the case of any land, the State Government thinks that such inquiry and record are necessary but that they will occupy such length of time as in the meantime to endanger the rights of Government, the State Government may, pending such inquiry, and record declare such land to be a protected forest, but so as not to abridge or effect any existing rights of individuals or communities.

(4) Every such record shall be presumed to be correct until the contrary is proved.

Forest land  
or wasteland  
when

33. Forests recognised in the merged territories as village forests or protected forests other than reserved forests; by whatever name designated or locally known shall be deemed to be protected forests within the

meaning of this Act and provisions of section 22 shall mutatis mutandis apply;

Power to issue notification reserving trees. etc.

34.

The State Government may, by notification in the official Gazette.

(a) declare any trees of class of trees or other forest-produce in a protected forest to 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 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 reasonable convenient for the due exercise of the rights suspended in the portion so closed or

(c) prohibit, from 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-

Publication of translation of such notification in neighbourhood.

35.

The Divisional Forest Officer shall cause a translation into the local language of every notification issued under section 34 to be affixed in a conspicuous place in every town and village in the neighbourhood of forest comprised in the notification

Power to make rules for protected forests.

36.

The State Government may, by notification in the official Gazette make rules to 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 protected forests;

(b) the granting of licence 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 clause (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;

(g) the protection from fire of timber living in such forests and of trees or other forest-produce reserved under section 34;

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

(i) hunting shooting, fishing poisoning water, killing and catching of elephants and setting traps or snares in such forests; in areas where the Wild Life (protection) Act, 1972. is not in force (52 of 1972).

Penalties for  
acts in contravention  
of notification under  
section 34 or of rules  
under section 36.

37.

(k) the exercise of rights referred to in section 32.

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

(a) fells, girdles, lops, taps, burns any tree or strips off the bark or leaves from, or otherwise damages or removes any such tree or other forest-produce reserved under section 34.

(b) contrary to any prohibition under section 34 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 34. breaks up or clears for cultivation or any other purpose or culticates or attempts to cultivate any land in any other manner in a protected forest;

(d) sets fire to such forest or kindles a fire;

(e) leaves burning any fire kindled by him in the vicinity of such forests;

(f) fells any tree or removes any timber or other forest-produce so as to damage any tree or other forest produce notified under section 34.

(g) permits cattle to damage any forest-produce;

(h) infringes any rules made under section 16. shall in addition to such compensation for damages caused to the forest as the court may direct to be paid. shall be punishable.

(i) with imprisonment which may extend to the years or with fine which may extend to five thousand rupees or with both in the case of offences relating to sandalwood. red sanders wood and such other



forest produce on the State Government may by notification in the official Gazette. specify;

(ii) with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both in the case of all other offences mentioned in this sub-section.

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest of theft or forest-produce occurs on such a large scale as to be likely to imperil the future yield of such forest, the 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 of forest-produce shall be suspended for such period as it thinks fit.

(3) Where a person contravenes the provision under clause (c) of a sub-section (1). -

(a) a Forest-officer, or

(b) a police-officer not below the rank of sub-inspector, or

(c) a Revenue Officer not below the rank of Deputy Tehsildar.

may evict him from the land in respect of which he has committed the offence.

Nothing in this Chapter to prohibit acts done in certain cases.

38.

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 36, or except as regards any portion of a forest closed under section 34, or as regards any rights the exercise of section 34, or as regards any rights the exercise of which has been suspended under section 37 in the exercise of any right recorded under section 32.

Power to  
declare forest  
no longer  
protected.

39. The State Government may, by notification in the official Gazette, direct that, from a date fixed by such notification, any land or any portion thereof protected under this Act, shall cease to be a protected forest;

Provided that no such notification shall be issued unless a resolution to that effect has been passed by the State legislature in cases where there exist two houses of legislatures, if the area so involved is more than 20 ha.

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

CHAPTER IV

VILLAGE FORESTS

Formation of  
village forests.

40. (1) The State Government may, by notification in the Official Gazette, constitute any land at the disposal of Government of village community other than the reserved forests as village forest for the benefit of any village community or group of village communities and may in like manner vary or cancel such notification.

(2) Every such notification shall specify the limits and extent of such village forest.

(3) No such notification shall be made unless the nature and extent of the rights of Government or of private persons on or over the forest land or wasteland comprised therein have been inquired into and recorded at a survey and settlement or in such other manner as the State Government thinks it sufficient.

Provided that if in the case of forest land or waste land the State Government thinks that such enquiry and record are necessary but they will occupy such length of time as in the meantime to endanger the rights of Government, the State Government may, pending such enquiry and record declare such land to be a village forest but so as not to abridge or effect any existing rights of any individual.

(4) Every such record shall be presumed to be correct until the contrary is proved.

Rules for  
regulating  
the management

41. (1) The State Government may by notification in the Official Gazette make rules for regulating the management of village forests, prescribing the conditions under which the communities and the group of communities for the benefit of which any such village forest is constituted may be provided with forest- produce or with pasture and their duties in respect of protection and improvement of such forests.
- (2) The State Government may by such rules declare that all or any of the provisions of Chapter II or Chapter III of this Act be applicable to such village forests.

CHAPTER V

CONTROL OVER FORESTS AND LANDS NOT

BEING THE PROPERTY OF GOVERNMENT

Protection of  
forests for  
special  
purposes.

42. (1) The State Government may by notification in the Official Gazette. regulate or prohibit in any forest or wasteland. not being the property of the Government. -
- (a) the breaking up or clearing of land for cultivation;
  - (b) the pasturing of cattle;
  - (c) the firing or clearing of the Vegetation;
  - (d) the girdling, tapping or burning of any tree or the stripping of bark or leaves from any tree;
  - (e) the lopping or pollarding of trees;
  - (f) the cutting, sawing conversion or removal of trees and timber;
  - (g) the quarrying of stones or the burning of lime or chercoal or the collection of removal of any forest produce or its subjection to any manufacturing process;
  - (h) regulate the exercise of customary and prescriptive rights or the regeneration of forests and the protection from fire in such land;
- When such regulation or prohibition appears necessary for any of the following purpose P-
- (i) for protection against storms winds, rolling stones, floods, drought and avalanches;
  - (ii) for the preservation and improvement of the soil or the reclamation of saline or waterlogged land, the prevention of

ravings and torrents; or the protection of land against erosion to the deposit thereon of sand, stones, or gravel;

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

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

(v) for the preservation of the environment. importance;

(vi) for the improvement of grazing, maintenance, increase and distribution of the supply of fodder, leaf manure timber or fuel and to check pilferage of forest produce;

(vii) for the raising or conservation of trees and forests for public good.

(2) The State Government may, for any such purpose, construct at its own expense. in or upon any land, such work as it thinks fit.

(3) No notification shall be made under subsection (1) nor shall any work be begun under sub-section (2) until after the issue of a notice to the owner of such land calling on him to show cause, within a reasonable period to be specified in such notice why such notification should not be made or work constructed, as the case may be and until his objections, if any, and any evidence he may produce in support of the same. have been heard by the Divisional Forest Officer.

(4) The show cause notice may require that for any period not exceeding one year or till the date of the making of a notification whichever is earlier, the owner of such forest and all persons who are entitled or permitted to do therein any or all

of the things specified in clauses (a) to (h) of sub-section (1) whether by reason of right title or interest or under any licence or contract or otherwise, shall not after the date of the notice and for the period or until the date aforesaid as the case may be, do any or all the things specified in clauses (a) to (h) of sub-section (1) to the extent specified in the notice.

(5) The notice referred to in sub-section (3) of this section, or sub-section (1) of section 44 and the order, if any made placing the forest under the control of a Forest-officer, shall be served on the owner of such forest in the manner provided in the Code of Civil procedure, 1908. for the service of sum ons and shall also be published in the manner prescribed by rules.

(6) When a notice has been served or published as aforesaid any person acquiring thereafter the right of ownership of the forest shall be bound by the notice as it had been, served on him as an owner and shall accordingly comply with the notice registration and notification.

(7) Any person contravening any of the provisions of a notification issued under sub-section (i) or any regulation made under sub-section (4) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to six months or with fine, which may extend to five hundred rupees or with both.

Bar of suits.

43.

No order of the State Government or by any officer empowered by the state Government in this behalf under this Chapter and notification issued by the State Government under section 42 shall be liable to be questioned in any court or law.

Power to  
assume  
management  
of forests.

44. (1) In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 42, or if the purposes of any work to be constructed under that section so require, the State Government may, after notice in writing to the owner of such land and after considering his objections, if any, place the same under the control of a Forest-officer and may declare that all or any of the provisions of this Act, relating to reserved forests shall apply to such land.

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

(3) Notification assuming management of a land under sub-section (1) shall be conclusive and no suit will lie against it.

Period of  
control.

45. The period of such control of management of any forests shall be for a period of ten years from the date of the order aforesaid but such period may thereafter be extended for successive period of not more than ten years each provided that the period of such control shall not in the aggregate exceed thirty years from the date of the order.

Termination  
of control.

46. If the State Government decides to terminate -

(i) any period of control of any forest, it shall, by order, published in the Official Gazette, and in such other manner as may be prescribed by rules declare and thereupon possession of the forest shall be given to the owner or if the owner be dead to any, person entitled to such possession, together with any sum of money which may be standing to the credit of such owner;

(ii) all acts done or purported to be done by the Forest Officer in respect of any forest placed under his control, during the period of such control or of the extension thereof, shall be binding on the owner of



such forest or any person to whom possession of the forest has been delivered under this section.

Expropriation  
of forests  
in certain  
cases.

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

(2) The owner of any land comprised in any notification under section 42 may, at any time not less than three or more than twelve years from the date thereof require that such land shall be acquired for public purposes, and the State Government shall acquire such land accordingly.

Protection of  
forests at  
request of  
owners.

48. (1) The owners of any land or, if there be more than one owner thereof, the owners of majority of shares therein may, with a view to the formation or conservation of forests therein represent in writing to the Forest- Officer 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 State Government may, by notification in the official Gazette, apply to such land such provisions of this Act, as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

CHAPTER VI

REGULATION OF FELLING AND REPLANTING OF

TREES IN UNBAN AREAS.

prohibiting 49.  
felling, cutting  
damaging, deatrovig  
an tree in any  
urnan area.

The State Government may, by notification in the official Gozette, prohibit from the date specified in such notification cutting damaging destroying, felling or removing any tree in any urnan area whether included in a private holding rent except under the provisions made in this Chapter or any fules made thereunder.

Establishment 50.  
of free  
Authority.

(1) The State Government shall by notification in the official Gazette constitute a Tree Authority for each Urban Area notified.

(2) Such authority shall consist of seven memners as follows :-

(i) The Mayor or the President of the Municipal Corporation the Municipal Council or Notified Area Committee.

(ii) The Deputy Commissioner or the District Collector or his miner

(iii) a representative of the State Forest Department.

(iv) a representative of the State Agriculrure Department.

(v) a representative of the District Horticulture officer.

(vi) the Municipal Commissioner or the Chief Executive Officer, as the case may be, and

(vii) the member of the Municipal Corporation the Municipal Council or the Notified Area Committee as may be nominated by the Mayor or the President as the case may be.

Provided that where the Corporation or the Municipal or the Notified Area Committee is superseeded such persons as the State Government may nominate shall be the memner.

(3) the Tree Authority may coopt in such manner and for such a period as it may determine not more than three representatives of non-official organisations having special knowindge and practical exparience in the field of planting and preseryation of trees

(4) the State Government shall appoint one of the members specified in sub-section (2) to be the Chairman.

Provided that where the Corporation or the Municipal Council or the Notified Area Committee in super-seded such members as the State Government may appoint shall be the Chairman and the State Government shall appoint another member to be the Secretary who shall generally be the representative of the State Forest Department.

Meeting of  
Tree  
Authority.

51. (1) The Tree Authority shall meet at least once in three months at such place and time as the chairman may decide.

(2) The quorum for the meeting of the Tree Authority shall be a minimum of three members.

Duties of  
Tree  
Authority

52. Notwithstanding anything in the relevant Act. or any other law for the time being in forcem the Tree Authority shall subject to any general or special order of the State Governmenr be responsible for :-

(a) the preservation of all tree within its jurisdiction.

(b) obtaining declarations from all owners or occupants about the number of trees in their lands;

(c) specifying the standards regarding the number and kind of trees which each locality. type of land and premises shall have.

(d) assisting private and public institutions connected with planting and preservation of trees. and

(e) undertaking such schemes or measures as may be directed from time for achieving the objectives of these provisions.

Appointment  
of Tree  
Officer

53.

(1) As soon as may be after these provisions are brought into force in any urban area the State Government shall appoint one or more Forest Officer not below the rank of a Forest Range officer as Tree-officer for the said urban area.

(2) Every Tree-officer shall exercise jurisdiction over the whole or such part of the urban area as the State Government may from time to time determine.

Restrictions  
on felling of  
trees.

54.

(1) On and after the date on which these provisions are brought into force in any urban area, notwithstanding any custom, usage contract or law for the time being in force no person shall fell any tree or cause any tree to be felled in any land whether in his ownership or occupancy or otherwise situated within that urban area except with the previous permission of the Tree officer.

(2) On receipt of application from any person to fell any standing tree or to cut, remove or otherwise dispose of the fallen tree, the tree officer shall after making such inquiry as he may think fit either grant permission in whole or in part or refuse the permission applied for;

Provided that no such permission shall be refused if the tree -

(i) is dead, diseased or wind fallen, or

(ii) has silviculturally matured or

(iii) constitutes a danger to life or property, or

(iv) constitutes obstruction to traffic, or

(v) is substantially damaged or destroyed by fire, lightning, rain or their natural causes.

(3) The tree-officer shall decide the issue and communicate his orders granting or rejecting the permission applied for in whole or in part within forty-five days of the receipt of the application failing which the permission shall be deemed to have been granted.

(4) Where permission to fell any standing tree or to cut, remove or otherwise dispose of the fallen tree/trees is granted, the applicant shall plant or raise by coppies another tree or trees of the same or other suitable species in the manner or within such time as may be specified by the Tree-Officer.

Planting of  
adequate  
number of  
trees in  
urban area.

55.

If in the opinion of the Tree-officer the number of trees in any land is not adequate according to the standards prescribed under clause (c) of section 52, the Tree officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant trees to the requisite extent and at such places and within such time as may be specified.

Planting in  
place of  
fallen or  
destroyed  
trees.

56.

When any tree is fallen or destroyed by wind, fire, lightning or such other natural causes the Tree-Officer may, on information given to him, after holding such inquiry as he deems fit, by order, require such owner or occupant to plant a tree or trees in place of the trees fallen or destroyed within such time and in such manner as may be specified in the order.

Responsi-  
bilities  
for preser-  
vation of  
trees.

57.

(1) When an order is made by the Tree-Officer under section 54, section 55, section 56, subject to the provisions of section 58 or it shall be the duty of the owner or occupier of the land who is directed to plant a tree to that the tree grows properly and is well preserved.

(2) It shall also be the duty of such owner or occupier to preserve all other trees existing on the land on the date of coming into force of the provisions of this Chapter.

The recovery of expenditure on failure to comply with orders for planting of trees.

58. Where the owner or the occupier of the land fails to comply with any order made by the Tree-officer under section 55 or section 56 or section 57, the Tree Officer may, after giving a reasonable opportunity to such owner or occupier of being heard and without prejudice to any other action which may be taken against the defaulter under these provisions, take the necessary action himself and recover the expenditure incurred therefor from the owner or the occupier as the case may be.

Appeal to the Tree Authority

59. (1) When any decision is given or order is made under section 55, section 56 or section 57 by the Tree Officer an appeal shall lie to the Tree Authority.

(2) The appeal shall be made within thirty days from the date the decision is communicated to or the order is received by the owner or occupier of the land.

(3) The Tree Authority shall as far as possible decide the appeal within sixty days from the date of its receipt after giving a reasonable opportunity to the appellant of being heard.

(4) The decision of the Tree Authority shall be final and shall not be questioned in any court of law.

Seizure by Tree Officer

60. When the Tree Officer has reason to believe that an offence under the provisions of this Chapter has been committed in respect of any tree he may seize the tools, ropes, chains, boats, vehicles or cattle used for the commission of the said offence alongwith tree or part thereof which has been severed from the ground and proceed against the accused under section 98 to section 108.

Penalty for  
felling trees  
in urban area

61. Whoever fells any tree or causes any tree to be felled in contravention of the provisions of this Chapter or any rules made thereunder without any reasonable excuse, comply with any order issued or conditions imposed by the Tree Officer or any other officer subordinate to him in the discharge of their functions under the provisions of this Chapter shall on conviction be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

CHAPTER VII.

REGULATION OF FELLING AND REPLANTING OF TREES IN RURAL AREAS

Prohibiting cutting, damaging, destroying and felling of trees in any specified rural areas

62. The State Government may by notification in the Official Gazette prohibit, from such date or dates specified in such notification, cutting, damaging, destroying, felling or removing any class or kind of trees in any specified rural area whether included in a private holding or not except under the provisions of this Chapter.

Appointment of Authorised Officer

63. The State Government may, by notification in the Official Gazette, appoint Forest Officer not below the rank of a Forest Ranger, hereinafter called an Authorised Officer, for the purpose of the provisions of this Chapter and may assign to him such local limits in the specified area mentioned in section 62 as the State Government may from time to time determine.

Restrictions on felling of trees

64. The Authorised Officer may, on receipt of application from any person to fell any standing tree or trees or to cut, remove or otherwise dispose of the fallen tree or trees, after making such inquiry as he thinks fit, either grant or refuse such permission to him to do so.

Provided that such permission shall not be refused if the tree constitutes danger to person or property or has silviculturally matured or is dead or is substantially damaged by fire, lightning, rain or other natural causes.

Provided further that such permission shall not be required for felling of any tree with a view to appropriate the wood or leaves thereof for bonafide use for purpose of fuel, agricultural implements or other domestic use.

Provided also that such immediate steps as are necessary to remove any obstruction or nuisance or to prevent any danger may be taken without the permission of the Authorised Officer.



Authorised Officer 65.  
to give decision  
with a fixed time

- (1) The Authorised Officer shall give decision in case of an application under section 64 in respect of standing tree within sixty days from the date of receipt of such application, in the case of an application in case of a fallen tree within fifteen days of receipt of such application.
- (2) If the Authorised Officer fails to give his decision within the time limit specified in sub-section (1), the permission referred to shall be deemed to have been granted.
- (3) Every permission granted under these provisions shall be in such form and subject to such condition, for ensuring regeneration of area and replanting of trees or otherwise as may be prescribed by the State Government.

Planting adequate 66.  
number of trees in  
rural areas

- (1) When the Authorised Officer is of the opinion that trees should be planted in any blank area situated in the specified rural areas mentioned in section 62, he may issue a notice to the owner, occupier or tenure holder of such blank area to show cause why trees should not be planted in such areas as may be specified in such notice.
- (2) The notice referred to in sub-section (1) shall be given in such form and shall contain such particulars and shall be served in such a manner as may be prescribed by the State Government.
- (3) The Authorised Officer may after considering the replies of any given by the claimant direct to him to plant such number and class of trees as may be specified in these directions.

Appeals to  
Authorised  
Officer

- 67.
- (1) Any person aggrieved from any directions given under sub-section 3 of section 65 and subsection 3 of section 66 may within thirty days from the date of receipt of such direction prefer an appeal to the officer so authorised by the Government in this regard.
  - (2) The officer so authorised shall not be of the rank below that of Conservator of Forests and his decision shall be final.

Obligation to  
plant trees

68. (1) Every person who is under an obligation to plant trees under section 65 or to whom any direction has been given under section 66 shall plant the trees in accordance with such direction in the following rainy season or with such extended time as the Authorised Officer may allow.

(2) In case of default by such persons the Authorised Officer may cause trees to be planted and may recover the cost of plantation from such persons.

Seizure by  
Forest Officer

69. When there is reason to believe that any tree has been felled or cut or removed in contravention of the provisions of this Act, the wood of such tree together with vehicles, ropes, tools, chains, cattle if any used in such contravention may be seized by any Forest Officer and the accused shall be proceeded against as provided under section 93 to section 108.

Penalties for  
felling trees  
in rural area

70. Whoever fells or causes to be felled any standing tree or cuts, removes or otherwise disposes of any fallen tree in contravention of the provisions of this Chapter or any rules made thereunder or contravenes any condition of any permission granted under the provisions of this Chapter shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

CHAPTER VIII

SPECIAL PROVISIONS RELATING TO SANDALWOOD

Sandal tree  
exclusive property  
of State  
Government

71. Notwithstanding anything contained in any law, contract, grant or other instruments or judicial decision -

(i) All sandal trees, which may grow in any land after the date of the commencement of this Act, and

(ii) All sandal trees existing in any land prior to the commencement of this Act and the ownership of which is vested in the State Government, shall be the exclusive property of the State Government.

Disposal of sandal-  
wood belonging to  
private persons

72. (1) Any person who by the terms of his sanad, grants, or any judicial decision or otherwise is, prior to the commencement of this Act, legally entitled to the sandal trees in his lands shall not fell or sell any such sandal trees.

(2) The Chief Conservator of Forests of the State may cause any such sandal trees or trees growing in such lands to be cut or up-rooted and sold at the request and on behalf of such person entitled to the same as aforesaid in accordance with the rules as may be prescribed.

Regulation of sale  
and manufacture of  
sandalwood and  
sandalwood oil

73. No person shall possess, store or sell or attempt to store or sell sandalwood or disintegrate or attempt to disintegrate sandalwood in mills or by other contrivance manufacture or distil or attempt to manufacture or distil oil from sandalwood or re-distil, refine or sell oil extracted from sandal wood except under a licence obtained from a Forest Officer empowered in this behalf on payment of such fees and conditions as may be prescribed.

Provided that no such licence shall be necessary for possession of sandalwood up to 5 kgs. for a bonafide domestic use.

Responsibility  
of occupants and  
holders of land for  
the preservation of  
sandal trees

74. (1) Every occupant or tennant or holder of land shall be responsible for the due preservation of all sandal trees growing there on, which are the exclusive property of the State Government and shall in the event of any damage to any such tree from whatever cause or its theft at once report such fact to the nearest Forest Officer or Police Officer.

CHAPTER IX

DUTY ON TIMBER AND OTHER FOREST-PRODUCE

Power to impose  
duty on timber  
and other forest  
produce

76. (1) The Central Government may levy a duty in such manner, at such place and at such rates as it may declare by notification in the official Gazette on all timber or other forest-produce -

(a) which is produced in the territories to which this Act extends; and in respect of which the Government has any right;

(b) which is brought from any place outside the territories to which this Act extends;

(c) which is taken out to any place outside the territories to which this Act extends;

(2) In every case in which such duty is directed to be levied ad valorem the 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 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, the State Government may, until provision to the contrary is made by Parliament, continue to levy any duty which it was lawfully levying under this section as then in force :

Provided that nothing in this subsection authorises the levy of any duty which as between timber or other forest-produce of the locality outside the State, discriminates in favour of the former, or which, in the case of timber or other forest-produce of localities outside the State, discriminates between timber or other forest-produce of one locality and similar timber or other forest-produce of another locality.

Levy of duty in respect of Forest produce disposed off by the State Government

77.

(1) Notwithstanding anything contained in this Act or the provisions of any other Act in respect of forest-produce disposed off by the State Government by sale or otherwise, the State Government may levy a duty at such rate as it may decide from time to time on the value assessed or the amount of consideration payable therefor.

(2) Such duty when levied shall be collected along with such consideration from such date and at such rate as the State Government may declare by a notification in the official Gazette.

(3) The said duty shall be in addition to and not in lieu of any duty or tax payable in respect of such produce under any other law for the time being in force.

(4) The said duty shall be appropriated for the development of forests and other purposes as are ancillary thereto and the State Government, shall by making rules in this regard, prescribe the manner in which it will be accounted for with the above objective in view.

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

Limit not to apply to purchase money or royalty

78.

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 X

CONTROL OF TRADE POSSESSION AND TRANSIT  
OF TIMBER AND OTHER FOREST PRODUCE

Regulation of  
trade in forest  
produce

79. (1) The State Government may, by notification issued in the Official Gazette, prescribe that in the specified area from such date or dates as may be specified in the said notification, no person other than -

(a) the State Government; or

(b) an officer of the State Government authorised in writing in this behalf; or

(c) any other person, company, corporation, cooperative society or any other corporate body who may be required to undertake an operation in the area under any contract or agreement with the State Government or an officer authorised by them;

shall purchase, transport or sell any forest produce or any class of forest produce specified in the notification.

Explanation I

Purchase of the aforesaid forest-produce from the State Government or the aforesaid officer of the State Government shall not be deemed to be a purchase in contravention of the provisions of this Act.

Explanation II

Transport of the aforesaid forest-produce by any person having purchased them from the State Government or the aforesaid officer of the State Government to any place outside the area for manufacture or further disposal shall not be deemed to be a transport or sale in contravention of the provisions of this Act.

(2) The State Government may make rules to carry out all or any of the provisions of sub-section (1) and in particular, may provide for -

(a) procedure to be followed for felling, extraction, possession, processing, transport and sale of such forest-produce as well as its purchase from private growers;

(b) opening of the depots and fixing of sale price;

(c) any other matter which is either expressly or impliedly required to be prescribed for carrying out the provision of sub-section (1).

Power to make rules to regulate possession or transit of forest-produce.

80. (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 possession or transit by land or water, is vested in the State Government, and it may make rules to regulate the possession or transit of all timber and other forest-produce.

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

(a) prescribe the routes by which alone timber or other forest-produce 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 authorised 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 making of timber or other forest-produce in transit or at the prescribed check-posts, in respect of which an offence is suspected to have been committed or there is reason to believe that any money is payable to the 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) In respect of cases falling under clause (d) 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 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 obseing of the chennel or banks of any river used for the tranait of timber or other forest-produce, andthe 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 obatruction of the chennel or banks of any such river, and for recovering the cost of such provention or removal from the prrson whose acts or negligence necessitated the same, or for providing alternative arrangement for floating timber when public interest may necessitate the obstruction of channel;

(h) prohibit absolutely or subject to conditions within specified local limits, the establishment of sawpits or machiner for sawing, reeling or alicing, 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;

(i) regulete the grent or licences within the forest limits and such dist-  
ance thereffom not exceeding eighty kilometres as may be determined by the State Government (i) the converting or cutting of timber in a saw mill, (ii) the pealing and slicing of timber, (iii) the converting of khairwood into katha, and (iv) manufacturing of charcoal and prescribe fees and condition subject to which such licences may be granted;



(j) 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;

(k) provide the setting up and regulation of check post or the effectation of a barrier or both at such places as the State Government may specify;

(l) provide for the maintenance of accounts in respect of such forest-produce as the State Government may notify;

(m) provide for the protection of bridges, locks or other public works by regulating the floating of timber and the storing of such timber or other forest produce on river banks and authorising the seizure of such timber or other forest produce floated or stored in contravention of such rules or by which any damage to such work may have been caused and the detention and disposal of such timber or other forest-produce until compensation has been paid for the damage done; and

(n) authorise the transport of timber or other forest-produce across any land and provide for the award and payment of compensation for any damage done by the transport of such timber.

(3) The 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.

Powers of  
Central Govern-  
ment as to move-  
ments of timber  
across  
customs  
frontiers

81. Notwithstanding anything in section 80, 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 80 shall have effect subject to the rules made under this section.

Powers of the Central Government to make rules for the inter-state movement of forest-produce

82. Notwithstanding anything contained in the provisions under this Chapter, the Central Government in consultation with the State Governments concerned may make rules for the inter-state movement of any forest-produce or class of forest-produce specified in the notification under section 80 of this Act.

Provided however that there shall be rules for the control of the inter-state movement of sandalwood, rosewood and red sanders wood.

Penalty for breach of rules made under section 80

83. The contravention of the provisions of this Chapter or of any rules made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Government and Forest-Officer not liable for damage to forest produce at depot.

84. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while in transit or at a depot established under rules made under section 80, 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.

All persons bound to aid in case of accident at depot.

85. 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 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.

CHAPTER XI

COLLECTION OF DRIFT AND STRANDED TIMBER

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

86. (1) All timber found adrift, beached, stranded or such, all wood or timber bearing marks which have not been registered in accordance with the rules made under section 80 or on which the marks have been obliterated, altered or defaced by fire or otherwise; and

in such areas as the 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 any Forest-officer or other person entitled to collect the same by virtue of any rules made under section 92, and may be brought to any depot which the Forest-officer may notify as a depot for the reception of drift timber.

(3) The State Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this section.

Notice to claimants of drift timber.

87. (1) Public notice shall from time to time be given by the Forest-officer of timber collected under section 86.

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

Procedure on claim preferred to such timber.

88. (1) When any such statement is presented as afore said, 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 who 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 two 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 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.

(5) Where the matter is pending before a Court under this section, the Divisional Forest-Officer may, with the permission of the court instead of retaining the timber under sub-section (2) sell the timber in public auction and remit the sale proceeds in the nearest Government treasury.

Provided that the Court may deal with the proceeds of the sale of any such timber as it would have dealt with such timber if it had not been sold.

Disposal of unclaimed timber.

89.

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 87 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 88, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section 88. in such other person free from all encumbrances not created by him.

Government and its officers not liable for damage

90.

The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 86, and no Forest-officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

Payments to be made by claimant before timber is delivered to him 91.

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 92.

Power to make rules and prescribed penalties. 92.

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

(a) the salving, collection and disposal of all timber mentioned in section 86.

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

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

(d) the use and registration of hammers & other instruments to be used for marking such timber;

(2) The contravention of the provisions of this Chapter or any rules made thereunder shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

CHAPTER XII

PENALTIES AND PROCEDURE

Seizure of  
property  
liable to  
confiscation

93. (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, ropes, chains, boats, vehicles, or cattle used in committing any such offence may be seized by any Forest Officer or police Officer.

(2) Every officer seizing any property under this section shall place on such property or the receptacle if any, in which it is contained, a mark indicating that the same has been so seized and shall as soon as may be 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 it will not be necessary to make a report of such seizure to the Magistrate in the following cases, namely ;-

(i) When the forest-produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient to make a report of the circumstances to the authorised officer

(ii) When the offence falls under the purview of section 102.

(iii) When the offender or Police Officer may if he has reason to believe that a vehicle has been or is being used for the transport of any forest-produce in respect of which a forest offence has been committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to goods carried, which are in possession of such driver or other person in charge of the vehicle.

Penalty for  
forcibly  
opposing  
seizure

94. Who-ever forcibly opposes the seizure of tools, ropes, chains, boats, vehicles or cattle liable to be seized under this Act. and whoever rescues the same after seizure shall be

punishable with imprisonment for a period not exceeding one year or with fine not exceeding one thousand rupees or with both.

Power to release property seized under section 93.

95.

Any forest-Officer of a rank not below that of a Ranger who, or whose subordinate, has seized any tools, ropes chains, boats, vehicles or cattle under section 93 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 except in respect of offences falling under section 102 for which the procedure laid down in that section shall be followed.

Procedure thereupon

96.

Upon the receipt of any report under subsection (2) of section 93 the Magistrate shall with all convenient despatch take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Forest-produce, tools etc. when liable to confiscation.

97.

(1) All timber or forest-produce which is both the property of government and in respect of which a forest offence has been committed and all tools, ropes chains, boats, vehicles or 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.

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

98.

Without prejudice to the provisions contained in section 102, 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 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 direct.

Procedure when offender not known, or cannot be found.

99.

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 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.

Procedure as to perishable property seized under section 93.

100.

(1) The Magistrate may, notwithstanding anything herein before contained, direct the sale of any property seized under section 93 and subject to apcedy and natural decay;

Provided that if in the opinion of the officer seizing such property it is bot possible to obtain the ordcrs of the Magistrate in time, such officer may sell the property himself, remit the sale proceeds into the Government treasury and may make a report of such seizure, sale and remittance to the Magistrate.

(2) The Magistrate may deal with the proceeds of the sale of any property sold under subsection (1) as he would have dealt with such property if it had not been sold.

Appeal from orders under section 97, section 98 or section 99.

101.

The officer who made the seizure under section 93 or any of his official superiors, or any person clamming to be interested in the property so seized may within one month from the date of any order passed under section 97, section 93 or section 99 appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appelable, and the order passed on such appeal shall be final.

Confiscation of tools etc. by Forest Officer in certain cases

102.

(1) Notwithstanding anything contained in the foregoing provisions of this Chapter where a forest offence is believed to have been committed in respect of sandalwood, rosewood, ivory or such other forest produce as may notified by the State Government from time to time, the officer seizing the property under sub-section (1) of section 93 shall without any unreasonable delay produce it together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence before an officer not below the rank of an Assistant Conservator of Forest authorised by the Government in this behalf by notification in the Official Gazette hereinafter referred to as authorised officer.



(2) Where an authorised officer himself seizes any property mentioned in sub-section (1) above or where any such property is produced before him under sub-section (1) of this section and he is satisfied that a forest offence has been committed in respect of such property, he may order that any property of the Government so seized be taken charge of by a Forest Officer and the rest of the property so seized be confiscated and a copy of such order shall be sent to the authority competent to exercise revisional powers under section 104.

Issue of  
show-cause  
notice before  
confiscation  
under section  
102

103. (1) No order under sub-section (2) of section 102 shall be made unless the person from whom the property is seized or who is believed to be the owner of the property:

(a) is given a notice in writing informing him of the grounds on which it is proposed to take action under sub-section (2);

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of confiscation, and

(c) is given a reasonable opportunity of being heard in the matter.

(2) Without prejudice to the provisions of sub-section (1) no order confiscating any property so seized shall be made under section 102 if the owner of such property proves to the satisfaction of the authorised officer that it was used in the commission of the forest offence without the knowledge or connivance of the owner himself, his agent, if any or any person in charge of such property and that each of them had taken all reasonable and necessary precautions against such use.

Revision

104. Any Forest Officer not below the rank of Conservator of Forests authorised by the Government in this behalf by notification in the Official Gazette may, before the expiry of thirty days from the date of the order of the authorised officer under section 102 suo moto call for and examine the record of that order and may make such inquiry or cause such inquiry to be made and may pass such order as he deems fit provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

- Appeal 105. Any person aggrieved by an order passed under section 102 or section 104 may within sixty days of the order so passed appeal to the District Judge having jurisdiction over the area in which the property to which the order relates has been seized and the District Judge shall after giving an opportunity to the appellant to be heard, pass such order as he deems fit confirming, modifying or annulling the order so appealed against and the order of the District Judge shall be final.
- Award of confiscation not to interfere with other punishment 106. The order of confiscation under section 102 or section 104 shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.
- Property when to vest in Government 107. When an order for the confiscation of any property has been passed under section 97, section 99 or section 101, as the case may be and the period limited by section 101 and section 105 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being referred, 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 incumbrances.
- Saving of power to release property seized 108. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under section 93.
- Punishment for wrongful seizure 109. 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 with imprisonment for a term which may extend to six months or with fine which may extend to give hundred rupees or with both.
- Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks 110. 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 (45 of 1860) :-

(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 or waste land to which the provisions of this Act are applied, shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and also with fine which shall not be less than five hundred rupees and which may extend to five thousand rupees.

Power to  
arrest with-  
out warrant

111. (1) All offences under this Act shall be cognizable and any Forest Officer or Police Officer may, 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.

(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.

Right to  
proceed to any  
place in any  
other state  
to arrest the  
accused etc.

112. Any Forest Officer of rank not below that of a Forest Ranger or Police Officer of rank not below that of a Sub-Inspector of Police within whose limits an offence under this Act has been or suspected to have been committed shall have the power to proceed to any place in any other State to arrest the accused and seize the property, involved in the offence and take such action incidental thereto, if such accused or property are found or suspected to be found in such place in such other State in accordance with the rules which may be prescribed in this regard.

- Power to release on a bond a person arrested 113. Any Forest Officer of rank not below that of a Forest Ranger or a Police of rank not below that of a Sub-Inspector of Police, who or whose subordinate, has arrested any person under the provisions of section 111 or section 112 may 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.
- Power to prevent commission of offence 114. Every Forest Officer, Police Officer and Revenue Officer shall prevent and may interfere for the purpose of preventing the commission of any forest offence.
- Punishment for abetment 115. (1) Any person who abets any of the offences specified in this Act shall, if the offence abetted is committed in the consequence of the abetment, be punishable with the same punishment as provided for the offence abetted.  
(2) If the offence abetted is not committed the punishment for abetment shall be up to one fourth of the maximum punishment provided for the said offence.
- Punishment for knowingly receiving any forest produce illicitly removed 116. Any person who dishonestly receives or retains in his possession any forest produce illicitly removed, knowing or having reason to believe the same to be removed, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.
- Penalty for offence committed under aggravating circumstances 117. Any person who commits any of the offences specified in this Act after sun-set and before sun-rise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence, or persists in continuing the offence after being warned by a Forest Officer or Police Officer or Revenue Officer against it shall be punishable with double the penalty provided for the offence.

Power to try offences summarily

118. A Magistrate of the second class or a Forest Officer of a rank not lower than that of a Deputy Conservator of Forests acting as Special Magistrate, specially empowered in this behalf of the High Court may try summarily, under the Code of Criminal Procedure, 1973 any forest offence punishable with imprisonment for a term not exceeding one thousand rupees or with both.

Power to compound offences

119. (1) 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 109 or section 110 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 the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, 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) A Forest-Officer shall not be empowered under this section unless he is a Forest Officer of a rank not below that of a Forest Ranger and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed such limits as may be fixed by the State Government.

Presumption that forest produce belongs to Government

120. 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.

Operation of  
other laws  
not barred

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

Provided that no person shall be prosecuted and punished for the same offence more than once.

CHAPTER XIII

CATTLE - TRESPASS.

Cattle -  
trespass  
Act, 1871  
to apply.

122. Cattle trespassing in a reserved forest or in any portion of a protected forest or other classes of land to which the provision of this Act apply and which are lawfully closed to grazing shall be deemed to be cattle doing damage to 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 or Revenue Officer.

Power to  
alter fines  
fixed under  
that Act

123. The 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 122 of this Act such fines as it thinks fit.

CHAPTER XIV

FOREST OFFICERS

State Govern-  
ment may invest  
Forest Officers  
with certain  
powers

124. (1) 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 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 the code of Criminal Procedure 1973; and

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

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

Power of entry  
inspection,  
investigation  
and  
prosecution

125. Any Forest Officer may at any time enter and inspect any private forest or land within his jurisdiction for the purpose of ascertaining whether there has been contravention of any of the provisions of this Act and the rules made thereunder or for the purpose of securing compliance with any such provision.

Lawful for  
forest-  
officer to  
conduct  
prosecution

126. It shall be lawful for any Forest Officer of a rank not lower than that of a Forester to lay any information before a Magistrate and to apply for summons, warrant, search-warrant, or such other legal process as may by law issue against any person committing an offence and to conduct prosecution of such person upto final decision.



Forest-Officers  
deemed public  
servants

127. All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code. (45 of 1860).

Indemnity for  
acts done in  
good faith

128. (1) No suit or criminal prosecution or other legal proceedings shall lie against any public servants for anything done by him in good faith under this Act.

(2) No court shall take cognizance of any offence alleged to have been committed by a Forest Officer in the discharge of his official duties except with the previous sanction of the authority competent to remove him from his office.

Forest officers  
not to trade

129. Except with the permission in writing of the State Government, no forest officer shall, as principal or agent, trade in timber or other forest produce, or he or becomes interested in any lease of any forest, whether in or outside the territories to which this Act extends.

REGULATIONS

CHAPTER XV

SUBSIDIARY RULES

Additional powers to make rules

130. The State Government may make rules :-

(a) to prescribe and limit the powers and duties of any Forest Officer or Police Officer or Revenue 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 or forest produce 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.

Penalties for breach of rules

131. Any person contravening any rules 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 three months or with fine which may extend to five hundred rupees, or with both.

Rules when to have force of law

132. All rules made by the State Government under this Act shall be published in the Official Gazette, and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

CHAPTER XVI  
MISCELLANEOUS

Persons bound 133.  
to assist  
Forest Officers  
and Police  
Officers

(1) Every person who exercise any right in a reserved of protected forest or village 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 who is employed by any such person in such forest, and every person in any village continuous 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 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 to do so, without lawful excuses (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 forest 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;

shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

Management of 134.  
forests or the  
land, the joint  
property of  
Government and  
other persons

(1) If the State Government and any person be jointly interested in any forest or waste land or in the whole or any part of the produce thereof, the State Government may either -

(a) undertake the management of such forest, waste-land or forest-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 forest-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 State Government undertake under clause (a) of sub-section (1) the management of any forest, land or forest produce, it may by notification in the Official Gazette, declare that any of the provisions contained in Chapters II and III shall apply to such forest, land or produce, and thereupon such provisions shall apply accordingly.

Power to Govern-135.  
ment to apply  
provisions of  
this Act to  
certain lands  
of Government  
or local  
authority

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 which are the property of the State Government or Central Government or a local authority and thereupon such provisions shall apply to such lands accordingly.

Failure to  
perform service  
for which a share  
in produce of  
Government  
forest is  
enjoyed

136. 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 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 State Government.

Recovery of  
money due to  
Government

137. (1) 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 under any contract relating to timber and other forest-produce including any sum recoverable thereunder for the breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest-produce by auction or by invitation of tenders, issued by or under the authority of a Forest Officer and all compensation awarded to the Government under this Act, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

(2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall also apply to all cases of recovery which are either pending at the commencement of this Act or are initiated there after in respect of contracts entered into prior to such commencement, any judgement, decree or order of any court to the contrary notwithstanding.

Lien on forest  
produce for such  
money

133. (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 Government.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894

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

Recovery of penalties due under bond

140. 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 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.

Saving for rights of Central Government

141. Nothing in this Act shall authorise a Government of any State to take any order or 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.

Rules to be laid before State Legislature

142. Every rule made under this Act, shall be laid as soon as may be after it is made, before each House of the State Legislature.

143. Enactments Repealed. (The Schedule)