GOVERNMENT OF MAHARASHTRA

MAHARASHTRA FOREST MANUAL 2020

VOL-II

(Updated upto 30th September 2020)

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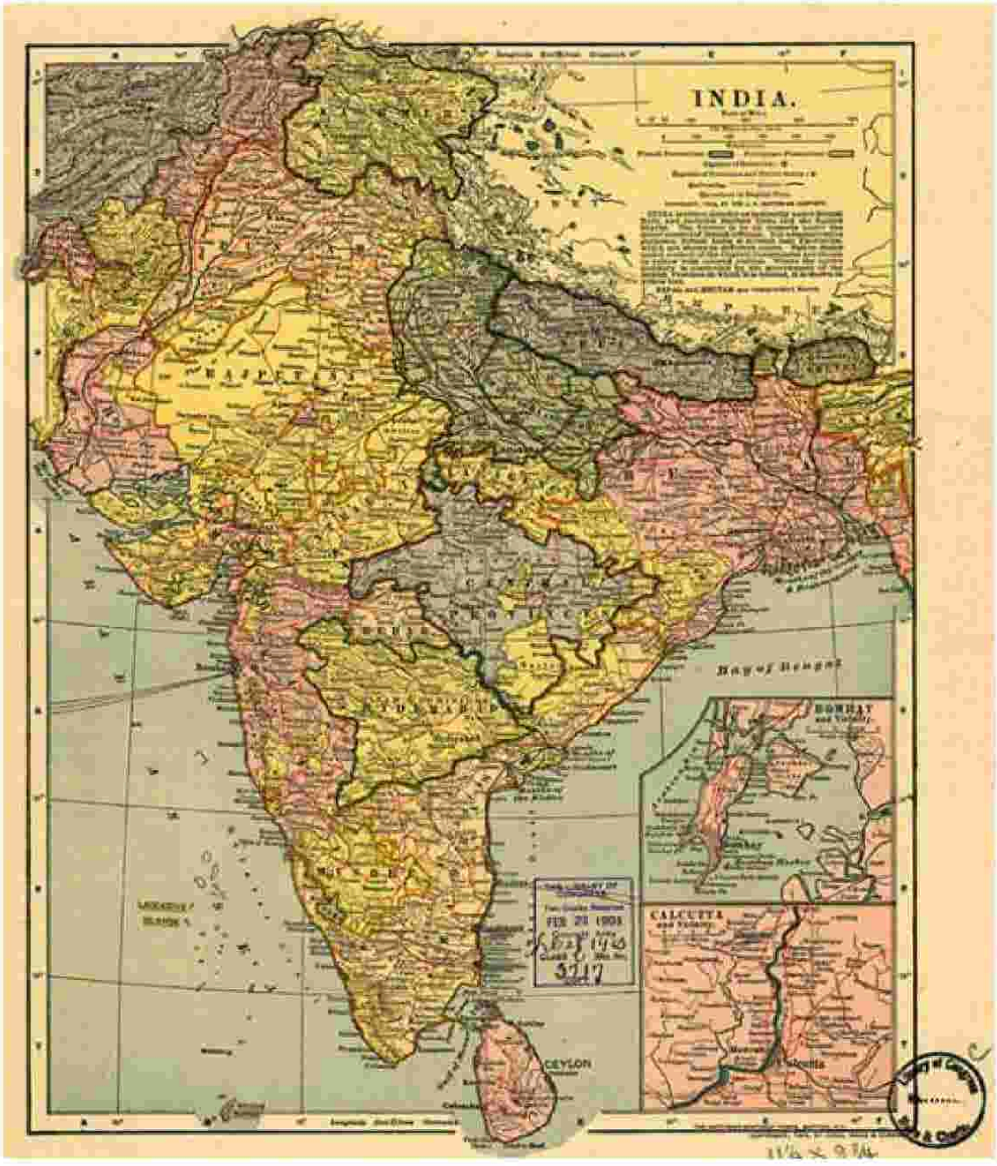
CHAPTER 1
ADAPTATION AND CONTINUANCE OF LEGISLATIONS

1.01 Introduction

The Government of India Act, 1935 was a consolidated legislation encompassing the earlier legislations passed by the British Government. The list of the Acts which were repealed by the said Act was given in its Tenth Schedule. This Act, together with the Indian Independence Act, 1947 remained in force even after the independence till the Constitution came into force on 26th January, 1950, when both of them were repealed as per Article 395.



1.02 Adaptation of Laws

A question therefore arises about the applicability of laws prior to such repeals. Sections 292 and 293 of the Government of India Act, 1935 provided the mechanism to address this issue. Both are reproduced as under---

> **Section 292**— Notwithstanding the repeal by this Act of Government of India Act, but subject to other provisions of this Act, all the law in force in British India immediately before the commencement of Part III of this Act shall continue in force in British India until altered or repealed or amended by a competent Legislature or other competent authority.
>
> **Section 293.**— His Majesty may by Order in Council to be made at any time after the passing of this Act provided that, as from such date as may be specified in the Order, any law in force in British India or in any part of British India shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to such adaptations and modifications as appear to His Majesty to be necessary or expedient for bringing the provision of that law into accord with the provisions of this Act and, in particular, into accord with the provision thereof which reconstitute under different names governments and authorities in India and prescribe the distribution of legislative and executive powers between the Federation and the Provinces:
>
> Provided that no such law as aforesaid shall be made applicable to any Federated State by an Order in Council made under this section.
>
> In this section the expression "law" does not include an Act of Parliament, but includes any Ordinance, order, byelaw, rule or regulation having in British India the force of law.

The Government of India Act, 1935 came into force on 1st April, 1937. Making use of these provisions, various Acts passed prior to coming in force of the said Act were adapted by way of passing Adaptation of Laws Orders by the Governor-General.

1.03 The mechanism provided in the above said sections of the Government of India Act, 1935 were embodied in Article 372 of the Constitution for continuance in force of existing laws. It is reproduced as under.—

> **Article 372. Continuance in force of existing laws and their adaptation.**
>
> (1) Notwithstanding the repeal by this Constitution of the enactments referred to in Article 395 but subject to other provisions of this Constitution, all the laws in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority.
>
> (2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.
>
> (3) Nothing in clause (2) shall be deemed—
>
> (a) to empower the President to make any adaptation or modification of any law after the expiration of three years from the commencement of this Constitution; or
>
> (b) to prevent any competent Legislature or other competent Authority from repealing or amending any law adapted or modified by the President under the said clause.

1.04 Thus, by using these mechanisms, the President has passed Orders from time to time for the purpose of bringing the provisions of various laws in force in territory of India into accord with the provisions of the Constitution. First such Order was passed on 26th January, 1950 and was published with the Ministry of Law Notification No. G.O. 4, dated the 26th January, 1950. Part I of this Order dealt with Adaption of existing Central or Provincial Laws, Part II contained

provisions related to existing State (Princely State) laws and part III contained Supplementary provisions. Paragraph 2(2) of the said Order provided that the General Clauses Act, 1897 would apply for its interpretation as it was applicable for the interpretation of any Central Act. In paragraph 4 (1) of this Order a TABLE has been provided to prescribe the old titles under the previous Acts and corresponding new titles. For better understanding the TABLE is reproduced as under—

[Annexure 1.01]

TABLE	
1	2
East Punjab	Punjab
The United Provinces United Provinces	Uttar Pradesh
The Central Provinces and Berar	Madhya Pradesh
Ajmer-Merwara	Ajmer
Crown Her Majesty His Majesty	Government
Governor's Province	Part A State
Governors' Provinces	Part A States
Chief Commissioner's Province	Part C State
Chief Commissioners' Provinces	Part C States
Indian State Acceding State	Part B State
Indian States Acceding States	Part B States
All the Provinces of India	The whole of India except Part B States
Province (except where it occurs in any expression mentioned above)	State
Provincial	State
Provinces (except where it occurs in any expression mentioned above)	States

1.05 It may be noted that paragraph 20 of the said Order saved the previous operation of or anything duly done or suffered under any existing law. It is reproduced as under.—

> (20) Nothing in this Order shall affect the previous operation of, or anything duly done or suffered under, any existing law, or any right, privilege, obligation or liability already acquired, accrued or incurred under any such law, or any penalty, forfeiture or punishment incurred in respect of any offence already committed against any such law.

1.06 Adaptation of State Laws after the States Reorganization Act, 1956 (Areas in MP)

Laws enacted prior to the reorganization of States (For details about reorganization of States, please refer Chapter 1 of Volume I of this Manual) were saved through the Bombay (Vidarbha

Region) Adaptation of Laws (State and Concurrent Subjects) Order, 1956 Published vide Notification No. B.G.G. Extraordinary, dated 1st November 1956, Part 4A (p. 321), vide Notification No. 25403/B. Various phrases were renamed as under----

1	2
Governor of Madhya Pradesh	Governor of Bombay.
State Government of Madhya Pradesh.	Government of Bombay.
Government of Madhya Pradesh	Vidarbha region of the State of Bombay.
State of Madhya Pradesh	
Madhya Pradesh	
Central Provinces and Berar	The area comprised within the districts of Nagpur,Wardha, Chanda and Bhandara
Bhandara.Central Provinces.	

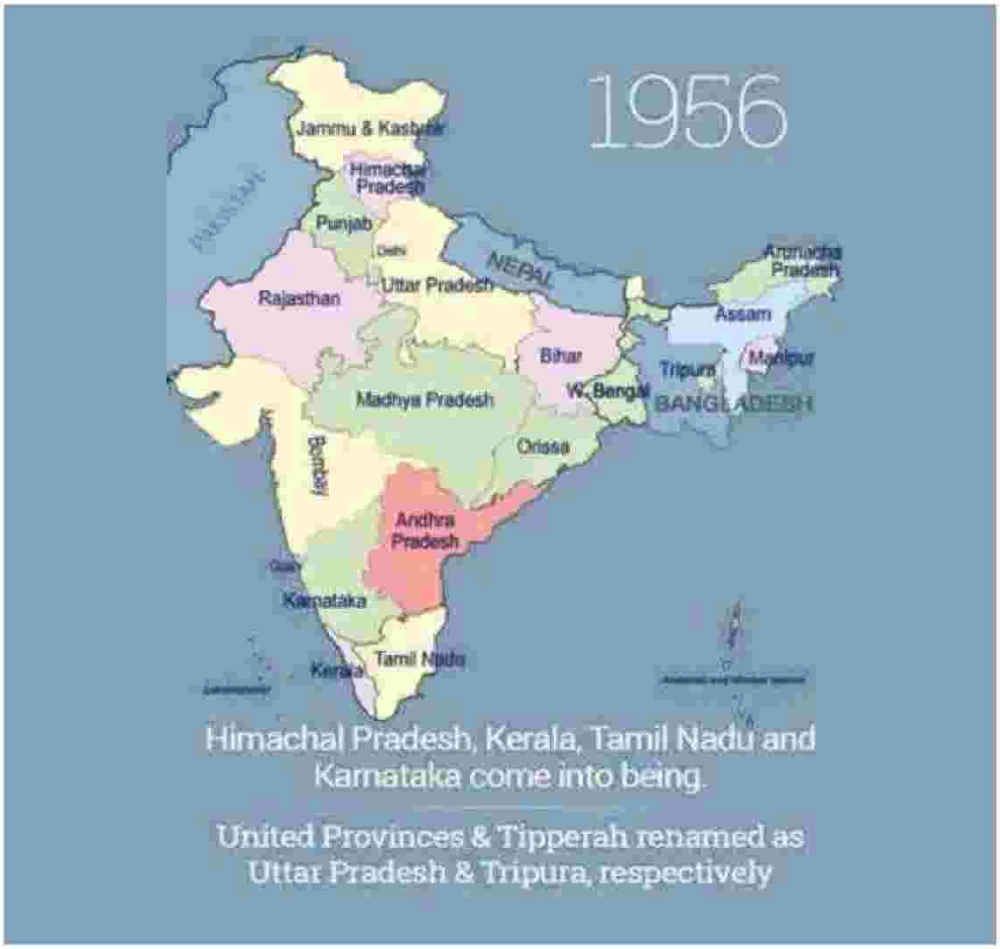
1.07 Adaptation of State Laws after the States Reorganization Act, 1956 (Areas in Hyderabad State)

Previous laws passed in the Princely State of Hyderabad were saved through the Bombay (Hyderabad Area) Adaptation of Laws (State and Concurrent Subjects) Order, 1956, which came into force on the first day of November, 1956. The phrases were renamed as under.---

1	2
Hyderabad State	Hyderabad area of the State of Bombay.
State of Hyderabad	
Mumalik-i-Mahroosa Sarkar-i-Aali (in Urdu laws).	
Mumalik-i-Mahroosa (in Urdu laws).	
Sarkar-i-Aali-(in Urdu laws).	Government
Jarida Alamia	*Official Gazette*
Jarida Alamia Sarkar-i-Aali	
Jarida	
Talukdar	Collector
Awwal Talukdar	
Doyam Talukdar	Deputy or Assistant Collector.

1.08 Adaptation of State Laws after formation of Maharashtra State

The States of Gujarat and Maharashtra were created by the Bombay Reorganization Act, 1960 and came into being with effect from 1st May, 1960 (For details, please refer Chapter 1 of Volume I of this Manual). Section 88 of the said Act provided as under.—



Section 88.— For the purpose of facilitating the application in relation to the State of Maharashtra or Gujarat of any law made before the appointed day, the appropriate Government may, before the expiration of one year from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression "appropriate Government" means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law, the State Government.

1.09 Accordingly, the Order was notified as **The Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960** vide Government Notification Law and Judiciary Department No. 13104/B, dated 1st May 1960. In this Order also, it was provided that the General Clauses Act, 1897 shall apply for interpretation of the said Order as it applies for the interpretation of a Central Act. Paragraph 11 is the saving clause, which is reproduced as under- **[Annexure 1.02]**

(11) Nothing in this Order shall affect the previous operation of, or anything duly done or suffered under, any existing State law, or any right, privilege, obligation or liability already acquired,accrued or incurred under any such law, or any penalty, forfeiture or punishment incurred in respect of any offence already committed against any such law.

1960

Bombay split into
Maharashtra and Gujarat

1.10 In paragraph 4 (1) of this Order a TABLE has been provided to prescribe the old titles under the previous Acts and corresponding new titles. For better understanding the TABLE is reproduced as under.-

1	Bombay State or State of Bombay	State of Maharashtra
2	Pre-Reorganization of State or Bombay, excluding the transferred territories.	Bombay area of the State of Maharashtra
3	Governor of Bombay	Governor of Maharashtra
4	Government of Bombay	Government of Maharashtra
5	*High Court of Bombay	High Court of Maharashtra

***Alteration in the name of High Court of Bombay**—A question again arises as to why the name of High Court is still continuing as High Court of Bombay in spite of the said Order. The High Courts of Bombay, Calcutta and Madras were established in pursuance of Letters Patent issued by the Queen in terms of the Indian High Courts Act, 1861 passed by the British Parliament. The High Court of Judicature at Madras was established by Letters Patent on 26th June, 1862, while the High Court of Judicature at Calcutta and High Court of Judicature at Bombay were established by Letters Patent on 28th December, 1865. During course of time, due to popular demand, the names of Bombay, Madras and Calcutta were changed as Mumbai, Kolkata and Chennai respectively. In view of local sentiments in the States of Maharashtra, Tamil Nadu and West Bengal the respective Governments of these States requested the Central Government to take appropriate measures to change the names of their High Courts in

consonance with the names of the Cities where they are located. Accordingly, the Central Government moved a Bill under the title of The High Courts (Alteration of Names) Bill, 2016 (171 of 2016), during the tenure of the Sixteenth Lok Sabha, with following Statement of Objects and Reasons--

STATEMENT OF OBJECTS AND REASONS

1. The High Courts of Bombay, Calcutta and Madras were established in pursuance of Letters Patent issued by the Queen in terms of the Indian High Courts Act, 1861 passed by the British Parliament. The High Court of Judicature at Madras was established by Letters Patent on 26th June, 1862, while the High Court of Judicature at Calcutta and High Court of Judicature at Bombay were established by Letters Patent on 28th December, 1865. After the Constitution of India came into force, these High Courts have continued to exist and exercise their jurisdiction in terms of article 225 of the Constitution.

2. The High Courts were named after the cities in which they were located. Consequence to the change in the names of these cities, there has been demands for change in the names of High Courts of Bombay, Calcutta and Madras as High Courts of Mumbai, Kolkata and Chennai respectively. At present, there is no central law under which the proposal to change the names of these High Courts can be addressed. The proposed legislation is to address this requirement. It is appropriate and logical that the names of these High Courts are also changed as per the request of the State Governments.

3. In view of the above, it has been decided to change the names of the High Courts of Judicature at Bombay, Calcutta and Madras as the High Court of Judicature at Mumbai, Kolkata and Chennai, respectively.

4. The High Courts (Alteration of Names) Bill, 2016 will bring uniformity between the names of the cities and the names of the High Courts. It will also fulfill the aspiration of the people of the concerned States.

5. The Bill seeks to achieve the above objectives.

However, this Bill could not be passed by both Houses during the tenure of the Sixteenth Lok Sabha and stood lapsed in terms of Article 107(5) of the Constitution and the High Court of Bombay continues with its original name.

—— CHAPTER 2 ——
CONCEPT OF RIGHTS IN FORESTS

[Source: Manual of Jurisprudence for Forest Officers authored by BH Baden Powell, ICS officer in British India]

2.01 Introduction

To have appreciation of forests, especially in context of Indian subcontinent, it is essential to understand some of the concepts related to property (especially the immovable property), its acquisition, management, protection and preservation for posterity.

2.02 One may notice that a thing, whether movable or immovable does not become 'property' till it 'belongs' to someone or is in someone's hands. The most splendid diamond may be lying somewhere in the bottom of the Atlantic Ocean, but one would hardly call it a piece of property. Land far away, say in the interior of Australia, is not anyone's 'property'. Thus, there must be acquisition of thing by someone before it can be reckoned as 'property'. In the present state of things by far the most ordinary method of acquisition is by some form of transfer, which may take effect due to sale, gift, exchange, lease etc.

2.03 Acquisition by Prescription

In our present condition, in a civilized society, most things that are fit to be made property, have, for generations past, been owned by someone. But if we go far enough back, there must ultimately come a time when the property was not owned. Let us take the example of an open field, acquired by a person through inheritance. He got it by inheritance from his father, and he from his father, and so on for generations back, till at last, one comes to the time when some remote ancestor simply seized the land, or something of the kind, and, having got it, he remained in possession ever since and left it to his descendants. And now the feeling of everyone is, that after such a length of time, the possession ought not to be disturbed. The old Roman law first of all recognized this principle of prescription, and all other systems of law have in one way or another, followed it. It is a celebrated aphorism of the great jurist Savigny that "all property is founded on occupation ripened by prescription". In other words, that property must originate in somebody (1) taking possession of something, (2) in holding that something against all comers, till (3) his right to it is perfected or matured by the feeling that the lawgiver ought not to allow the possession to be disturbed.

2.04 Thus however one goes back into history of law, one can get no further than the fact that there was once a taking possession or occupation of the thing, which, being wanted, was kept exclusively by the possessor, and that then a sentiment gradually grew up, and ultimately became enforced by the community as a rule, that such possession ought not to be disturbed. We are now accustomed to find everything of value with an owner, that we take it, as a matter of course, that everything ought to have an owner; and if no one has any particular claim, then the occupant is owner, because no one else can show a better claim.

2.05 All that we can really know about the "origin of property" is that our modern ideas, which are now embodied in our laws and language, and which include—

(a) The feeling that long possession ought not to be disturbed,
(b) The feeling that everything ought to have an owner,
(c) And that ownership resides freely in each individual,

are the slow growth of ages, and have, as a matter of fact, been so evolved in the history of the human race. The people thus came to feel that **long possession ought to be respected,**---- which is the first important step, and with evolution, the feeling was crystallized in human mind that every person ought to have a separate right to his own property. This is the basic philosophy connected with the growth of the human mind, and the sense of right and wrong which lies deep in the mystery of the constitution of man's mental nature and social instincts.

2.06 Possession

In the first place, possession does not mean mere corporal seizure or contact. If a man carrying a bundle containing clothes, sits down in a field by the way side and deposits the bundle near him, he is certainly in possession of bundle, though it does not happen to be in his hands, and he is certainly not in possession of the field, although he is in actual corporal contact with it. The physical element is therefore not mere holding or contact, but **the possibility of dealing with a thing as one likes and of excluding others.** Suppose a person purchases a field from another person, the price is paid and the contract of sale is signed, then it is not necessary that the purchaser walks over every part of the land. The buyer will simply enter upon the land with the seller's assent, and the former is in possession of the field concerned. But supposing that on going to take possession, the buyer finds someone already on the spot to dispute his right, the buyer, cannot then be said to have possession till the opposition is overcome by consent or by force. This concept is equally applicable to the movable property also. If one buys an article, he need not keep it all the time with him to be in possession. He is equally in possession if it is put by him in his shelf.

2.07 Nor it is necessary that possession should be continuously exercised at every moment of time; but a man ***continues in possession as long as he can at any moment reproduce the physical power of dealing with the property as he pleases.*** A man, who goes away from his house to a place of business, is still in possession of his house, because he can at any time return to it and enter it.

2.08 A person may also be in possession of a thing through his representative; and the correct doctrine is that this is not a fictitious but a real legal possession. This assumes the representative to being friendly relation, that is, that he is not acting against the owner. The moment the representative does so, and means to assume control on his own behalf, the possession of the owner is gone: or it is only by special devices and provisions of law that such possession is held not to be lost. In order, therefore, to have a valid "possession by representative' the representative must be in control by consent of the principal, and that with the intent to exercise his control on behalf of the principal.

2.09 The idea of possession is extendable to 'right of way', or of a 'watercourse', which are called **servitudes** such as the **rights in forests** owned by the Government. There is peculiarity connected with possession in such cases which must be noticed. A person who has a right to cut firewood cannot be engaged in cutting it every moment of his life. A man is not perpetually going to and fro over the land which is subject to his right of way. For months together in a dry season, no water may flow off my land on to my neighbours. Such rights are called 'discontinuous' rights. Although it is easy to feel that such right is still in possession though it may not have been actually exercised for several days, or weeks or even months, at the same time we feel that, if, say, for several years, the right-holder had not crossed my field, or during more than one winter (when firewood was most needed) had not once taken a stick from my forest, there might be very considerable doubt about his having maintained actual possession of the right. It is always a question of fact, whether, in spite of such an **intermission**, the right has been maintained. But such intermissions are always dangerous, for, if the right has been intermitted for two years next before bringing a suit to establish the right, the right would be lost. An **intermission** is not the same thing as an **interception**. Under the Limitation Act, an interruption is the act of some person against the right; it is, in fact, an indication that the right is disputed; and the right is lost. The period after which an uninterrupted use gives a right, is twenty years under section 26 of the Indian Limitation Act. The law will always respect possession and maintain it, till a better right appears. One may have no kind of title, but if one has possession, he will be maintained it till, by proper steps at law, someone else has vindicated his superior right and obtained an order to dispossess the former.

2.10 Adverse possession

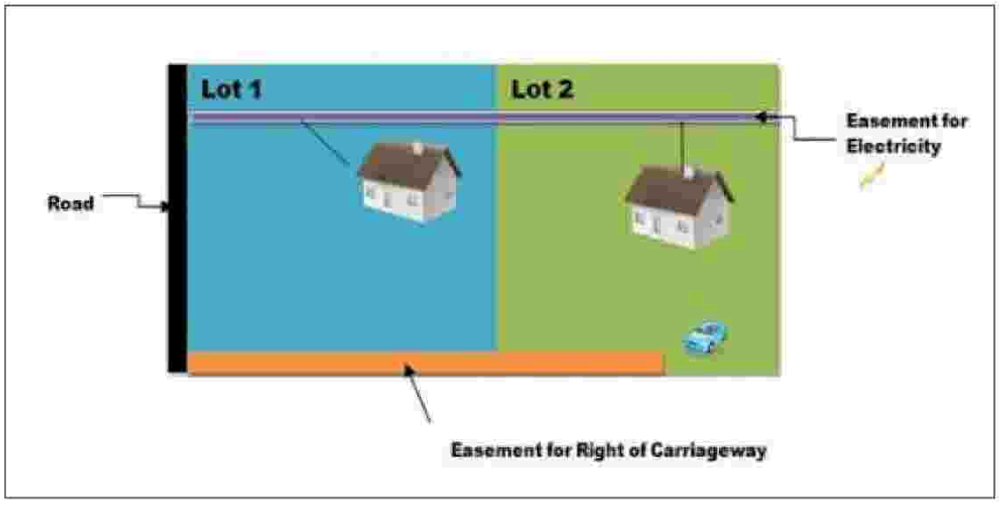
If a person's possession has been open, peaceful (not maintained by fraud, concealment or violence); it will mean that he owns the property against all comers, and is called adverse possession. And if this adverse possession has gone on for a long time undisturbed, then the law steps in and, on grounds of public convenience, declares that it shall now be permanent, and nobody shall be allowed to disturb it in future. That is practically what is meant by a person getting a **prescriptive title or title by prescription.**

2.11 Loss of possession

Every act, by which physical control is completely destroyed, puts a person out of possession: not so where the loss of control is incomplete. A person leaves his axe hidden in a wood, knowing where it is and intending to return and work with it next day; it is not out of his possession. However, if a person drops his ring into the river, it is completely out of his possession. **The more permanent and valuable property is, the more necessary it is that the title of the possessor should be made secure and not liable to be made void.**

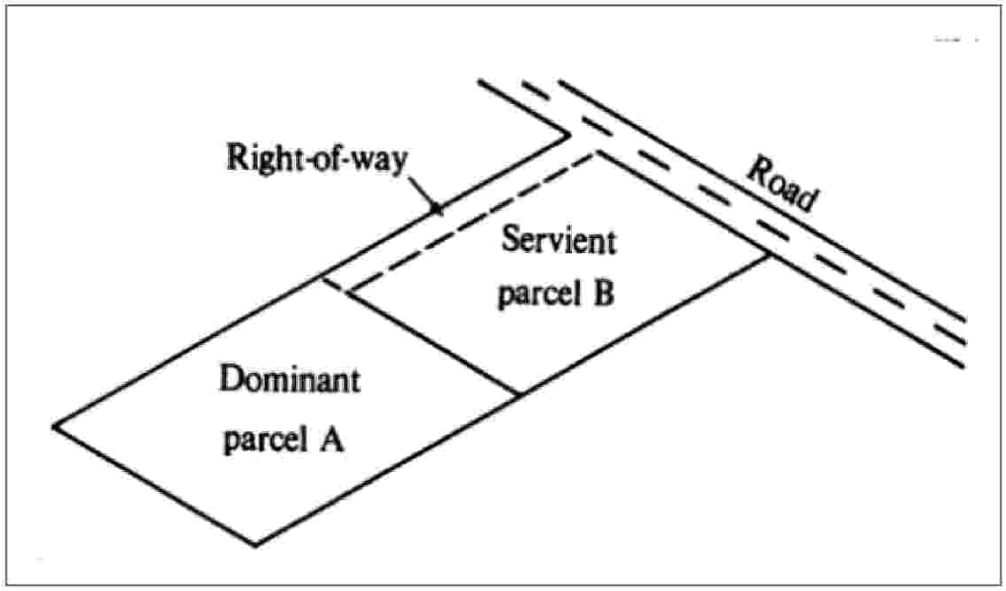
2.12 Separate rights or Servitude.

A person owns a field, but at the same time the inhabitants of a neighbouring village have a right of driving cattle through it; this right prevents his ever cultivating (or otherwise utilizing) the strip of land over which the cattle are driven. Similarly, Government may be the owner of a forest, but, notwithstanding that fact, there may exist rights of grazing in favor of the neighbouring village. The Government officer in charge can never close the whole forest at once and plant it over; nor can he lease out the whole of the grazing, nor cut the grass. In both of these cases, the owner has something less than the absolute or perfectly full enjoyment of his property. In other words, the property itself remains to the owner, and while his ownership is not in itself reduced or altered, still, some of the rights which go to make up a perfect or unrestricted ownership, have been as it were detached and vested in other persons. The detached rights are of the nature of 'ownership' in this sense only that they are rights over a specific thing available against the world at large. If a certain right to use some of the produce or to do something, or have something done, were, so to speak, broken off and separated from, the total of rights which made up full ownership, such a separate right was called by the Roman lawyers a **servitude**, because the person who held the separated right over someone else's land or house, or forest (or whatever it was) made, as it were, the property to serve his purpose. The English law reckons such rights as **easements.**



2.13 **Servitudes** may be **real** or **personal. Real servitudes** are those which only exist in connection with some property. A right of way from your field across B's close is a real servitude, because it is connected with your field; it is not you as an individual that have a right of way across B's land, but you as owner, for the time being, of the field. In other words, the right of way over B's land is attached to the field, no matter who owns it for the time being. On the other hand, I may have right to graze twenty cows in your forest, not because I am owner of house A, but in my own person: then that is a **personal servitude**. But many other rights, such as right of common, of grazing, of fishing, cutting turf, feeding pigs on acorns, or of cutting wood, may be either personal or real. These servitudes or rights are acquired very much in the same way as property is. They may be acquired by transfer. For example, my house A has a right of way to it through a certain courtyard. If I sell the house A, the right naturally goes with it.

2.14 And when our Indian Acts speak of the right being **appendant** to some property, they mean that it is attached in this way. In such cases, the property which has the right is called the **dominant** estate, and the other over which the right exists, is servient estate. Thus, a monastery, which has a right to bamboos from the neighbouring forest, is the dominant and the forest **servient** estate, and the right is a**ppendant** to the monastery.



2 .15 Cessation of prescriptive rights

When rights are extinguished by compensation, pursuant to a special provision of the law, they of course cease to exist. Some rights are only granted for life; they, of course, become extinct when the right-holder dies. So a right may be granted in consideration of some service; it expires when the service ceases to be rendered. A right also may be voluntarily given up, as where a right-holder without objection, permits a total alteration in the management of the servitude estate, whereby the exercise of his right is necessarily rendered impossible. If a forest or other estate which bears the right is washed away by river action, the right itself ceases also. A right also that has not been in existence for the last twenty years, would have been lost by prescription.

2.16 Common instances when the prescriptive rights cease

a) The disappearance of dominant estate; i.e. a village has a right of grazing. Government expropriates the whole land, and the inhabitants go away and the estate ceases to exist, the right ceases also.
b) The disappearance of the servient estate; forest washed away or completely burned down.
c) The dominant and the servient estate became one. Government forfeits for crime a village which had a right of grazing in its forest. Here both estates become the property of Government; the right is extinguished.
d) The right is compensated for.
e) Is lost by consent, or by interruption submitted to.
f) Is lost by prescription.

Government Property and its Acquisition

2.17 The Government as successor of the East India Company

Prior to enactment of the Government of India Act, 1858, there was a great deal of property which was held by the East India Company as a corporate body, and such property was, like the property of anyone else, liable to execution and to other process of the Court of Law. In the same way the Company could sell or mortgage such property and enter into contracts with any private person. On passing of the Government of India Act, 1858, all the property held by the East India Company became vested in the Queen for the purposes of the Government of India.

2.18 Right by Conquest

The modern law of nations does not recognize the earlier idea that on conquest, the captors become possessed of all property in the conquered State. Private property is not considered as interfered with, still less as being annihilated or transferred. When a province passes under British rule, the political system—the form of administration—that of course is superseded; but the laws which regulate the private relations of individuals to each other are not abrogated.

2.19 Forest laws in India: Reasons for there being a special Law relating to Forests

The British India was adequately protected against mischieves through the Indian Penal Code. These statutory provisions were equally applicable to forest cases; indeed, as they provide heavier sentences than the Forest law does, they may be very necessary in grave cases; but notwithstanding this, it was found better to put forests under a special Law for the following reasons—

2.19.01 Condition of forests in respect of user was exceptional

The forests were found to be burdened with rights adverse to the public interest represented by the Government. It became therefore necessary to provide for the due separation of the rights of the State and those of individuals, in order to prevent hardship to the individual on the one hand, and the destruction of the forests to the prejudice of the State on the other. Such rights are not found---to anything like the same extent—in other properties, nor do they interfere with management.

2.19.02 Forests subject to variety of injury and difficult to protect

Each component of forests that is to say, trees, soil, grass, undergrowth etc. are liable to its own special injuries, that the acts of evasion of dues, petty theft, trespass, and mischief which constitute forest-offence are extremely various; and it was much simpler to specify them distinctly in an Act, than

to leave them to be, by explanation, and, perhaps, by highly technical argument, brought under the general terms of the ordinary law. No such difficulty arises with an orchard, a cornfield, or a garden; the purposes to which these are put are single, and possible offences directly connected with them comparatively few, and such as tare clearly covered by the terms theft, mischief, cattle trespass, and so forth, of the ordinary criminal law.

2.19.03 Forests vulgarly regarded as common property

Common person understands and feels that a cornfield, a garden or a fenced orchard is not his to do what he likes in or with. But with forests it is different. The habit on looking on forests as if they were 'every man's' or 'no man's' property is inveterate, and hence the temptation to acts of mischief and trespass which, if unrepressed, would seriously interfere with the management of the forests. To check such offences it is therefore desirable to make it clear to the public, what may not be done in a forest and in set terms to prohibit acts, which if considered strictly and theoretically, may be already unlawful.

2.19.04 Simple and summary penalties need to be specifically provided

For the reasons stated above, need was felt that under ordinary circumstances, forest-offences should be liable to small penalties, which can be summarily inflicted, that is, after a speedy trial with a simple procedure and little formality. There will then be no occasion to set in motion the more formidable proceedings under the Penal Code, except in extensive cases of mischief by fire, timber theft, or fraud. It is, in short, desirable to have a special machine for the minor work---we do not need to set in motion a steam hammer to crack a nut.

2.19.05 Liability of forests to fire and other destructive agencies

Fire is far more often caused by the malice or carelessness of man; the red-hot stump of a cigar, the coal from a huqa, negligently thrown down, or camp fire left un-extinguished, being sufficient in dry weather to give rise to a conflagration in which not only the growth of past years, but the hope of future generations, may be destroyed in no time. It was therefore necessary to make some special provisions regarding fire, and to punish not only acts of direct incendiarism, but acts of negligence which put the forests in danger.

2.19.06 Interference with private forests in certain cases

As regards the forest itself, a special law was needed to enable Government to interfere in certain cases, against the waste or total clearance, even of private forests, when they are in such a position that their removal would threaten the safety of neighbouring lands. In mountain regions, such clearance may give rise to land slips, falls of stones and rock, erosion of ravines, and formation of torrents, while they may entail the diminution of water-supply in springs and streams at some times, and the excessive flooding of watercourses at others, whence disastrous floods in the great rivers may ultimately be caused.

2.19.07 Special need for interference with transit of produce

It is not sufficient to afford protection merely within the limits of the forest itself. The forest-produce must be followed in transit, whether by land or by water. Unless such produce can be kept to certain usual routes, and be examined at certain points, it is obvious that the public forests may be

robbed with impunity. The control of produce is also very much in the interest of honest owners of forest produce in transit. This was especially true in those parts of India and in British Burma where the chief means of exporting timber from forests is the floating of logs down the rivers.

2.19.08 Special Service to be vested with power

The above mentioned tasks necessitated the creation of a special Service of forest-officers who constitute at once a forest police for protection and surveillance; a managing agency to handle the estates, keep their accounts, and realize their revenues; and a professional staff to direct and carry out works of utilization, regeneration and improvement. Such a Service needed to be organized, to be vested with statutory powers of arresting offenders, interposing to prevent offences, and demanding help in the case of fire or other danger.

2.20 To what lands does the Special Law of Forest Apply? [Definition of 'forests']

Attempt was made to define 'forests' in the Government Forest Act, 1865 with the definition that "Government forest" to be "land covered with trees, brushwood or jungle declared to be Government forest under the Act". But eventually it was found ambiguous; since if a forest land is land covered with trees, and declared under the Act, it would follow that a tract of land not so covered, even if it were declared, would not be legally a forest, or subject to law. It may happen that land perfectly bare, or covered only with grass, is taken up for a large plantation which can only be gradually completed; nevertheless, it would be important to have the whole area under forest law from the beginning. The Government Forest Act, 1865 provided for continuance of rights of communities and individuals notwithstanding declaration of Government Forests by the Government. Soon it was realized that unless the existence, nature and extent of prescriptive rights with which the forests were burdened since ages are enquired into and settled through a fair and equitable manner, the whole spirit of the legislation would be defeated. This lead to the re-thinking on part of the Government and based on the experiences of the field functionaries like Dr. Dietrich Brandis and eminent administrators of that era, new Forest Bill was drawn somewhere around 1868, which was discussed and debated for about a decade and eventually the Indian Forest Act, 1878 was passed doing away with the definition of 'forests' (For details on Legislative History of Forest Act, please refer Chapter 4 of this Volume).

—— CHAPTER 3 ——
IMPORTANT PROVISIONS IN MAJOR LAWS

[A] THE GENERAL CLAUSES ACT, 1897

3.01 The General Clauses Act, 1897 was enacted to consolidate and extend the General Clauses Acts, 1868 (1 of 1868) and 1887 (1 of 1887). It is a consolidating and amending Act with a purpose to avoid superfluity and a repetition of language; and to place in a single Act, provisions as regards definitions of words and legal principles of interpretation which would otherwise have to be incorporated in different Acts and Regulations. The definition and the rules of interpretation contained in the General Clauses Act have to be read in every other Statute governed by it, provided the statue does not contain anything repugnant to them in the subject or context or does not exhibit a different intention. As per Article 367, this Act is also applicable for interpretation of the Constitution. Section 3 of the Act is the Interpretation Clause having definitions of certain terms, which wherever occur in any Central Act, shall be construed as such unless different meaning is assigned to that term in that Central Act. **[Annexure 3.01]**

3.02 The Provinces adopted the said statute for the purpose of interpretation of State Acts and therefore the Bombay General Clauses Act, 1904 was passed, which is known as the Maharashtra General Clauses Act at present. **[Annexure 3.02]**

3.03 Some of the important definitions in the General Clauses Act, 1897 are reproduced as under----

Section 3 (1) **Abet,** with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code (XLV of 1860). **Abetment** does not in itself involve the actual commission of the crime abetted. It is a crime apart.

Section 3 (2) act used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions.

Section 3 (3) **affidavit** shall include affirmation and declarations in the case of persons by law allowed to affirm or declare instead of swearing.

Section 3 (7) Central Act shall mean an Act of Parliament, and shall include—

(a) An Act of the Dominion Legislature or of the Indian Legislature passed before the commencement of Constitution, and

(b) An Act made before such commencement by the Governor-General-in-Council or the Governor-General, acting in a legislative capacity.

Section 3 (59) State Act shall mean Act passed by the Legislature of a State established or continued by the Constitution.

Section 3 (8) Central Government shall—

(a) In relation to anything done before the commencement of the Constitution, mean the Governor-General or the Governor-General-in-Council as the case may be; and shall include,--

(i) in relation to functions entrusted under sub-section (1) of section 124 of the Government of India Act, 1935, to the Government of a Province, the Provincial Government acting within the scope of the authority given to it under that sub-section; and

(ii) in relation to the administration of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of the authority given to him under sub-section (3) of section 64 of the Act; and

(b) in relation to anything done or to be done after the commencement of the Constitution means the President, and shall include-

(i) in relation to functions entrusted under clause (1) of Article 258 of the Constitution to the Government of a State, the State Government acting within the scope of the authority given to it under the clause;

(ii) in relation to the administration of a Part C State [before the commencement of the Constitution (Seventh Amendment) Act, 1956] the Chief Commissioner or the Lieutenant-Governor or Government of a neighbouring State or other authority acting within the scope the authority given to him or it under Article 2 3 9 or Article 243 of the Constitution, as the case may be; and

(iii) in relation to the administration of a Union territory the administrator thereof acting within the scope of the authority given to him under Article 239 of the Constitution.

Section 3 (60) **State Government**—

(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province, in a Part B State, the authority or person authorized at the relevant date to exercise executive Government in the corresponding acceding State, and in a Part C State, the Central Government;

(b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a Part A State, the Governor, in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;

(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean in a State, the Governor and in a Union territory, the Central Government;

and shall in relation to functions entrusted under Article 258-A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that Article.

Section 3 (11) **Collector** shall mean, in a Presidency-town, the Collector of Calcutta, Madras, or Bombay, as the case may be and elsewhere, the chief officer-in-charge of the revenue administration of a district.

Section 3(18) **document** shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means which is intended to be used, or which may be used, for the purpose of recording that matter.

Section 3 (19) **enactment** shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras, or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid.

Section 3 (50) **Regulation** shall mean a Regulation made by the President under Article 240 of the Constitution and shall include a Regulation made by the President under Article 243 thereof and a Regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935.

Section 3 (20) **father**, in case of any one whose personal law permits adoption, shall also include adoptive father.

Section 3 (57) **son** in case of any one whose personal law permits adoption, shall include an adopted son.

Section 3(21) **financial year** shall mean the year commencing on the first day of April.

Section 3(22) a thing shall be deemed to be done in good faith where it is in fact done honestly, whether it is done negligently or not.

Section 3 (23) **Government or the Government** shall include both the Central and any State Government.

Section 3 (26) **Immovable Property** shall include land, benefits to arise out of land and things attached to earth, or permanently fastened to anything attached to the earth.

Section 3 (35) **movable property** shall mean property of every description, except immovable property.

Section 3 (27) **Imprisonment** shall mean imprisonment of either description as defined in the Indian Penal Code (45 of 1960).

Section 3(28) **India** shall mean—

(a) as respects any period before the establishment of the Dominion of India, British India, together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler, and the tribal areas;

(b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion; and

(c) as respects any period after the commencement of the Constitution all territories for the time being comprised in the territory of India.

Section 3 (29) **Indian law** shall mean any Act, Ordinance, Regulation rule, order, bye-law or other instrument which, before the commencement of the Constitution, had the force of law in any Province of India or part thereof, or thereafter, has the force of law in any Part A State or Part C State or part thereof, but does not include any Act of Parliament of the United Kingdom or any Order in Council, rule or other instrument made under such Act.

Section 3 (30) **Indian State** shall mean any territory which the Central Government recognized as such a State before the commencement of the Constitution, whether described as State, an Estate, a Jagir or otherwise.

Section 3 (35) **month** shall mean a month reckoned according to the British calendar.

Section 3 (37) **oath** shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing.

Section 3 (38) **offence** shall mean any act or omission made punishable by any law for the time being in force.

Section 3 (39) **official Gazette or Gazette** shall mean the Gazette of India or the official Gazette of a State.

Section 3 (41) **Part A State** shall mean a State for the time being specified in Part A of the First Schedule to the Constitution, as in force before the Constitution (Seventh Amendment) Act, 1956, Part B State shall mean a State for the time being specified in Part B of that Schedule and Part C State shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provision of Article 243 of the Constitution.

Section 3 (42) **person** shall include any company or association or body of individuals, whether incorporated or not.

Section 3 (44) **Presidency-town** shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature, at Calcutta, Madras, or Bombay, as the case may be.

Section 3 (45) **Province** shall mean a Presidency, a Governor's Province, a Lieutenant-Governor's Province or a chief Commissioner's Province.

Section 3 (46) **Provincial** Act shall mean an Act made by the Governor-in-Council, Lieutenant Governor-in-Council or Chief Commissioner in Council of a Province under any of the Indian Council Acts or the Government of India Act, 1915, as an Act made by the local Legislature or the Governor of a Province under the Government of India Act, or an Act made by the Provincial Legislature or Governor of a Province or the Coorg Legislative Council under the Government of India Act, 1935.

Section 3 (47) **Provincial Government** shall mean, as respects anything done before the commencement of the Constitution the authority or person authorized at the relevant date to administer executive Government in the Province in question.

Section 3 (49) **registered** used with reference to a document, shall mean registered in India under the law for the time being in force for the registration of document.

Section 3 (51) **rule** shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment.

Section 3(54) **section** shall mean a section of the Act or Regulation in which the word occurs.

Section 3(56) **sign** with its grammatical variations and cognate expressions; shall with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions.

Section 3(58) **State**—

(a) as respects any period before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean a Part A State, a Part B State or a Part C State.

(b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory.

Section 3 (61) **sub-section** shall mean a sub-section of the section in which word occurs.

Section 3(62) **swear** with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing.

Section 3(62-A) **Union territory** shall mean any Union territory specified in the First Schedule to the Constitution and shall include any other territory comprised within the territory of India but not specified in that Schedule.

Section 3 (64) **will** shall include codicil and every writing making a voluntary posthumous disposition of property.

Section 3 (65) expression referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

Section 3 (66) **year** shall mean a year reckoned according to the British calendar.

[B] THE CODE OF CRIMINAL PROCEDURE, 1973

3.04 General

Special Laws having provisions related to inquiry, investigation, trial and other proceedings viz. the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980 etc. presume that the person, responsible for implementing them is conversant with the relevant provisions pertaining to such proceedings given in Major Criminal Laws, namely, the Code of Criminal Procedure, 1973, the Indian Penal Code, 1860 and the Indian Evidence Act, 1872. Sections 4 and 5 of the Code of Criminal Procedure are relevant, which are reproduced for appreciating the applicability of such special Laws vis-à-vis the Code of Criminal Procedure, 1973----

Section 4. Trial of offences under the Indian Penal Code and other laws

(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereunder contained.

(2) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

Section 5. Saving.—Nothing contained in this Code, shall in absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

3.05 Thus in absence of any specific provision with respect to any aspect in any special Law, the provisions contained in the Code of Criminal Procedure, 1973 shall be applicable. Now the relevant definitions in section 2 under the said Code are reproduced as under---

Words and Expression used in the Code of Criminal Procedure and not defined but defined in the Indian Penal Code (45 of 1860) have the meanings respectively assigned to them in the Indian Peal Code.

Section 2 (n) **Offence.-** Means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871.

Section 2 (a) **Bailable Offence.**—Means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and non-bailable offence means any other offence.

Section 2 (c) **Cognizable Offence.**—Means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force arrest without warrant.

Section 2(l) **Non-Cognizable Offence.-** Means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant.

Section 2(d) **Complaint.-**Means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Section 2 (r) **Police Report.-** Means a report forwarded by a police officer to a Magistrate under section 173(2).

Section 2 (g) **Inquiry.**—Means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court.

Section 2 (h) **Investigation.**—Includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a magistrate) who is authorized by a magistrate in this behalf.

Section 2 (I) **Judicial Proceeding.-** Includes any proceeding in the course of which evidence is or may be legally taken on oath.

Section 2 (x) **Warrant Case.-** Means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

Section 2 (w) **Summon Case.**—Means a case relating to an offence, and not being a warrant-case.

3.06 Classification of offences under other laws

Part I of the FIRST SCHEDULE in the Code of Criminal Procedure, 1973, gives classification of offences under the Indian Penal Code. The classification of offences under other laws is tabulated in Part II of the FIRST SCHEDULE and is reproduced as under----

Offence	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
If punishable with death, imprisonment for life, or imprisonment for more than 7 years.	Cognizable	Non-bailable	Court of Sessions
If punishable with imprisonment for 3 years, and upwards but not more than 7 years.	Ditto	Ditto	Magistrate of the first class
If punishable with imprisonment for less than 3 years or with fine only.	Non-Cognizable	Bailable	Any Magistrate

[**Note**—1. Under section 64 of the Indian Forest Act, 1927 and under section 50(1)(c) of the Wild Life (Protection) Act, 1972, the police officer is empowered to arrest for offences under the said Acts. The said provisions, read with the definition of 'cognizable offence' under section 2(c) of the Code of Criminal Procedure, 1973 makes it clear that all offences under the said Acts, irrespective of quantum of punishment specified therein stand as cognizable offences.

2. Section 65-A of the Indian Forest Act, 1927, as applicable to the State of Maharashtra specifies certain offences under that Act as non-bailable. Therefore, to infer as to whether an offence under the said Act is bailable or non-bailable, section 65-A must be referred. On the other hand, no specific provision to that effect is mentioned in the Wild Life (Protection) Act, 1972. Thus, to infer as to whether an offence under the said Act is bailable or non-bailable, Part II of the FIRST SCHEDULE of the Criminal Procedure Code, 1973 as given above, must be referred.]

[C] PROVISIONS RELATED TO THE ARREST

3.07 Arrest

Forest Officers are empowered for arrest, both under the Indian Forest Act, 1927 as well as under the Wild Life (Protection) Act, 1972. It is therefore essential to understand the statutory provisions regarding Arrest and Bail.

3.08 The Constitution guarantees the fundamental right of Right to Liberty. Thus Article 22 provides as follows—

Article 22--Protection against arrest and detention in certain cases-

(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

3.09 Relevant provisions related to Arrest in the Code of Criminal Procedure, 1973

Section. 41 When police may arrest without warrant–

(1) Any police officer, may without an order from a Magistrate and without a warrant, arrest any person—

(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:----

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—
(a) to prevent such person from committing any further offence; or
(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, And the police officer shall record while making such arrest, his reasons in writing: Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.

3.10 Section 41 (2)

Subject to provisions of section 42 (Arrest on refusal to give name and residence), no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.

3.11 Section 41-A. Notice of appearance before the police officer-

If arrest is not required u/s 41(1), the police officer shall issue a notice to the concerned person to appear before him. The person concerned shall be duty bound to comply the instructions in the Notice. If he continues to comply, he shall not be arrested unless for the reasons to be recorded, the police officer is of the opinion that he ought to be arrested. If such person, at any time, fails to comply with the terms of the notice, or is unwilling to identify himself, the police officer, may subject to such orders as may have been passed by the Court, arrest him.

3.12 Section 41-B Procedure of arrest and duties of officer making arrest.

Every police officer while making an arrest shall—

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

(b) prepare a memorandum of arrest which shall be----

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;

(ii) countersigned by the person arrested; and

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend named by him to be informed of his arrest.

3.13 Section 41-D. Right of arrested person to meet an advocate of his choice during interrogation

When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.

3.14 Section 43 Arrest by private person and procedure on such arrest

(1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 41, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 42; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

3.15 Section 48. Pursuit of offenders into other jurisdiction

A police officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest, pursue such person into any place in India.

3.16 Section 49. No unnecessary restraint

The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

3.17 Section 50. Person arrested to be informed of grounds of arrest and of right to bail.

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.
(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureites on his behalf.

3.18 Section 50-A. Obligation of person making arrest to inform about the arrest, etc., to a nominated person.

(1) Every police officer or other person making any arrest under this Code shall forthwith give the information regarding such arrest and place where the arrested person is being held to any of his friends, relatives or such other persons as may be disclosed or nominated by the arrested person for the purpose of giving such information.
(2) The police officer shall inform the arrested person of his rights under sub-section (1) as soon as he is brought to the police station.
(3) An entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station in such form as may be prescribed in this behalf by the State Government.
(4) It shall be the duty of the Magistrate before whom such arrested person is produced, to satisfy himself that the requirement of sub-section (2) and sub-section (3) have been complied with in respect of such arrested person.

3.19 Section 54. Examination of arrested person by medical officer

(1) When any person is arrested, he shall be examined by a medical officer in the service of Central or State governments and in case the medical officer is not available by a registered medical practitioner soon after the arrest is made:
Provided that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.
(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.
(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner as the case may be, to the arrested person or the person nominated by such arrested person.

[D] PROVISIONS RELATED TO BAIL

3.20 Bailable Offence

Section 436. In what cases bail to be taken

(1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail.
Provided that such officer or Court, if he or it thinks fit, may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided:

Explanation.—Where a person is unable to give bail within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso.

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.

3.21 Non-Bailable Offences.

Section 437. When bail may be taken in case of non-bailable offence.—

(1) When any person accused of, or suspected of, the commission of any non- bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but-

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non- bailable and cognizable offence: Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm: Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason: Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non- bailable offence, but that there are sufficient grounds for further inquiry into his guilt the accused shall, subject to the provisions of section 446A and pending such inquiry, be released on bail or at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub- section (1), the Court may impose any condition which the Court considers necessary----

(a) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or

(b) in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or

(c) otherwise in the interests of justice.

(4) An officer or a Court releasing any person on bail under sub- section (1) or sub- section (2), shall record in writing his or its reasons or special seasons for so doing.

(5) Any Court which has released a person on bail under sub- section (1) or sub- section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non- bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) If, at any time after the conclusion of the trial of a person accused of a non- bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

3.22 Anticipatory Bail.

Provisions contained in section 438 are more commonly known as the provisions for the anticipatory bail. It may be noted that this section has been amended in respect of the State of Maharashtra in the year 1993 and has been given effect from 28th July, 1993.

Section 438. Direction for grant of bail to person apprehending arrest. -

(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest, he shall be released on bail, and that Court may, after taking into consideration, inter alia, the following factors :-

(i) the nature and gravity or seriousness of the accusation as apprehended by the applicant;

(ii) the antecedents of the applicant including the fact as to whether he has, on connection by a Court, previously undergone imprisonment for a term in respect of any cognizable offence;

(iii) the likely object of the accusation to humiliate or malign the reputation of the applicant by having him so arrested; and

(iv) the possibility of the applicant, if granted anticipatory bail, fleeing from justice,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail :Provided that, where the High Court or as the case may be the Court of Session, has not passed any interim order under this subjection or has rejected the application for grant of anticipatory bail it shall be open to an officer-in-charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.

(2) Where the High Court or, as the case may be, the Court of Session, considers it expedient to issue an interim order to grant anticipatory bail under sub-section (1), the Court shall indicate therein the date, on which the application for grant of anticipatory bail shall be finally heard for passing an order thereon, as the Court may deem fit; and if the Court passes any order granting anticipators' bail, such order shall include inter alia the following conditions, namely :-

(i) that the applicant shall make himself available for interrogation by a police officer as and when required;

(ii) that the applicant shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) that the applicant shall not leave India without the previous permission of the Court; and

(iv) such other conditions as may be imposed under sub-section (3) of section 437 as if the bail was granted under that section.

(3) Where the Court grants an interim order under subsection (1), it shall forthwith cause a notice, being not less than seven days notice, together with a copy of such order to be served on the Public Prosecutor and the Commissioner of Police or as the case may be, the concerned superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application Shall be finally heard by the Court.

(4) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor the Court considers such presence necessary in the interest of justice.

(5) On the date indicated in the interim order under subsection (2) the Court shall hear the Public Prosecutor and the applicant and after due consideration of their contentions, it may either confirm, modify or cancel the interim order made under sub-section (1).

3.23 Special powers regarding bail

Section 439. Special powers of High Court or Court of Session regarding bail.

(1) A High Court or Court of Session may direct-
   (a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in subsection (3) of section 437, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;
   (b) that any condition imposed by a Magistrate when releasing an person on bail be set aside or modified: Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice.

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

[E] THE INDIAN PENAL CODE (45 OF 1860)

3.24 Some of the definitions under the Indian Penal Code (45 of 1860) are reproduced as under–

Section7- Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

Section 11-Person-- The word "person" **includes** any Company or Association or body of persons, whether incorporated or not.

Section19- Judge—The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person,--
who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law togive such a judgment.

Section 77 Act of Judge when acting judicially—Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Section 23 Wrongful gain.- Is gain by unlawful means of property to which the person gaining is not legally entitled.
Wrongful loss.—Is the loss by unlawful means of property to which the person losing is legally entitled.

Section 24 Dishonestly—Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing dishonestly.

Section 25 Fraudulently.- A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

Section 26 Reason to believe.- A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing but not otherwise.

Section 52 Good Faith.—Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

Section 44 Injury.-- The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation or property.

[F] LEGAL PROTECTION EXTENDED TO PUBLIC SERVANTS

3.25 Section 73 of the Indian Forest Act, 1927 provides that forest-officers to be deemed public servants within the meaning of the Indian Penal Code. Similarly, section 59 of the Wild Life (Protection) Act, 1972 stipulates that every officers referred to under Chapter II of that Act (Chief Wild Life Warden, Wild Life Wardens and other officers), chairpersons, members, member-secretaries and other officers and employees referred to in Chapter IV-A, Chapter IV-B and every other officer exercising any of the powers conferred by that act to be deemed public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860). It shall therefore be important to appreciate the meaning of the term, 'Public Servant' as defined in the said Code.

3.26 The definition of the **'public servant'** under section 21 of the IPC is reproduced as under---

> **Section 21.-- "Public servant"** The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely:
>
> 1 *****[Omitted]
>
> *Second–* Every Commissioned Officer in the Military, Naval or Air Forces of India;
>
> *Third* Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;
>
> *Fourth* Every officer of a Court of Justice (including a liquidator, receiver or commissioner), whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court of Justice to perform any of such duties;
>
> *Fifth* Every juryman, assessor, or member of a panchayat assisting a Court of Justice or public servant;
>
> *Sixth* Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;
>
> *Seventh* Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;
>
> *Eighth* Every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;
>
> *Ninth* Every officer whose duty it is as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government;
>
> *Tenth* Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

Eleventh Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

Twelfth Every person –
(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;
(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

Illustration
A Municipal Commissioner is a public servant.

Explanation 1.--Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.--Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation 3.--The word "election" denotes an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under, any law prescribed as by election.

3.27 Legal Protection u/s 197 of the Code of Criminal Procedure

It may therefore be seen that by virtue of section 73 of the Indian Forest Act, 1927 and section 59 of the Wild Life (Protection) Act, 1972 forest-officer and various officers respectively are deemed to be public servants within the meaning assigned to these words u/s 21 of the Indian Penal Code (45 of 1860). It may be noted that such public servants have been provided with legal protection u/s 197 of the Code of Criminal Procedure, which is reproduced as under-----

Section 197. Prosecution of Judges and public servants.--

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction-
   (a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;
   (b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government: 1 Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression" State Government" occurring therein, the expression" Central Government" were substituted.

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub- section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub- section will apply as if for the expression" Central Government" occurring therein, the expression" State Government" were substituted.

(3A) Notwithstanding anything contained in sub- section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991 , receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the court to take cognizance thereon.

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

3.28 It may however be noted that not all public servants are covered by the legal protection extended u/s 197 (1) of the Code of Criminal Procedure, 1973. A careful reading of section 197 (1) makes it clear that three mandatory conditions stipulated therein must be satisfied by the person claiming protection thereunder—

3.28.01 **Condition 1** He must be a public servant within the meaning of section 21 of the IPC [forest-officers, by virtue of section 73 of the Indian Forest Act, 1927 and officers appointed under various provisions of the Wild Life (Protection) Act, 1972 by virtue of section 59 of that Act]

3.28.02 **Condition 2** He must be such a public servant, who is not removable from his office save by or with the sanction of the Government. In other words, a public servant is not covered by the legal protection provided u/s 197 unless he is a public servant, whose appointing authority is either State Government or Central Government as the case may be. [The appointing authority of Range Forest Officers, Assistant Conservator of Forests, Divisional Forest Officers belonging to the State Service is the State Government, and that of the officers belonging to All India Services is the Central Government. They cannot be removed from their office, without sanction of the State Government or the Central Government as the case may be. So, such public servants are covered u/s 197(1)]

3.28.03 **Condition 3** The person, while commission of the alleged offence, must be acting or purporting to act in discharge of his official duty.

3.29 To secure the protection u/s 197, all the three conditions mentioned above, must be satisfied simultaneously. It may further be noted that, by issuing notification u/s 197(3), the State Government may direct that provisions of sub-section (2) shall apply to such class or category of members of the Forces charged with the maintenance of public order as may be specified therein. Accordingly, the State Government vide Notification dated 19th September, 2006 has provided such protection to the Forest Guards, Range Forest Officers, Assistant Conservators, Deputy Conservators and Divisional Forest Officers.

[G] FIRST INFORMATION REPORT

3.30.01. Provisions related to the First Information Report (FIR) and Investigation thereafter

Many a times, while discharging their official duties related to protection of forests and wildlife, forest-officers come across situations, when it becomes essential to lodge the FIR with Police, especially commission of cognizable offences under the Indian Penal Code (45 of 1860). It must be kept in mind that the FIR is applicable only in respect of cognizable offences. Section 154 of the Code of Criminal Procedure deals with the provisions related to the FIR. Relevant extract from sub-section (1) and provisions under sub-section (2) and (3) are reproduced as under—

Section 154. Information in cognizable cases—

(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

3.30.02 Investigation under section 156 of the IPC and legal protection extended to public servants

Section 156 of the Code of Criminal Procedure, 1973 deals with the investigation into cognizable offence. Sub-section (1) pertains to the investigation by the officer in-charge of police station and sub-section (3) deals with the order for such an investigation by any Magistrate empowered under section 190. Through an amendment in the year 2016, following provisos have been added below sub-section (3) in its application to the State of Maharashtra---

"Provided that, no Magistrate shall order an investigation under this section against a person who is or was a public servant as defined under any other law for the time being in force, in respect of the act done by such public servant while acting or purporting to act in the discharge of his official duties, except with the previous sanction under section 197 of the Code of Criminal Procedure, 1973 (2 of 1974) or under any law for the time being in force.

Provided further that, the sanctioning authority shall take a decision within a period of ninety days from the date of the receipt of the proposal for sanction and in case the sanctioning authority fails to take the decision within the said stipulated period of ninety days, the sanction shall be deemed to have been accorded by the sanctioning authority."

[H] RIGHT OF PRIVATE DEFENCE

[Provisions contained in the IPC]

3.31 Right to Private Defence

The Indian Penal Code (45 of 1860) contains provisions related to the private defence under specific circumstances specified therein. It is essential to understand these provisions, hence reproduced as under---

Section 96. Things done in private defence.-- Nothing is an offence which is done in the exercise of the right of private defence.

Section 97. Right of private defence of the body and of property.- Every person has a right, subject to the restrictions contained in section 99, to defend-

First.- His own body, and the body of any other person, against any offence affecting the human body;

Secondly.- The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

Section 98. Right of private defence against the act of a person of unsound mind, etc.- When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations

(a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

Section 99. Acts against which there is no right of private defence.- There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under color of his office, though that act, may not be strictly justifiable by law.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that act, may not be strictly justifiable by law.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.- The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.- A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

Explanation 2.- A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

Section 100. When the right of private defence of the body extends to causing death.- The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:-

First.- Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.- Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.- An assault with the intention of committing rape;

Fourthly.- An assault with the intention of gratifying unnatural lust;

Fifthly.- An assault with the intention of kidnapping or abducting;

Sixthly.- An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release;

Seventhly.- An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.

Section 101. When such right extends to causing any harm other than death.- If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 99, to the voluntary causing to the assailant of any harm other than death.

Section 102. Commencement and continuance of the right of private defence of the body.-The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

Section 103. When the right of private defence of property extends to causing death.- The right of private defence of property extends, under the restrictions mentioned in section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely;-

First.- Robbery;

Secondly.- House-breaking by night;

Thirdly.- Mischief by fire committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

Fourthly.- Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised;

Fifthly.- Mischief by fire or any explosive substance, committed on any property used or intended to be used for the purposes of Government or any local authority, statutory body, company owned or controlled by Government, railway or tramway, or on any vehicle used or adapted to be used, for the carriage of passengers for hire or reward.

Section 104. When such right extends to causing any harm other than death.- If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 99 to the voluntary causing to the wrong-doer of any harm other than death.

Section 105. Commencement and continuance of the right of private defence of the property.- The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

The right of private defence of property against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered.

The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Section 106. The right of private defence of property against deadly assault when there is risk of harm to innocent person.- If in the exercise of the right of private defence against as assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

3.32 Right of Private Defence under the IPC vis-à-vis Burden of Proof under the Indian Evidence Act, 1872.

Right of Private Defence guaranteed by the IPC is to be carefully appreciated with the provisions contained in CHAPTER VII of the Indian Evidence Act, 1872 under the title, 'OF THE BURDEN OF PROOF'. Among other provisions, section 105 is important from the point of Right of Private Defence. It is reproduced as under-----

Section 105 Burden of proving that case of accused comes within exceptions---When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General exceptions in the Indian Penal Code (45 1860), or within any special exception or proviso contained in any other part of the same Code, ***or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.**

Illustrations

(a) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the nature of the act.
The burden of proof is on A.

(b) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.
The burden of proof is on A.

(c) Section 325 of the Indian Penal Code (45 of 1860), provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments.
A is charged with voluntarily causing grievous hurt under section 325.
The burden of proving the circumstances bringing the case under section 335 lies on A.

*** 3.33 Provisions under section 11 of the Wild Life (Protection) Act, 1972.—**

Section 11(2).-- The killing or wounding in good faith of any wild animal in defence of oneself or any other person shall not be offence.
Provided that nothing in this sub-section shall exonerate any person who, when such defence becomes necessary, was committing any act in contravention of any provision of this Act or any rule or order made thereunder.

3.34 Now, to avail the legal protection extended under section 11(2), the case must be covered under the proviso below that sub-section. In case, an offence is registered against any person, for killing or wounding any wild animal, the burden of proof that he killed or wounded the wild animal in defence of himself or any other person shall lie on that person only, in view of provisions contained in section 105 of the Indian Evidence Act, 1872.

3.35 General Exceptions

Chapter IV of the Indian Penal Code (45 of 1860) contains provisions, related to general exceptions. A forest-officer, while discharging his official duties and exercising statutory powers conferred to him, may come across certain situations which deserve protection under such provisions. The relevant provisions under this Chapter are reproduced as under—

Section 78. Act done pursuant to the judgment or order of Court.—Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Section 79 Act done by a person justified, or by mistake of fact believing himself justified, by law.—Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Illustration
A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Section 80. Accident in doing a lawful act.—Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration
A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Section 81. Act likely to cause harm, but done without criminal intent, and to prevent other harm.--Nothing is an offence merely by reason of its being done with knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.
Note—It may be kept in mind that in all such cases of General Exceptions, the burden of proof shall remain on the officer or the person, claiming such protection.

3.36 Criminal Force and Assault Against Public Servant

Many a times, especially during the eviction process or prevention of commission of offences, the public servants are prone to resistance from the affected persons, which may go up to the use of criminal force or assault by anti-social elements. While due precaution to lawfully counter such situations are desired, however, at the same time, such public servants must also be aware about the related provisions and deterrence for such acts in the Indian Penal Code, 1860.

Section 349. Force.--A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling:
Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

Firstly.-	By his own bodily power.
Secondly.-	By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.
Thirdly.-	By inducing any animal to move, to change its motion, or to cease to move.

Section 350. Criminal force.--Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Section 351. Assault.--Whoever makes any gesture, or any preparation intending or knowing

it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.-Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault,the gesture explained by the words may amount to an assault.

Section 352. Punishment for assault or criminal force otherwise than on grave provocation.--Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.-Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Section 353. Assault or criminal force to deter public servant from discharge of his duty.-

- Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to *five years, or with fine, or with both.

(*In its application to the State of Maharashtra)

3.37 Civil suit shall not lie against forest-officers

The nature of functions assigned and duties cast upon the forest-officers may render them (public servants) peculiarly liable to unjust comment, and even to malicious accusation, since such officers have often to discharge a duty which is displeasing to individuals or curtails their liberty, and so may give rise to feelings of enmity and an unworthy desire of revenge. Section 74 of the Indian Forest Act, 1927 therefore stipulates that no civil suit shall lie against any public servant for anything done by him in good faith under the Act. Nor can a forest officer be held liable for loss of timber taken charge of under section 46 of the Act, or stored at a depot under section 42; unless, of course, there is fraud and malice.

[I] THE INDIAN EVIDENCE ACT, 1872

3.38 Some of the definitions given in section 3 are reproduced as under----

Court.- "Court" includes all Judges and Magistrates, and all persons, except arbitrators, legally authorized to take evidence.

Fact.—Means and includes---

(1) any thing, state of things, or relation of things, capable of being perceived by senses,

(2) any mental condition of which any person is conscious.

Proved.—A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.
Disproved A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exists.
Not proved A fact is said not to be proved when it is neither proved nor disproved.
***May presume** Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.

3.39 *Section 114 is the general section dealing with presumptions known as presumption of facts. Presumption of facts are inferences from certain facts drawn from the experience and observation of the human mind, springs of human action, the usages and habits of society and ordinary course of human affairs. The Court has, however, discretion on facts of each case to draw presumptions of facts. There is distinction between presumption of facts and presumption of law. The presumption of facts merely affects the burden of proof, whereas presumption of law is mandatory and goes as far as to shift the legal burden of proof so that in the absence of evidence sufficient to rebut it on a balance of probability, a verdict must be directed in favour of the presumption—[Syad Akbar v state AIR 1979 SC 1848: (1980) 1 SCC30: 1979 Cr LJ] 1374. So presumption of facts as raised in various clauses of section 114 of Evidence Act is itself not evidence but only makes prima facie case for a party in whose favour it exists. It is a rule concerning evidence. It is the obligation of the opposite party to rebut it by going forward with evidence—Sodhi Transport v State AIR 1986 sc 1099.

3.40 Section 114 - Court may presume existence of certain facts

The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.
The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations

The Court may presume—

(a) That a man who is in possession of stolen goods soon after the theft is either the theft or has received the goods knowing them to be stolen, unless he can account for his possession;
(b) That an accomplice is unworthy of credit, unless he is corroborated in material particulars;
(c) That a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;
(d) That a thing or stale of things which has been shown to be in existence within a period shorter than that within which such things or slate of things usually cease to exist, is still in existence;
(e) That judicial and official acts have been regularly performed;
(f) That the common course of business has been followed in particular cases;
(g) That evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;
(h) That if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given would be unfavourable to him;
(i) That when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it:—

As to illustration (a) A shop-keeper has in his till a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business;

As to illustration (b) A, a person of the highest character is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself;

As to illustration (b) A crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable;

As to illustration (c) A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was young and ignorant person, completely under A's influence;

As to illustration (d) It is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course;

As to illustration (e) A judicial Act, the regularity of which is in question, was performed under exceptional circumstances;

As to illustration (f) The question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances;

As to illustration (g) A man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family;

As to illustration (h) A man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked;

As to illustration (I) A bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

3.41 **Shall presume.**-Whenever it is provided by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.

3.41.01 **Practical aspect of the term, 'Shall Presume' used in the Indian Evidence Act, 1872--**It may be noted that, the Government of Maharashtra has invested forest officers, not below the rank of Range Forest Officers, with powers under section 72(1)(d) of the Indian Forest Act, 1927 to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence. Similarly, the State Government has authorized forest-officers not below the rank of Assistant Conservator of Forests to make investigation and to receive and record evidence during such investigation in respect of offences under the Wild Life (Protection) Act, 1972. Such evidence shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in presence of the accused person. [section 72(2) of the Indian Forest Act, 1927 and section 50(9) of the Wild Life (Protection) Act, 1972.]

3.41.02 **The Oaths Act, 1969**

Section 3. Power to administer oaths.—

(1) The following courts and persons shall have power to administer, by themselves, or subject to the provisions of sub-section

(2) of section 6, by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties imposed or in exercise of the powers conferred upon them by law, namely:--

(a) all courts and persons having by law or consent of parties authority to receive evidence;

(b) ----------

Forest-Officers, duly authorized u/s 72(1)(d) of the Indian Forest Act, 1927 and officers duly authorized u/s 50(8)(d) of the Wild Life (Protection) Act, 1972 are therefore empowered under the Oaths Act, 1969, as persons having by law authority

to receive evidence. The Forms of Oaths and Affirmations have been prescribed under SCHEDULE appended to the said Act. Form of Oath to be used for witnesses is reproduced as under----

Form No. 1

(For witnesses)

I ----------, (do swear in the name of God) / (Solemnly affirm) that what I shall state shall be truth, the whole truth and nothing but the truth.

3.41.03 As per section 3(1)(a) of the Oaths Act, 1969, all persons authorized to receive evidence shall have power to administer oath. By virtue of this statutory power, any proceeding before such persons stands as '**judicial proceeding**' in terms of section 2(i) of the Code of Criminal Procedure.

3.41.04 Section 80 of the Indian Evidence Act, 1872 relates to the admissibility of evidences recorded by officers legally empowered to receive evidence. It is reproduced as under [Emphasis supplied through bold letters]—

> **Section 80. Presumption as to documents produced as record of evidence.**—Whenever any document is produced before any Court, **purporting to be a record or memorandum of the evidence, or any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence, or to be a statement or confession by any prisoner or accused person, taken accordance with law, and purporting to be signed** by any Judge or Magistrate, or **by any such officer as aforesaid, the Court shall presume----**
>
> **that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.**

3.41.05 Refusing oath or affirmation when duly required by public servant to make it is an offence under section 178 of the IPC, which is reproduced as under—

> **Section 178 IPC—Refusing oath or affirmation when duly required by public servant to make it.**—Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.
>
> **Document.**—Means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.
>
> **Section74. Public documents.**–
>
> (1) Documents forming the acts, records of the acts—
>
> (i) Of the sovereign authority,
>
> (ii) Of official bodies and tribunals, and
>
> (iii) Of public officers, legislative, judicial and executive, of any part of India or of the commonwealth, or of a foreign country;
>
> (2) Public records kept in any State of private documents.
>
> **Section75. Private documents**--- All other documents are private.

3.42 Estoppel under section 115 of the Indian Evidence Act, 1872

Section 115. Estoppel.- When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

Illustration

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of the title.

[J] CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS [CHAPTER X OF THE IPC]

3.43 The term 'public servant' has been explained in paragraph 3.26. Forest officials, under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972 and certain other special Acts are deemed public servants within the meaning of section 21 of the Indian Penal Code, 1860. Such public servants function as lawful authorities to discharge statutory functions assigned to them under the respective Acts. Sections 172 to 190 in Chapter X of the Indian Penal Code (45 of 1860) contain provisions related to contempts of the lawful authority of public servants. Every such contempt constitutes offence under the respective sections of the IPC. They are tabulated as under--

IPC Section	Description	Cognizable or Non-cognizable	Bailable or Non-Bailable
172	Absconding to avoid service of summons or other proceedings	Non-cognizable	bailable
173	Preventing service of summons or other proceeding, or preventing publication thereof	Non-cognizable	bailable
174	Non-attendance in obedience to an order from public servant	Non-cognizable	bailable
174-A	Non-appearance in response to proclamation u/s 82 CrPC	Cognizable	Non-bailable
175	Omission to produce document or electronic record to public servant by person legally bound to produce it	Non-cognizable	bailable
176	Omission to give notice or information to public servant by person legally bound to give it	Non-cognizable	bailable
177	Furnishing false information	Non-cognizable	bailable
178	Refusing oath or affirmation when duly required by public servant	Non-cognizable	bailable
179	Refusing to answer public servant authorized to question	Non-cognizable	bailable
180	Refusing to sign statement	Non-cognizable	bailable
181	False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation	Non-cognizable	bailable
182	False information, with intent to cause public servant to use his lawful power to the injury of another person	Non-cognizable	Bailable
183	Resistance to the taking of property by the lawful authority of a public servant	Non-cognizable	Bailable
184	Obstructing the sale of property offered for sale by authority of public servant	Non-cognizable	Bailable
185	Illegal purchase or bid for property offered for sale by authority of public servant	Non-cognizable	Bailable
186	Obstructing public servant in discharge of public functions	Non-cognizable	Bailable

IPC Section	Description	Cognizable or Non-cognizable	Bailable or Non-Bailable
187	Omission to assist public servant when bound by law to give assistance	Non-cognizable	Bailable
188	Disobedience to order duly promulgated by public servant	Cognizable	Bailable
189	Threat of injury to public servant	Non-cognizable	Bailable
190	Threat of injury to induce person to refrain from applying for protection to public servant	Non-cognizable	Bailable

[K] FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE
[Chapter XI OF THE IPC]

3.44 False Evidence and Offences Against Public Justice

Forest officials are also legally empowered to receive and record evidence under the Indian Forest Act, 1927 and the Wild Life (Protection) Act, 1972. Sections 191 to 229-A of the IPC contains provision to deal with offences related to adducing false evidences etc. Some of such provisions related to forest-officials, in respect of evidences etc. are tabulated as under---

IPC Section	Description	Cognizable or Non-cognizable	Bailable or Non-Bailable
191	Giving false evidence,	–	–
192	Fabricating false evidence	--	--
193	Punishment for false evidence	Non-cognizable	Bailable
194	Giving or fabricating false evidence with intent to procure conviction of capital offence	Non-cognizable	Non-Bailable
195	Giving or fabricating false evidence with intent to procure conviction of offence punishment with imprisonment for life or imprisonment	Non-cognizable	Non-bailable
195-A	Threatening any person to give false evidence	Cognizable	Non-bailable
196	Using evidence known to be false	Non-cognizable	According as offence of giving such evidence is bailable or non-bailable
197	Issuing or signing false certificate	Non-cognizable	Bailable
198	Using as true a certificate known to be false	Non-cognizable	Bailable
199	False statement made in declaration which is by law receivable as evidence	Non-cognizable	Bailable
200	Using as true such declaration knowing it to be false	Non-cognizable	Bailable

IPC Section	Description	Cognizable or Non-cognizable	Bailable or Non-Bailable
201	Causing disappearance of evidence of offence, or giving false information to screen offender	According as the offence in relation to which disappearance of evidence is caused is cognizable or non-cognizable	Bailable
202	Intentional omission to give information of offence by person bound to inform	Non-cognizable	Bailable
203	Giving false information respecting an offence committed	Non-cognizable	Bailable
204	Destruction of document or electronic record to prevent its production as evidence	Non-cognizable	Bailable
205	False personation for purpose of act or proceeding in suit or prosecution	Non-cognizable	Bailable
206	Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution	Non-Cognizable	Bailable
207	Fraudulent claim to property to prevent its seizure as forfeited or in execution	Non-cognizable	Bailable
208	Fraudulently suffering decree for sum not due	Non-cognizable	Bailable
209	Dishonestly making false claim in Court	Non-cognizable	Bailable
210	Fraudulently obtaining decree fro sum not due	Non-cognizable	Bailable
211	False charge of offence made with intent to injure	Non-cognizable	Bailable
212	Harbouring offender	Cognizable	Bailable
213	Taking gift, etc., to screen an offender from punishment	Cognizable	Bailable
214	Offering gift or restoration of property in consideration of screening offender	Cognizable	Bailable
215	Taking gift to help to recover stolen property, etc.	Cognizable	Bailable
216	Harbouring offender who has escaped from custody or whose apprehension has been ordered	Cognizable	Bailable
216-A	Penalty for harbouring robbers or dacoits	Cognizable	Bailable
217	Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture	Non-cognizable	Bailable
218	Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture	Cognizable	Bailable
219	Public servant in judicial proceeding corruptly making report, etc, contrary to law	Non-cognizable	Bailable

IPC Section	Description	Cognizable or Non-cognizable	Bailable or Non-Bailable
220	Commitment for trial or confinement by person having authority who knows that he is acting contrary to law	Non-cognizable	Bailable
221	Intentional omission to apprehend on the part of public servant bound to apprehend	According as the offence in relation to which such omission has been made is cognizable or non-cognizable	Bailable
222	Intentional omission to apprehend on part of public servant bound to apprehend person under sentence or lawfully committed	Cognizable	Non-bailable
223	Escape from confinement or custody negligently suffered by public servant	Non-Cognizable	Bailable
224	Resistance or obstruction by a person to his lawful apprehension	Cognizable	Bailable
225	Resistance or obstruction to lawful apprehension of another person	Cognizable	Non-Bailable if penalty is imprisonment for 3 years or more and fine
225-A	Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise, provided for	Non-Cognizable	Bailable
225-B	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for	Cognizable	Bailable
226	Repealed	--	--
227	Violation of condition of remission of punishment	Cognizable	Non-bailable
228	Intentional insult or interruption to public servant sitting in judicial proceeding	Non-Cognizable	Bailable
228-A	Disclosure of identity of the victim of certain offences, etc.	Cognizable	Bailable
229	Personation of a juror or assessor	Non-cognizable	Bailable
229-A	Failure by person released on bail bond to appear in Court	Cognizable	Non-bailable

[L] THE CODE OF CIVIL PROCEDURE, 1908
(In its application to the State of Maharashtra)

3.45 This is an Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature. Some of the definitions in section 2 are reproduced as under---

Section 2 (2)- "decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 144, but shall not include—

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.

Explanation. A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit.
It may be partly preliminary and partly final.

Section 2 (3)—"decree-holder" means any person in whose favour a decree has been passed or an order capable of execution has been made.
Section 2(9)—"judgment" means the statement given by the Judge on the grounds of a decree or order.
Section 2(10)—"judgment debtor" means any person against whom a decree has been passed or an order capable of execution has been made.

3.46 The terms **'judgment'** and **'decree'** are clearly differentiable with the help of section 33, which reads as under—

Section 33—The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.
Section 2(13)—"movable property" includes growing crop.
Section 2(17)—"public officer" means a person falling under any of the following descriptions, namely :

(a) every Judge;

(b) every member of an All-India Service;

(c) every commissioned or gazetted officer in the military naval or air forces of the Union while serving under the Government;

(d) Every officer of a court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order, in the Court, and every person especially authorised by a court of Justice to perform any of such duties;

(e) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(f) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

(g) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue process, or to investigate, or to report on, any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government; and

(h) every officer in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty.

Section 2(18)—"rules" means rules and forms contained in the First Schedule or made under section 122 or section 125.
Section 2(20)—"signed", save in the case of a judgment or decree, includes stamped.

3.47 Section 4 is the saving clause in respect of provisions special or local laws. It is reproduced as under—

Section 4 *(1)* In the absence of any specific provision to the contrary, nothing in this Code shall be deemed to limit or otherwise affect any special or local law now in force or any special jurisdiction or power conferred, or any special form of procedure prescribed, by or under any other law for the time being in force,

(2) In particular and without prejudice to the generality of the proposition contained in sub-section (1), nothing in this Code shall be deemed to limit or otherwise affect any remedy which a landholder or landlord may have under any law for the time being in force for the recovery of rent of agricultural land from the produce of such land.

Note- The provisions in section 4 saves the powers conferred under section 53 and 54 of the Maharashtra Land Revenue Code, 1966. Similarly, section 26 (5) of the Indian Forest Act, 1927 (in its application to the State of Maharashtra), bars the jurisdiction of the Civil Court.

Section 9. Courts to try all civil suits unless barred.—The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Explanation I.— A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Explanation II.—For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place.

Note- Section 26 (5) of the Indian Forest Act, 1927 (in its application to the State of Maharashtra), imposes bar the jurisdiction of the Civil Court.

Section 9A

(1) Notwithstanding anything contained in this Code or any other law for the time being in force, if, at the hearing of any application for granting or setting aside an order granting any interim relief, whether by way of stay, injunction, appointment of receiver or otherwise, made in any suit, an objection to the jurisdiction of the Court to entertain such suit is taken by any of the parties to the suit, the Court shall proceed to determine at the hearing of such application the issue as to the jurisdiction as a preliminary issue before granting or setting aside the order granting the interim relief. Any such application shall be heard and disposed of by the Court as expeditiously as possible and shall not in any case be adjourned to the hearing of the suit.

(2) Notwithstanding anything contained in sub-section (1), at the hearing of any such application, the Court may grant such interim relief as it may consider necessary, pending determination by it of the preliminary issue as to the jurisdiction.

Note—Many a times, the actions of forest-officers, in eviction of unauthorized occupation from reserved forests, contemplated under section 26(1A)(a) or the proceedings and orders passed by the forest-officers exercising the powers under section 53 and 54 are challenged before the Civil Courts by the affected parties. In such cases, provisions of section 9A must invariably be brought to the notice of the Civil Courts.

3.48 Res judicata

The concept has been made clear in section 11, which reads as follows----

Section 11- No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.

Explanation I. The expression "former suit" shall denote a suit which has been decided prior to a suit in question whether or not it was instituted prior thereto.

Explanation II. For the purposes of this section, the competence of a Court shall be determined irrespective of any provisions as to a right of appeal from the decision of such Court.

Explanation III. The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

Explanation IV. Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

Explanation V. Any relief claimed in the plaint, which is not expressly granted by the decree, shall for the purposes of this section, be deemed to have been refused.

Explanation VI. Where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purposes of this section, be deemed to claim under the persons so litigating.

Explanation VII The provisions of this section shall apply to a proceeding for the execution of a decree and references in this section to any suit, issue or former suit shall be construed as references, respectively, to a proceeding for the execution of the decree, question arising in such proceeding and a former proceeding for the execution of that decree.

Explanation VIII An issue heard and finally decided by a Court of limited jurisdiction, competent to decide such issue, shall operate as res judicata in a subsequent suit, notwithstanding that such Court of limited jurisdiction was not competent to try such subsequent suit or the suit in which such issue has been subsequently raised.

3.49 Many a times, forest-officers are required to file the Civil Suits in the matters of recovery of money or suits related to property. In such cases, situation may arise when the suit for compensation may fall within the jurisdiction of different Courts. Section 17 has provisions to cover such situations.

Section 17. Suits for immovable property situate within jurisdiction of different Courts.—Where a suit is to obtain relief respecting, or compensation for wrong to, immovable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate :

Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court.

3.50 Sections 79 to 82 are relevant in respect of suits by or against the Government or Public Officers in their Official Capacity. They are reproduced as under----

Section 79. Suits by or against Government.—In a suit by or against the Government, the authority to be named as plaintiff or defendant, as the case may be, shall be—

(a) in the case of a suit by or against the Central Government, the Union of India, and

(b) in the case of a suit by or against a State Government, the State.

Section 80. Notice.— (1) Save as otherwise provided in sub-section (2), no suits shall be instituted against the Government (including the Government of the State of Jammu and Kashmir)] or against a public officer in respect of any act purporting to be done by such public officer in his official capacity, until the expiration of two months next after notice in writing has been delivered to, or left at the office of—

(a) in the case of a suit against the Central Government, except where it relates to a railway a Secretary to that Government;

(b) in the case of a suit against the Central Government where it relates to railway, the General Manager of that railway;

(bb) in the case of a suit against the Government of the State of Jammu and Kashmir, the Chief Secretary to that Government or any other officer authorized by that Government in this behalf;

(c) in the case of a suit against any other State Government, a Secretary to that Government or the Collector of the district; and, in the case of a public officer, delivered to him or left at his office, stating the cause of action, the name,

description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

(2) A suit to obtain an urgent or immediate relief against the Government (including the Government of the State of Jammu and Kashmir) or any public officer in respect of any act purporting to be done by such public officer in his official capacity, may be instituted, with the leave of the Court, without serving any notice as required by sub-section (1), but the Court shall not grant relief in the suit, whether interim or otherwise, except after giving to the Government or public officer, as the case may be, a reasonable opportunity of showing cause in respect of the relief prayed for in the suit:
Provided that the Court shall, if it is satisfied, after hearing the parties, that no urgent or immediate relief need be granted in the suit, return the plaint for presentation to it after complying with the requirements of sub-section (1).

(3) No suit instituted against the Government or against a public officer in respect of any act purporting to be done by such public officer in his official capacity shall be dismissed merely by reason of any error or defect in the notice referred to in sub-section (1), if in such notice—
(a) the name, description and the residence of the plaintiff had been so given as to enable the appropriate authority or the public officer to identify the person serving the notice and such notice had been delivered or left at the office of the appropriate authority specified in sub-section (1), and
(b) the cause of action and the relief claimed by the plaintiff had been substantially indicated.

Section 81. Exemption from arrest and personal appearance.—In a suit instituted against a public officer in respect of any act purporting to be done by him in his official capacity—
(a) the defendant shall not be liable to arrest nor his property to attachment otherwise than in execution of a decree, and,
(b) where the Court is satisfied that the defendant cannot absent himself from his duty without detriment to the public service, it shall exempt him from appearing in person.

Section 82. Execution of decree.—
(I) Where, in a suit by or against the Government or by or against public officer in respect of any act purporting to be done by him in his official capacity, a decree is passed against the Union of India or a State or, as the case may be, the public officer, such decree shall not be executed except in accordance with the provisions of sub-section (2).
(2) Execution shall not be issued on any such decree unless it remains unsatisfied for the period of three months computed from the date of such decree.
(3) The provisions of sub-sections (1) and (2) shall apply in relation to an order or award as they apply in relation to a decree, if the order or award—
(a) is passed or made against 3[the Union of India] or a State or a public officer in respect of any such act as aforesaid, whether by a Court or by any other authority; and
(b) is capable of being executed under the provisions of this Code or of any other law for the time being in force as if it were a decree.

3.51 The Procedure for instituting Civil Suits on behalf of Government is covered under the Rules for the Conduct of the Legal Affairs of Government, 1984.

[M] INDUSTRIAL AND LABOUR LAWS

3.52 Services of persons are availed for forestry operations, which are of purely seasonal in nature. It is therefore desired that forest officials must acquaint themselves with basic provisions contained in the Industrial Disputes Act, 1947, The Maharashtra Industrial Relations Act, 1947 and the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. As per rule 96 of the Rules for the Conduct of the Legal Affairs of Government,

1984, in matters related to litigations under these Acts, neither the sanction of Government in the Law and Judiciary Department for the engagement of any Law Officers for the institution or defence of the cases is necessary nor their fees and law charges are debitable to the grants at the disposal of the Law and Judiciary Department. If the administrative Departments and Government officers under their control desire to engage the services of the Law Officers for the institution or defence of such cases, they may do so. In such cases, fees and law charges of the Law Officers are payable directly by the administrative departments concerned.

[N] CONDUCT OF GOVERNMENT BUSINESS

3.53 Article 166. Conduct of Business of Government of a State

(1) All executive action of the Government of a State shall be expressed to be taken in the name of Governor.
(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.
(3) The Governor shall make rules for the more convenient transaction of business of the Government of the State, and for the allocation among Ministers of the said business insofar as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion.

The Official business in the State Government is transacted according to the rules made by the Governor in exercise of powers conferred under Article 166 as mentioned above.

[O] CONDUCT OF LEGAL AFFAIRS

3.54 The Rules for the Conduct of the Legal Affairs of Government, 1984.

The Rules for conduct of legal affairs are compiled in these rules, which must be referred for handling legal matters at various levels. These Rules cover the procedural part for this purpose. The Law and Judiciary Department in the State Government functions as legal advisory department to Government and as an administrative department for Judiciary. This Department tenders legal advice mainly to administrative departments in Mantralaya, on following subjects—

(1) Legal points arising under the Constitution, State and Central Acts, rules, regulations, service matters etc.;
(2) Legislation (both principal and subordinate)
(3) Litigation (both civil and criminal)
(4) Conveyancing.

3.55 The Remembrancer of Legal Affairs (RLA), who is also the *ex-officio* Secretary to Government, is administrative head of the Law and Judiciary Department.

—— CHAPTER 4 ——
THE INDIAN FOREST ACT, 1927

4.01 The Government Forests Act, 1865 (Act No. VII of 1865)

The British crown assumed the sovereignty over India in the year 1858. Almost immediately thereafter, the Governor-General of India in Council passed a number of Acts in the year 1865 including the Government Forests Act, 1865 (Act No. VII of 1865), which received the assent of the Governor-General on 24th February, 1865 and came into operation on 1st May, 1865. It stated its objective to give effect to Rules for the management and preservation of Government Forests. The Government Forests were defined in section 1 of this Act as under.—

[Annexure 4.01]

"Government Forests" shall mean such land covered with trees, brushwood or jungle, as shall be declared in accordance with the second section of this Act to be subject to its provisions."

4.02 It also defined the term 'Local Government' as under

"Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor General in Council to exercise the powers of a Local Government under this Act."

4.03 Section 2 and 3 of the Government Forests Act, 1865 laid down the process of notification of Government forests and making of rules for management and preservation of Forests. Section 18 defined its extent. These sections are reproduced as under—

> **Section 2.**—The Governor-General of India in Council within the Province under his immediate administration, and the Local Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: **Provided that such notification shall not abridge or affect any existing rights of individuals or communities.**
>
> **Section 3.**—For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.
>
> **Section 18.**—This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Government of Bengal, the North-Western Provinces, and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in Official Gazette, to extend this Act to the Territories under their respective Governments.

4.04 Problem with the Government Forests Act, 1865

As may be seen above, Section 2 mandates that the notification of Government Forests shall not abridge or affect any existing rights of individuals or Communities. However, the Government forests in Indian subcontinent were burdened with a number of prescriptive rights (Please refer Chapter 2 of this Volume for details on prescriptive rights) since time

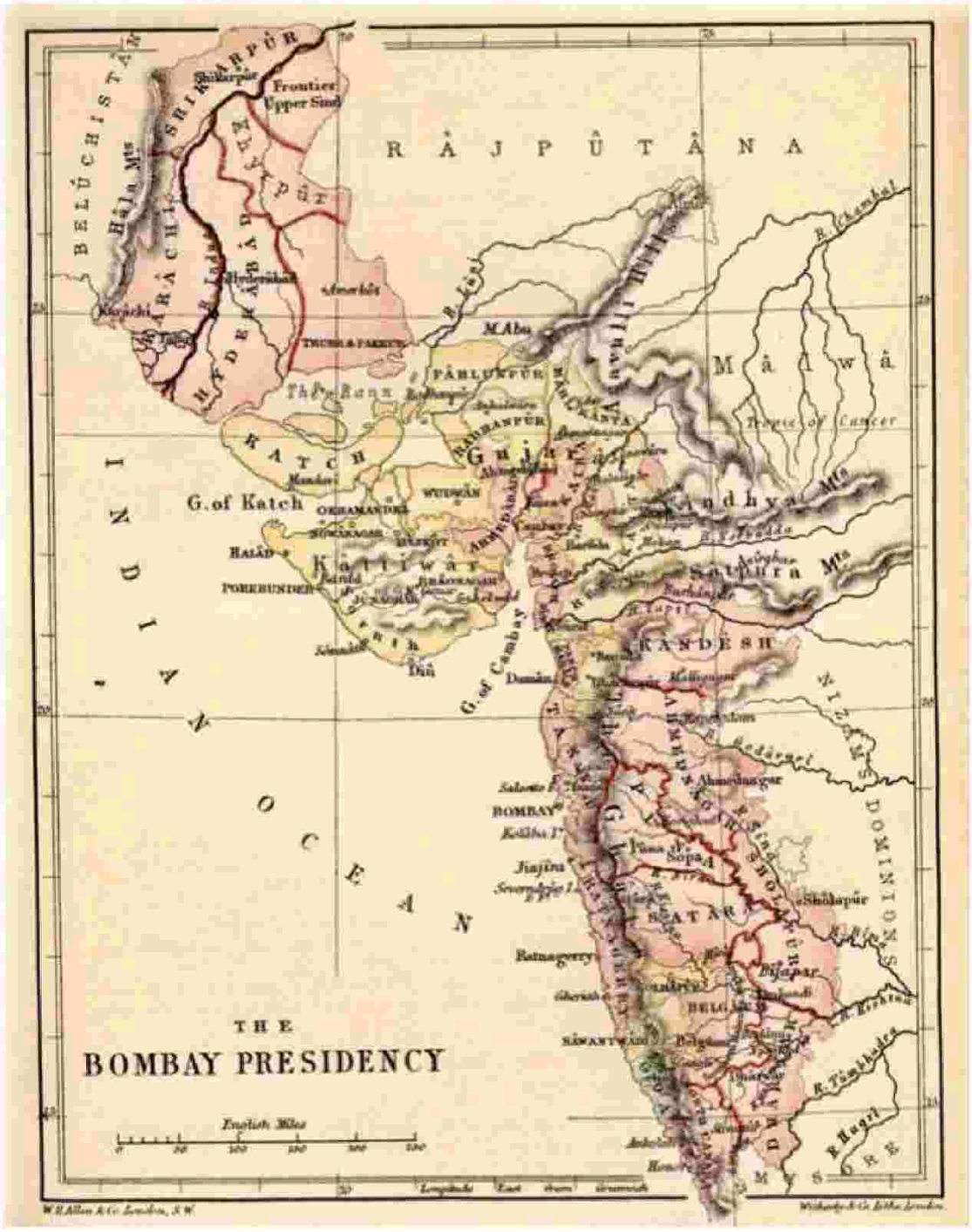
immemorial. Soon, the British Government realized that unless the nature and extent of such rights are inquired into, determined and settled in a fair and equitable manner, such forests cannot be managed on scientific basis. In October, 1868, Mr. Dietritch Brandis, the first Inspector General of Forests in India laid down the draft of a new Act and a memorandum explaining very clearly the shortcomings of the Government Forests Act, 1865 before the Government of India. This was discussed and debated at length before the Council of the Governor-General. The Council of the Governor General of India in its deliberations, held on 6th March, 1878 (Supplement to the Gazette of India published as No. 13 Register No. 33 on 30th March, 1878) observed as follows.---

....Consequently, if in any instance it was found necessary for Forest purposes to acquire any private land or rights, the Government was left to do so by means of ordinary law for the acquisition of land for public purposes. Act VII of 1865 was almost immediately found to be more or less unsuitable for the purposes in view, and the Governments of Madras and Bombay have in consequence, never availed themselves of the power of extending it to their territories, which it conferred upon them.

4.05 The Indian Forest Act, 1878 (Act VII of 1878)

Eventually, the Indian Forest Act, 1878 (Act No. VII of 1878) was passed by the Governor-General of India in Council. The assent of the Governor-General was received on 8th March, 1878. The shortcomings of the Government Forests Act, 1865 were taken care of by the provision for constituting reserved forests by enquiring into, determining and settling of the nature and extent of rights in a fair and equitable manner. The Act of 1878 also provided for declaration of another category of forests, namely the Protected Forests to safeguard the rights of the Government without abridging the continuance of rights of individuals and communities. The purpose was to prevent wanton destruction of such forests by enquiring into and recording the existing rights without settling them and assuming them to be true until the contrary is proved. Consequently, the Government Forests Act, 1865 was repealed. The relevant provisions to give effect to the Indian Forest Act, 1878 are reproduced as under.----

> **Section 1.**—It shall come into force at once in the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the Lower Provinces, the North-Western Provinces and the Panjab (except the District of Hazara), and the Chief Commissioners of Oudh, the Central Provinces and Assam,
>
> And any Local Government may from time to time, with the previous sanction of the Governor General in Council, extend, by notification in the local official Gazette, this Act to all or any of the territories for the time being under its administration.



4.06 Accordingly, the Indian Forest Act, 1878 came into force at once in the Bombay Presidency and was extended to the territories, from time to time corresponding to such Local Governments, which with the previous sanction of the Governor General in Council extended it to their territories. However, many of the Local Governments made their own Forest Acts, which were continued even after the commencement of the Constitution and are in force till date, in the territories corresponding to such Local Governments. The States having their own Forest Acts are listed below.

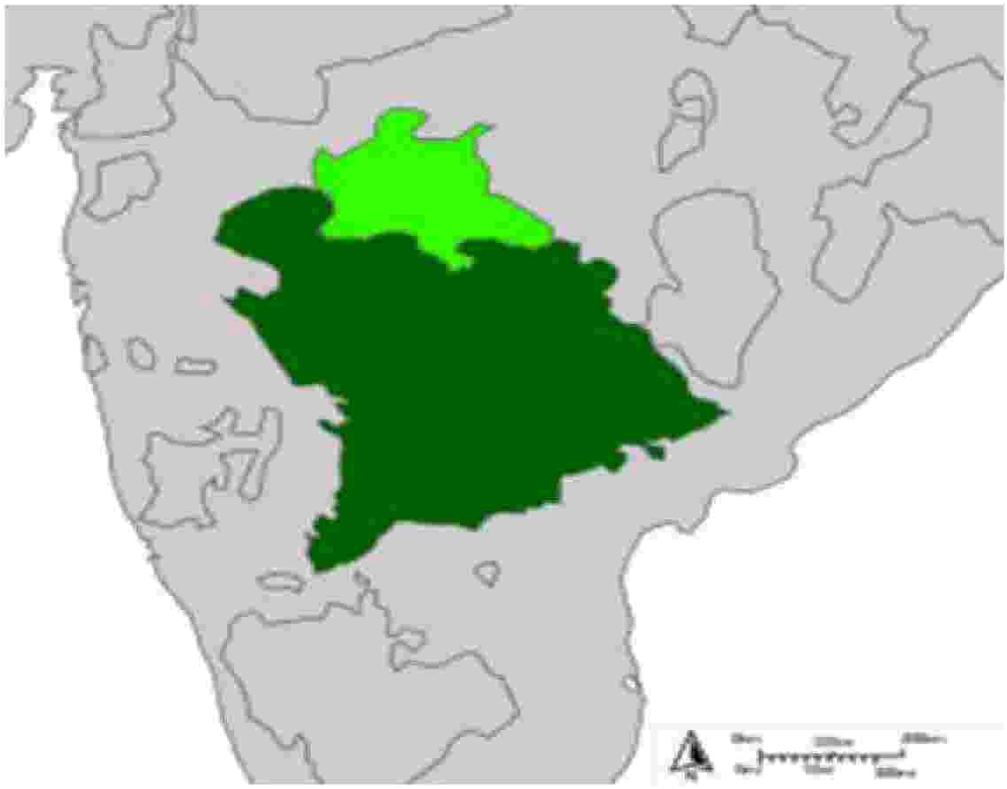
State	Act
Assam	Assam Forest Regulation, 1891
Andhra Pradesh	Andhra Pradesh Forest Act, 1987
Jammu & Kashmir	Jammu & Kashmir Forest Act, 1987
Karnataka	Karnataka Forest Act, 1963
Kerala	Kerala Forest Act, 1961
Nagaland	Nagaland Forest Act, 1968
Orissa	Orissa Forest Act, 1972
Rajasthan	Rajasthan Forest Act, 1953
Tamilnadu	Tamil Nadu Forest Act, 1882

4.07 CHAPTER V of the Indian Forest Act, 1878 laid down the provisions for the Forests under Conservancy-Administration when this Act came into force. Section 34 is reproduced as under.----

> **Section 34.**—Within twelve months from the date on which this Act comes into force in the territories administered by any Local Government, such Government shall, after consideration of the rights of the Government and private persons in all forest-lands or waste-lands then under its executive control for purposes of forest-conservancy, determine which of such lands (if any) can, according to justice, equity and good conscience, be classed as reserved forests or protected forests under this Act, and declare, by notification in the local official Gazette, any lands so classed to be reserved or protected forests, as the case may be :
> Provided that such declaration shall not affect any rights of the Government or private persons to or over any land or forest-produce in any such forest, which have, previous to the date of such declaration, been enquired into, settled and recorded in a manner which the Local Government thinks sufficient:
> Provided also that if any such rights have not on such date been so enquired into, settled and recorded, the Local Government shall direct that the same shall be enquired into, settled and recorded in the manner provided in this Act for reserved or protected forests, as the case may be; and until such enquiry, settlement and record have been completed, no such declaration shall abridge or affect such rights.

4.08 Berar Province

4.08.01 Also known as the **Hyderabad Assigned Districts,** Berar was a province in British India, ruled by the Nizam of Hyderabad. In 1853 a treaty was signed with the Nizam, under which the Hyderabad contingent was to be maintained by the British government, while the pay of this force and in satisfaction of other claims, certain districts were assigned to the British East India Company. It was these "Hyderabad Assigned Districts" which were popularly supposed to form the province of Berar. At this juncture, it was divided into two districts, South Berar with its headquarters at Hingoli, and North Berar with its headquarters at Buldana. Both were placed under a deputy commissioner. After the First War of Independence in 1857, Hingoli and its adjoining areas were restored to the Nizam and the province was reconstituted into two districts, East Berar with its headquarters at Amraoti, and West Berar with its headquarters at Akola.



4.08.02 One of the conditions of the treaty of 1853 was that the British Resident at Hyderabad was always to render true and faithful accounts every year to the Nizam of the receipts and disbursements connected with the said assigned districts and to make over the surplus revenue that might exist, to the Nizam. This provision in the Treaty of 1853 "were productive of much inconvenience and embarrassing discussions". Nevertheless, the Nizam cooperated with the British during the first war of independence in 1857. To remove complexities of the said Treaty and at the same time to reward the Nizam for his 'services' during the war of independence in 1857, a new Treaty was concluded in 1860, whereby the debts of about 50 lacs of Hyderabad rupees due by the Nizam to the British Government was cancelled. The Nizam agreed that territories of Berar assigned in the year 1853, together with additional adjoining pargannas assigned under the Treaty of 1860, as would make up the gross annual revenue of 32 lacs British coin, should be held in trust by the British Government for purposes of payment of troops of the Hyderabad contingent. The Nizam abandoned all demand for account of receipts and expenditure of the Assigned Districts for the past, present or future.

4.08.03 In 1864, East Berar was divided into two districts: Amraoti and Southeast Berar (which was first renamed as Wun district and then in 1905, Yeotmal district), with headquarters at Yeotmal. In 1867, Ellichpur District was also carved out of Amraoti. In 1864, the talukas of Malkapur, Chikhli, and Mehkar were separated from the West Berar district, and a new district, Southwest Berar district, was formed, which was renamed as Mehkar in 1865. In 1867, Buldana was selected as the headquarters of the district, and later the district was renamed as Buldana district. In 1868, Basim district was formed.

4.08.04 The British Government regarded that being only trustees, it was precluded from creating proprietary rights in Berar. Experiences indicated that it was not in the interest of economy that the Assigned Districts should continue to be managed as a separate Administration or that the British contingent at Hyderabad should continue as a separate force. It was thought desirable that, instead of a fluctuating and uncertain income, the Nizam should receive a fixed amount from the Assigned Districts. An agreement, dated 16th December, 1902 was therefore executed between the British Government and the Hyderabad State. The Nizam gave over in perpetual lease to the British Government these Districts, known as Berar on a fixed and perpetual rent of Rs 25 lakh per year, payable to him by the Government of India. Thenceforth, the British Government ceased to be trustees and became lessees of Berar. They were at liberty, notwithstanding anything to the contrary in the Treaties, to administer the Assigned Districts in such manner as they deemed desirable. As a consequence to the agreement of 1902, the Hyderabad contingent which was till then posted at Ellichpur in Berar, was withdrawn; Berar was amalgamated to the Central Provinces and came to be administered as part of that Province. Powers exercised by the Resident at Hyderabad were transferred to the Chief Commissioner of the Central Provinces with effect from 1st October, 1903. Position of Berar was thus of 'a foreign territory'. The Administration, though it can be said to be 'British', was not a 'British Indian' Administration.

4.08.05 Before the signing of the above stated Agreement of 1902 and probably in anticipation of such Agreement, Indian (Foreign Jurisdiction) Order in Council was issued on 11th June, 1902 which was published in India in September, 1902. The Order was meant for administration of territories in India, outside British India and laid down the manner in which His Majesty could exercise jurisdiction or power over such territories through the Governor General in Council or through some authority subordinate to him. Under that Order, Governor General of India in Council was empowered, on His Majesty's behalf, to exercise any power or jurisdiction or to delegate such power or jurisdiction to any servant of the British Indian Government. This Order in Council and the Agreement of 1902 read together meant that Berar was "foreign territory', transferred to the exclusive management of His Majesty in perpetual lease and that it was managed by the Resident at Hyderabad on behalf of His Majesty by delegation of power made by the Governor General of India in Council.

4.08.06 When a Constitution of Federation of India was approved of by the British Parliament and embodied in the Government of India Act, 1935, it was found that none of the provisions of that Act would apply to Berar, save with the consent and concurrence of the Nizam. To avoid this administrative difficulty, and to secure for Berar the position of a Unit of Federation together with the Central Provinces a New Agreement, in substitution of the one of 1902, was made in the year 1936. Under this Agreement, the Sovereignty of Nizam over Berar was recognized and re-affirmed. Payment of 25 lacs per year to him was assured as theretofore. Appointment of Governor of CP and Berar was to be in consultation with the Nizam. Such an assent was to carry with it, full power of delegation by the Nizam to administer Berar. Accession to the Federation of India of the Nizam so far as Berar was concerned, was declared to be accepted. The Nizam was given the right to maintain his agent, the seat of Government of CP and Berar. He was to represent the views of his Government on

subjects of interests common to CP and Berar on one side, and Hyderabad on the other or on subjects which directly affected the interests of Hyderabad State. The Agreement of 1902 since then completely ceased to exist. Berar was one of the four Divisions in the Central Provinces and Berar. Amravati Division in Vidarbha region of the State has evolved from Berar.

4.09 Applicability of the Indian Forest Act to Berar.

The forests in Amravati (comprising large tracts of forests in Melghat region), Akola, Buldhana and Yawatmal, were under the jurisdiction of Berar Province, where instead of the Indian Forest Act, 1878, the Berar Forest Law, 1886 and the Berar Forest Law Amendment Law, 1891 were applicable. Under the said Act, such tracts were declared as 'State Forests'. Vide Notification No. GIFD No. 2197-1-B dated 13th October, 1911, the Governor-General in Council, exercising powers conferred to him by the Indian (Foreign Jurisdiction) Order in Council, 1892, applied to Berar the provisions, so far as they might be applicable, of the Indian Forest Act, 1878, subject to any amendments to which the Act for the time being subject in British India. By the same Notification, it was declared that the Indian Forest Act, 1878 (VII of 1878) shall apply to all lands declared or constituted to be "State Forests" under the Berar Forest Law, 1886 or the Berar Forest Law, 1886, as amended by the Berar Forest Law Amendment Law, 1891, as if such land were reserved forests constituted under the said Act. Vide this Notification, the Berar Forest Law, 1886 and the Berar Forest Law Amendment Law, 1891, were rescinded (For details, please refer segments [H] and [I] in Chapter 9 of this Volume).

[Annexure 4.02]

4.10 The Indian Forest Act, 1927 (Act XVI of 1927)

It is the re-enactment of the 1878 Act by consolidating the provisions and shortening the language by taking advantage of the General Clauses Act, 1897 (X of 1897). The Statement of Objects and Reasons are reproduced as under.—

> **STAEMENT OF OBJECTS AND REASONS**
>
> The general law relating to forests in British India is contained in the Indian Forest Act, 1878, and its amending Acts. The present Bill brings the law together within the scope of one enactment. The Bill is a straightforward consolidating Bill, but the original Act having been passed before the General Clauses Act, 1897 (X of 1897), it has been possible, to shorten the language of the Bill by taking advantage of that Act. The ambiguous language of the second paragraph of section 42 of the Act VII of 1878 has been altered in clause 43(2) so as to bring it into conformity with what appears to have been the original intention of the law. The only other point which calls for further notice is the extent clause. The original Act extended to the Province of Assam, but by Regulation VII of 1891 the Indian Forest Act, 1878, was repealed as far as it relates to Assam. The Bill accordingly omits Assam from the extent clause.

4.11 Apart from consolidation as stated above, section 34 of the 1878 Act was omitted for the reasons that it had already achieved its objective. The Bill received the assent of the Governor-General on 21st September, 1927 and its extent clause was embodied in section 1 as under.---

> **Section 1. Short title and extent.---**
>
> (1) This Act may be called the Indian Forest Act, 1927.
>
> (2) It extends to Bombay, Bengal, Bihar and Orissa, the United Provinces, the Punjab, the Central Provinces and North-West Frontier Province (except the District of Hazara)
>
> (3) The Provincial Government of any other province may, by notification in the Official Gazette, extend this Act to the Whole or any specified part of the province.

4.12 It may be noted that the provisions related to continuance of orders, notifications etc. issued under the repealed Act are laid down in section 24 of the General Clauses Act, 1897, which are reproduced as under--

> **Section 24. Continuation of orders, etc., issued under enactments repealed and reenacted.--**
>
> Where any Central Act or Regulation is, after the enactment of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or bye-law, made or issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, **continue in force, and be deemed to have been made or issued under the provisions so re-enacted,** unless and until it is superseded by any appointment, notification, order, scheme, rule, form or by-law made or issued under the provisions so re-enacted.....

4.13 After enactment of the Government India Act, 1935, appropriate modifications were made in the IFA 1927 by various Orders passed by the Government of India (Adaptation of Indian Laws) Orders from time to time. After the Constitution came into force, the IFA 1927 was adapted and continued with appropriate amendments by virtue of orders passed by the President of India, exercising powers conferred to him under Article 372 of the Constitution (For details, please refer Chapter 1 of this Volume).

4.14 The subject-matter of 'Forests' was enumerated at serial no. 22 in the Provincial Legislative List in the Government of India Act, 1935. After the commencement of the Constitution, it was continued in the State List in the Seventh Schedule of the Constitution. It is pertinent to note that the Indian Forest Act, 1878 or for that matter the Indian Forest Act, 1927 was not extended in all the Provinces and Indian States either during the British regime or across all the States in India post-independence. With the fact that it was enumerated in the State List in the Constitution, various States continued with Forest Acts enacted by them from time to time and amended subsequently.

4.15 Applicability of the Indian Forest Act, 1927 in the State of Maharashtra.

The State of Maharashtra continued with the IFA 1927 as was applicable in the erstwhile Bombay Presidency and adapted it with appropriate amendments by virtue of Orders passed under Article 372. The extent clause of the IFA 1927 as applicable in the State of Maharashtra is reproduced as under.---

> **Section 1(2).**—It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States other than the Hyderabad area of the State of Maharashtra.
> **Section 1(3).**—It applies to the territories which, immediately before the 1st November, 1956 were comprised in the States of Bihar, Bombay, Coorg, Delhi, Madhya Pradesh, Orissa, Punjab, Uttar Pradesh and West Bengal; but the Government of any State may by notification in the Official Gazette bring this Act into force in the whole or any specified part of that State to which this Acts extends and where it is not in force:
> Provided that, on the commencement of the Indian Forest (Maharashtra Unification and Amendment) Act, 1960, this Act shall be in force in the Hyderabad area of the State of Maharashtra.

[Annexure 4.03]

4.16 Applicability of the Forest Acts in the regions of other States merged in Maharashtra

It may be appreciated that apart from the areas included in the Bombay Presidency, the State of Maharashtra also comprises of territories transferred from the erstwhile Provinces of Central Provinces following the States Reorganization Act, 1956 as well as areas from the then Princely State of Hyderabad and some other smaller Princely States. With the enactment of the Bombay Reorganization Act, 1960, the State of Gujarat was carved out from the erstwhile Bombay Presidency and with residuary areas, the State of Maharashtra came into existence from 1st May, 1960. At this juncture, the Bombay area of Maharashtra was governed by the Indian Forest Act, 1927 as applicable to that State, while territories, which were merged following the States Reorganization Act, 1956 were governed by the Indian Forest Act, 1927 as applicable to the Central Provinces. In areas under the erstwhile Hyderabad regions, the Hyderabad Forest Act was applicable. To provide the uniformity in these laws relating to forests and transit (otherwise than across customs frontiers) of forest-produce in the State of Maharashtra and certain other purposes, Indian Forest (Maharashtra Unification and Amendment) Act, 1960 (VI of 1961) was passed, whereby the provisions of the Indian Forest Act, 1927 (except Chapter VI and section 41A thereof), as in force immediately before the commencement of the said Act, in the Bombay area of the State, were brought in force throughout the State of Maharashtra by making following provisions in section 2 there under---

(a) all amendments made by each of the following laws, that is to say,---
  (i) the Madhya Pradesh Indian Forest (Amendment) Act, 1950, and
  (ii) the Indian Forest (Madhya Pradesh (Amendment) Act, 1954
  to the Indian Forest Act, 1927, shall in their application to the Vidarbha region (except as respect to things done or omitted to be done), cease to have effect, and shall stand repealed;
(b) all amendments made to the Indian Forest, Act, 1927, in their application to the Bombay area of the State of Maharashtra and in force at the commencement of this Act, shall be deemed to be extended to, and shall be in force in, the remaining part of the State; and
(c) The Hyderabad Forest Act, 1355F (except Chapter VII thereof) shall stand repealed

4.17 However, notwithstanding the repeal of the Hyderabad Forest Act, 1355F, as stated above, the saving Clause in the Indian Forest (Maharashtra Unification and Amendment) Act, 1960 was provided in the form of section 17, which is reproduced as under—

> **Section 17.**—The repeal of the provisions of the Hyderabad Forest Act, 1355F by section 2 shall not affect—
>
> (a) the previous operation of the Act so repealed, or anything duly done or suffered thereunder;
>
> (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or
>
> (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any of the provisions of the Act so repealed; or
>
> (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability penalty, forfeiture or punishment as aforesaid,
>
> and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided that, subject to the preceding provision, anything done or any action taken (including notifications and directions issued, rules, appointment, authorizations, inquiries, orders, declarations, assignments or seizures of property made, forest courts established, powers of sanction given, licenses, permissions or passes granted, proclamations published, entries recorded, notices issued or served, control or management of forest assumed and bonds executed) by or under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of the principal Act as amended by this Act, be deemed to be done or taken under the corresponding provisions of the principal Act and shall until altered, repealed or amended by anything done or any action taken under the principal Act, continue in force accordingly.

Thus by virtue of the above stated provisions, various proceedings carried out under the Hyderabad Forest Act, 1355F were saved after the merger of areas of the erstwhile Hyderabad State in Bombay and thereafter Maharashtra.

4.18 Amendments made from time to time

As stated earlier, the subject matter of 'forests' is enumerated in the Concurrent List of the Constitution and the State Legislature is also competent to make laws in that regard. Accordingly, the State Legislature, with prior assent of the President has amended the Indian Forest Act, 1927 from time to time. The last such major amendment was carried out in the year 2015. Thereafter, it was further amended by the Governor in Scheduled Areas, in exercise of powers conferred under Paragraph 5(1) of the Fifth Schedule of the Constitution to delete the words, 'bamboo', 'stumps', 'brush-wood' and 'canes' from the definition of the term 'tree' appearing in section 2(7), vide Notification dated 19th August, 2014. Later on, the Parliament has amended the same sub-section by deleting the word 'bamboo' vide Notification dated 5th January, 2018.

[Annexure 4.04, 4.05]

4.19 Rules under the Indian Forest Act, 1927 and their applicability in different regions of Maharashtra.

The State Government (prior to commencement of the Constitution, the Provincial Government) is empowered with the rule-making power under various sections of the Indian Forest Act, 1927. Section 76 provides for framing of Subsidiary Rules by the State Government. The Rules under the Indian Forest Act, 1927 were notified by the then Government of Bombay as the **Bombay Forest Rules, 1942**, published in the Bombay Government Gazette on 29th October, 1942. These were applicable to the Province of Bombay excluding the City of Bombay. Even after the merger of areas from the Central Provinces following the States Reorganization Act, 1956 and merger of areas from the erstwhile Hyderabad State, the Rules framed by the respective Provincial Government and the State Government continued and the application of Bombay Forest Rules, 1942 was restricted to the State of Bombay, excluding the transferred territories. For example, by virtue of section 17 of the Indian Forest (Maharashtra Unification and Amendment) Act, 1960, **the Hyderabad Transit of Forest Product (Bombay) Rules, 1958** and **the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch Areas) Rules, 1960** remained in force till the year 1999. Likewise, **the Bombay Protected Forests (Vidarbha Area), Rules, 1958.** were notified by the then Government of Bombay vide Notification dated 19th December, 1958 published in the Bombay Government Gazette on 1st January, 1959. Rules for Protected forests in Konkan and Marathwada regions were notified in the year 2001. **The Maharashtra Forest (Protection of Forest from Fire) Rules, 1982** were notified on 14h October, 1982.

[Annexure 4.06]

4.20 Rules related to Saw Mills (under section 41 of the Indian Forest Act, 1927).

Rule 88 in Part I-Conversion of Timber within certain distance of Forests of CHAPTER VI of the Bombay Forest Rules, 1942 contains provisions related to saw mills. It was first amended in the year 1960. Thereafter further amendments were carried out from time to time.

4.21 State Level Committee to take up matters relating to Wood-Based industries.

Hon'ble Supreme Court, vide order dated 5th October 2015 in Writ Petition (Civil) No. 202 of 1995 (T.N. Godavarman Thirumulpad vs. Union of India and Other) directed the Ministry of Environment, Forests and Climate Change to issue appropriate Guidelines to the States in respect of Wood-based Industries. The relevant extract is as under----

(i) The State Level Committees for Wood-Based Industries ("SLCs") are, subject to the compliance of the prescribed guidelines and procedure, authorized to take decisions regarding the grant of license / permission to the wood-based industries;

(ii) In each State/UT for which the SLC has so far not constituted, the SLC under the chairmanship of the Principal Chief Conservator of Forests with a representative of the Ministry of Environment and Forest and Climate Change ("MoEFCC") and an officer of the State Forest Department/Industries Department not below the rank of the Chief Conservator of Forests/equivalent rank will immediately be constituted;

(iii) The MoEF is authorized to issue appropriate guidelines in conformation with the orders and directions issued by this Court and also the existing guidelines to the SLCs relating to assessment of timber availability for wood-based industries and grant of license/permission to the wood-based industries including addition of new machineries and also utilization of amounts recovered from the wood-based industries and connected matters;

(iv) Any person aggrieved by the decision taken by the SLC may file an appeal before the MoEFCC seeking appropriate relief within 60 days' time. If, for any reason, any person is aggrieved by the orders so passed in the appeal, he may prefer an appropriate petition/application/appeal before the appropriate forum/Court for grant of appropriate relief(s).

4.22 Accordingly, the Ministry vide Notification 11th November, 2016 issued Guidelines named as Wood-Based Industries (Establishment and Regulation) Guidelines, 2016 (further amended by Notification dated 11th September, 2017) providing constitution of **State Level Committee** under the chairmanship of the PCCF (HoFF), by the State Government assigning it the requisite powers and functions. The Government of Maharashtra vide GR dated 19th January, 2016 constituted the SLC. The composition of the Committee was finally brought in conformity with the MoEFCC Guidelines vide GR dated 24th August, 2018.

4.23 Applicability of the Bombay Forest Rules to the whole of Maharashtra.

Government of Maharashtra, vide Notification No. TRS-1095/CR-109/F-6 Dated 22 September, 1999 made the Bombay Forest Rules, 1942 applicable to the whole of Maharashtra by amending the Bombay Forest Rules, 1942.

[Annexure 4.07]

4.24 The Maharashtra Forest Rules, 2014.

All the rules mentioned in the preceding paragraphs were consolidated and notified in the year 2014 as the Maharashtra Forest Rules, 2014. These rules were subsequently amended in the year 2019 for the purpose of recording of forest rights granted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

[Annexure 4.08]

4.25 Rules related to village forests.

Section III of the Indian Forest Act, 1927 contains provisions related to Village Forests. The State of Maharashtra is one of the few States which has notified special rules with respect to the village forests namely, **the Indian Forests (Maharashtra) (Regulation of assignment, management and cancellation of village forests) Rules, 2014.**

[Annexure 4.09]

4.26 The Unique Feature of various Rules framed under the Indian Forest Act, 1927.

Under normal circumstances, the Rules are understood as the **Subordinate Legislation.** However, provisions contained in section 78 of the Indian Forest Act, 1927 confer unique legal status to the rules framed thereunder. Sub-section (1) of Section 78 is reproduced as under---

> **Section 78(1).**—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.

Thus, the rules made by the State Government, duly notified by the State Government and following the process laid down in sub-section (2) of this Section, attain the same legal status as if they have enacted by the Legislature itself.

4.27 Statutory Powers under the Indian Forest Act, 1927.

Section 2 of the Indian Forest Act, 1927 has the provision, whereby the State Government or any officer empowered by the State Government in this behalf may appoint any person to carry out various functions under the Act. Such person has been defined as the **Forest-officer** in the said Act. The statutory powers were conferred in the year 1942 by the then Government of Bombay. Thereafter, various officers were authorized and empowered by the Government of Maharashtra from time to time, to carry out functions assigned under the Indian Forest Act, 1927. The Officers of the Forest Development Corporation of Maharashtra Limited were empowered under various sections vide Notification dated 6th August, 1975. Eventually, in order to bring all such statutory powers at one place, the State Government, vide Notification dated 21st March, 2013 empowered officers in Forest Department, the Forest Development Corporation of Maharashtra Limited and concerned officers in various departments to carry out functions and discharge duties in accordance with various sections of the Act. Last such delegation of statutory powers was issued vide Notification dated 22nd July, 2015. The Statutory powers have also been conferred to Judicial Magistrates for summary trial of offences under section 67 vide Notification dated 3rd April, 1997 are also in place.

[Annexures 4.10, 4.11, 4.12]

4.28 It may be appreciated that the powers under section 4, 17, 20 and 29 to issue the corresponding Notification vest with the State Government. However to expedite the process, the Government of Maharashtra, in exercise of powers conferred by Sub-Section (4) of Section 3 of the Bombay Commissioners of Divisions Act, 1957 conferred the Divisional Commissioners powers and functions under the aforesaid sections vide Resolution dated 21st October, 1981. However, the Divisional Commissioners can exercise such powers on receipt of orders from the Government to that effect. Recently, the State Government has been using its original power. However, the Divisional Commissioners still continue to enjoy the above stated powers.

[Annexure 4.13]

4.29 Administrative Instructions from the State Government and the PCCF

The State Government and the PCCF have issued administrative instructions in the form of Notifications, Circulars and Standing Orders from time to time, for implementation of the provisions contained in the Indian Forest Act, 1927 and Rules framed thereunder. All such instruments may be referred to in Annexure given in the Manual.

[Annexure 4.14 to 4.33]

—— CHAPTER 5 ——
INTERPRETATION OF THE PROVISIONS OF THE INDIAN FOREST ACT, 1927

5.01 Significance of this Chapter

The Remembrancer of Legal Affairs (Law and Judiciary Department in the State Government) has tendered legal opinions from time to time, on matters related to applicability and interpretation of the provisions contained in the Indian Forest Act, 1878 and the Indian Forest Act, 1927. These legal opinions along with extracts from the rulings of the Courts on the concerned matters were incorporated and reproduced in the form of Notes below the respective sections in the Indian Forest Act, 1927 in the Bombay Forest Manual Volume II as well as the Compendium to Volume II of Maharashtra Forest Manual 2014. Barring few exceptions, these legal opinions are still relevant for the purpose of interpretation of provisions contained in respective sections and therefore, they have been reproduced mentioning the corresponding section to which they are related.

Preamble

Note 1:- Construction:- The Forest Act is one curtailing proprietary rights of individuals and so the Act and notifications under it must be construed strictly where rights of individuals are trenched upon.

Section 2

Note 2:- Stones and Bricks from ruins situated in Reserved forests :- What constitutes "Forest-produce" is clearly laid down in the definition of that term as given in s.2. Loose stones and the ruins of old buildings whether composed of cut stone or bricks clearly do not come within the category of articles included in the definition of forest produce.

(R. 1802 of 28th March 1881)

Note 3:- Crops grown on cleared land in forests :- A person cleared and cultivated a piece of land situated in a forest reserve. He was convicted and punished under s.26. The crop, too, raised on the land was cut and attached. The question was raised whether the crop came within the definition of forest- produce as given in s.2 so as to allow of its disposal under section 56. The R.L.A. was of the opinion that the definition of the term "forest-produce" given in the Forest Act was not exhaustive, and reading the term in its ordinary sense it meant anything which was produced in a forest and therefore included a crop raised in a forest reserve (see clause (b) (ii) of the present definition of `forest-produce'); accordingly the crop was the property of Government by accession and could, under S.56, be taken charge of by a Forest-Officer.

(R. 6910 of 28th August 1884)

Section 3

Note 4:- As to the application of provisions relating to reserved forests (a) to village forests see s. 28, last paragraph; (b) to forests and lands not the property of the Government, see s. 36 and 38; (c) to forests, waste lands or produce the joint property of the Government and other persons, see s.80.

Note 5:- Forest land and Waste land : R.L.A's Memorandum:- The land which S.3 empowers Government to constitute a "reserved forest" is precisely the same as the land which under s.29 may be constituted a "protected forest", viz., "forest land or waste land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled."

Land which has been given out for cultivation, is certainly not "waste land". "Forest land" is not defined in the Act, and it is a term not easy of definition, but land which has been given out for agricultural purposes on the ordinary survey tenure, or land which the holder thereof has in any way acquired a right to hold for survey purposes on such a tenure, cannot, I think, properly be called "forest land", even though it was forest land before it was so given out, and even though Government have reserved their right to the trees, or to some of the trees growing therein. This was in effect the opinion in which Government concurred in their R.3112 of 31st May, 1881, and it is equally valid whether the proposal is to constitute such land a reserved or a protected forest.

But where land which was originally waste and more or less overgrown with forest trees and jungle has been given out merely for grazing or for dalhi cultivation under conditions restraining the cutting of the forest trees, as is the case, I believe, with much warkas land in the Kolaba District, such land is, in my opinion, still forest land and may be dealt with by Government under either s.3 or s.29. But care would have to be taken not to include any such land as that described above in paragraph 2.

(R. 904 of 2nd February 1883)

Note 6:- Powers of Provincial Government to constitute a reserved forest; jurisdiction of Civil Courts in case of ultra vires order :- S.3 does not make the exercise of the power conferred dependent on the opinion or decision of the Provincial Government but upon a question of fact. It runs "the Provincial Government may constitute any forest land or waste land, which is the property of Government, etc." If the land actually fulfils that condition, Government can exercise the powers, not otherwise. The test is, not what appears to the Provincial Government, but what is the actual fact, and as the enabling section gives the Provincial Government no power to decide that fact, it can only be decided by recourse to the Courts, which have authority finally to decide on questions of law and fact wherever their jurisdiction is not expressly barred by the Legislature. The power in s.4 to appoint an officer to inquire and determine as to rights is limited to land, which it is proposed to constitute reserved forest and "to constitute a reserved forest" is a phrase defined in s.3. And under that definition, the constitution of a reserved forest connotes as the object forest or waste land only. The special character of the land is an essential part of the act defined. According to the definition the phrase "to constitute a reserved forest" means to convert land by notification from forest or waste. The land, therefore, to which a proposal under s.4 relates, must be forest or waste land, and it is only in respect of such land that the officer appointed has power to inquire and determine. When the land is forest or waste, the forest officer has the power to inquire into and determine as to rights of way or pasture, forest-produce or water courses, and he may admit or reject such claims with finality, because he is dealing with land in respect of which he has a duly delegated jurisdiction. It is possible there may be other rights in or over land which may render it desirable for Government to acquire full ownership, and for such cases s.11 provides, without, however, extending the application of the section to any land incapable of constitution as reserved forest. The provisions of the I.F.A. do not bar the jurisdiction of the Court to decide whether the land in suit is or is not forest or waste land and whether, if it be not such land, the plaintiffs are entitled to the occupation thereof.

(Balwant Ramchandra v. Secretary of State (1905) I.L.R. 29 Bombay 480)

Section 4

Note 7 :- Meaning of the words "any land" :- Chapter II relates to forest land or waste land described in s.3 and to no other land.

S.3 specifies what land it shall be lawful for the Government to constitute reserved forest : namely, forest and waste land belonging to Government. The words "any land" in s.4 cannot include any other land than it is lawful for the Government to constitute a reserved forest. The Government cannot notify cultivated lands, whether alienated or unalienated, as forest reserves, except by first acquiring all the rights of ownership and converting them into waste lands. The object of s.11 is to meet the case of any claim that may possibly be made of private ownership in or over such forest land or waste land or any portion thereof as is notified under s.4, and to empower the F.S.O to exclude such land from the proposed forest or obtain a surrender of it from the claimant or acquire it under the Land Acquisition Act.

With regard to any land other than forest land or waste land belonging to Government if required for the purposes of the I.F.A., s.84 provides that it can be treated as required for a public purpose and dealt with under the Land Acquisition Act. When such land has been so

acquired, it becomes, with all rights in or over the same, public property, subject always to the right of way and all other rights of the public or of individuals legally subsisting. If Government does not dispose of it in any other way or for any other purpose, it becomes waste land belonging to Government, and may be constituted a reserved forest in the manner provided in Chapter II of the I.F.A.

(R.3112 of 31st May, 1881)

Note 8:- D.F.O as F.S.O. :- It seems inexpedient, and not in accordance with the spirit of the Act, that a D.F.O. should be appointed Forest Settlement and Demarcation Officer. (R.4157 of 28th June, 1882)

Note 9 :- Forest Settlement and Forest Demarcation office may be held by the same Officer :- There is no objection to a F.S.O. being also a Forest Demarcation Officer. A Forest Demarcation Officer is not invested, as such, with any powers under the I.F.A. and he does not, therefore, hold a "Forest Office". Moreover, s.4 does not absolutely prohibit the appointment of a person holding a "Forest Office" to be F.S.O. It merely directs that such an appointment shall not "ordinarily" be made.

(R.1125 of 23rd February, 1881)

Note 10 :-- Exclusion of lands notified under section 4 :--- In Note 53 below section 27 of the Indian Forest Act, 1927, reproduced in the Bombay Forest Manual Vol. II, it was mentioned as under.---

"It is not necessary for Government to publish a formal notification under s. 27 when lands which were merely notified under s. 4 are to be excluded from forests.

(R. 6028 of 25-7-1885)

However, the Government of Maharashtra, vide Circular No. FLD 1071/53273-W dated 18th September, 1973 has clarified in this regard as under----

[Annexure 5.01]

In Mahendralal Vs. State of Uttar Pradesh (A.I.R.1963 S.C. 1019), after notification under section 4 was issued, the Government of Uttar Pradesh by an executive order issued to all Conservator of Forests, Divisional Forest Officers, District Forests Officers, stated that a number of representations had been made to the Government by claimants of lands situated in the areas of private forests, and that the Governor after careful consideration had decided that all such lands was included in any of the notifications under section 4 it should be deemed to have been excluded from that notification. The Supreme Court held that since a notification under section 4 is required to be published in the Gazette and unless it is so published it is of no effect, and since the order in question was never published and it was a more departmental instructions of Government to its officers, it could not amount to excluding anything from the notification issued under section 4. It, therefore, follows that if any lands are to be excluded from the notification under section 4, it will have to be done by like notification cancelling or superseding the earlier notification and by publishing that notification in the Official Gazette. Section 27 applies only to cases where forests have been declared as reserved forests under section 20.

In view of the aforesaid Supreme Court's decision, the said Note 53 no longer correctly expresses the law and necessary action for deletion of the same should, therefore be taken, whenever areas notified under section 4 are to be excluded from Forest, it is necessary to notify such exclusion.

Further, the Central Government in the Ministry of Environment and Forests, has also made clarification in respect of the implementation of the Forest (Conservation) Act, 1980 in this regard as under----

Lands which are notified under section 4 of the Indian Forest Act would also come within the purview of the Act. (Supreme Court's Judgment in NTPC's Case).

With the above mentioned clarifications from the Central Government and State Government, whenever any area covered under notification under section 4 of the Indian Forest Act, 1927 is to be excluded therefrom, publication to that effect a notification in the official gazette by the State Government after obtaining the prior approval of the Central Government under the Forest (Conservation) Act, 1980 has become mandatory.

Section 7

Note 11:- Forest settlement Officer has not to record privileges but to deal with rights :- A F.S.O. in his award of settlement is not required to make any record of privileges. The F.S.O. has simply to record in his award column against the different forest numbers, rights, their nature and extent, where rights exist, and to record "free or rights" where no rights exist.
A F.S.O. is not to record that certain forest lands should be expunged and that others are available for exchange. This is the work of a Forest Demarcation Officer and not of a F.S.O. as defined by the I.F.A.

(R.4919 of 15-9-1879)

Note 12:- Former demarcation need not come under settlement again:- Lands handed over to forests under former demarcations should not come with the cognizance of the F.S.O., for the reason that all claims connected with them have already been enquired into, settled, and recorded, and his settlement has been approved of and sanctioned by Government and has been in observance for years Should the F.S.O. have reason to suspect that in any instance the previous enquiry was insufficient, he may report the case for the special orders of Government as to whether a detailed enquiry is to be made under the Act.

(R.4919 of 15-9-1879)

Section 8

Note 13 :- Surveys under s.8 :- Surveys for the purpose of demarcating forests merely need not necessarily be made under the provisions of Chapter VIII to X of the L.R.C
S.8 of the I.F.A. empowers a F.S.O. to enter by himself or any officer authorized by him for the purpose, upon any land and to survey, demarcate and make a map of the same, and this appears to be quite sufficient for all the purposes of the I.F.A. Such survey and demarcation, can, however, only take place after a notification declaring that it is proposed to constitute a reserved forest has been issued under s.4. In such notification, it is sufficient to describe the limits of the forest by roads, rivers, bridges or other well-known or readily intelligible boundaries" (Vide explanation 1 to s.4). In the notification finally declaring a forest reserved, to be issued under s.20 the limits must be specified "definitely, according to boundary-marks erected or otherwise".

(R.2813 of 9-4-1883)

Section 9

Note 14 :- Rights of way and rights to water-courses are included in the rights referred to in s.9 :- The F.S.O. is appointed to inquire into and determine the existence, nature and extent of any right alleged to exist in favour of any person in or over any land comprised within the specified limits of the proposed forest, and to deal with the same as provided in Chapter II. He has, therefore, two principal duties to attend to; first, to make a proper inquiry and, secondly, to dispose of the claims in accordance with the provisions of the said chapter.

His enquiry is to be made not only into all claims duly preferred, but he is to search for the existence of any rights which are not claimed, by examining Government records taking the evidence of persons likely to be acquainted with any such rights, and personally surveying and mapping out the proposed forest.

The rights so contemplated are classed as follows :-

(1) Right of pasture.
(2) Right to forest produce.
(3) Right of way.
(4) Right to water-courses.
(5) All other rights in or over any land.

S.11 provides how the F.S.O. shall deal with the last class of rights.
S.12,13,14,15 and 16 provide how the F.S.O. shall deal with the first and second classes of rights.
The third and fourth classes relate to certain incorporeal hereditaments or easements attaching to the land which is the property of Government. It is obvious that when once after due inquiry a claim to any such right is admitted, or when once the existence of any such right is discovered, the fact of the right is sufficiently established.

Where no claims are preferred in respect of these rights, it is undoubtedly the duty of the F.S.O. not to overlook their existence and not to neglect to make every possible enquiry to ascertain whether any such rights do exist. It depends on the F.S.O. to prevent any hardship occurring to villagers living near proposed forests in respect to the use of public pathways or of water-courses in the forests; and it is not likely that any such rights, where they are clearly defined and ascertainable, will become extinct through the operation of s.9. Any right of this description which is so obscure as not to be claimed at the proper time, or to come to knowledge after careful search has been made, cannot be of much worth.

It is clearly the intention of the Legislature that all existing rights of way or to water-courses should be carefully ascertained and preserved intact unless it is found convenient to stop such ways or water-courses and substitute others for them, as provided by s.25.

(R.3112 of 31-5-1881)

Note 15 :- Object of appointing a F.S.O. :- The object of the appointment of a F.S.O. is that after a fixed date all rights not asserted before him or otherwise brought to his knowledge may be **extinguished.**

(R.3329 of 24-6-1879, 3567 of 7-7-1879 and 7840 of 9-11-1882)

Section 11

Note 16 :- F.S.O. has no power to expunge former settlements- Although under s.11, 15(2)(a),(b) and 16, a F.S.O. is empowered to exclude proposed forest land which may be burdened with rights, to give some forest tracts as compensation for rights that were attaching to other forest tracts retained in reserved forest, to alter the limits of proposed forest, so as to exclude forest land from the exercise of rights, he has no power to throw out any portion of declared reserved forest previously settled - land indeed which has not been by law subjected to his operations or control in this respect. S.27 of the Act prescribes the procedure to be observed when any forest, or any portion of it, is desired to be removed from the reservation, and the F. S. O.' s duties have no connection with this work.

(R 4919 of 15-9-1879)

Section 12

Note 17:- The F.S.O. has no jurisdiction as to a right to the proceeds of forest-produce :- The F.S.O. can only enquire into and determine the existence, nature and extent of rights in or over the land or actual forest produce, and has no jurisdiction as to a right to the proceeds of forest produce.

(R. 8598 of 24-12-1888)

Section 14

Note 18 :- S.38. L.R.C., not applicable to grazing rights :- Grazing grants recorded by the survey can at any time be dealt with under s.38 of the L.R.C., but grazing rights imply that the survey records rights which it found to be in existence, and if the F.S.O. has placed them on record, neither the Survey nor the commissioner could touch them.

(R.4474 of 15-7-1887)

Section 16

Note 19 :- Commutation must be permanent and complete :- The object of Chapter II of the I.F.A. is to enable the State to maintain certain areas permanently as reserved forest, and with this view an elaborate procedure is prescribed. The F.S.O. hears claims to rights, and, under s.14, makes a record of such rights as he admits. Then under s.15, "having due regard to the maintenance of the reserved forest" he proceeds to pass such orders as will ensure the continued exercise of the rights so admitted. If, however, he finds it impossible, having, again, "due regard to maintenance of the reserved forest", to arrange the matter suitably, he can, under s.16, commute such rights, either by money payment, or by grant of land, "or in such other manner as he thinks fit." The commutation of rights thus provided for must be of a permanent, and not of a temporary character, and in fact, it must be of such a nature (in whatever manner it may be made) as to absolutely extinguish the right which the F.S.O. has admitted, but the exercise of which cannot be allowed with due regard to the maintenance of

the reserved forest. It may be observed that the words "other manner", in the expression "in such other manner as he thinks fit", simply refer to the nature of the consideration which the right-holder is to receive for the commutation of his rights, and imply that it must be a mode ejusdem generis with payment of lump sum or a grant of land.

(Letter No.893 of 23-9-1887, from G.of I. Revenue and Agriculture Forests)

Note 20 :- Commutation should be an extinguishment of the rights commuted :- The commutation of rights provided for in s.16 of the Act was intended to be, and according to the true construction of the terms of the section is, an extinguishment of the right commuted for the consideration mentioned, just as by s.11 and absolute surrender [Sub-clause (2) (ii)] or complete and permanent acquisition [Sub-clause (2) (iii)] of the rights dealt with by that section, are provided for. This view is supported by the terms of s.27, which appear to assume the operation of the Act on forest rights to be limited to extinguishment or absolute acquisition of the same, and by the fact that nowhere in the Act is there any trace of an intention that forest rights should, under its provisions, be suspended or temporarily taken up by Government. The expression at the end of s.16, "in such other manner as he thinks fit", may be construed as having reference only to the consideration to be paid or given for the right commuted, and these words cannot properly be interpreted as in any degree amplifying or affecting the meaning of the word "commuting" which must be read in its ordinary significance of "exchanging" , out and out, and permanently. There seems no reason why a cash allowance, either permanent or temporary, and terminable at a fixed period or on the expiry of one or more lives, should not form the consideration for the commutation (i.e. permanent acquisition) of rights under
s.16. The granting of such allowances, either permanent or temporary, in lieu of the rights commuted, would be within the scope of the words "in such other manner as he thinks fit", at the close of the section, and no rule appears to be necessary to warrant the adoption of this course. There can be few forest rights for the permanent acquisition (commutation) of which allowances, terminable at periods more or less remote, according to the nature and value of the rights, would not be adequate compensation.

(Advocate General's No. 28 of 8-11-1887, vide R.8524 of 15th December 1887)

Note 21 :- Commutation is compulsory where settlement under s.15 is impossible :- In cases in which the F.S.O. "finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under s.15 as shall ensure the continued exercise of the Inamdar's rights to the extent" to which he has admitted their existence, s.16 requires that the F.S.O. "shall commute such rights, either 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". Thus it is incumbent on the F.S.O. to do, and an appeal will lie under s.17 against any order he may pass. The provisions of the Land Acquisition Act are not applicable. The commutation must be made under s.16, I.F.A., and subject to such rules, if any, as Government may have prescribed under that section.

(R.6940 of 29th August 1884)

Section 17

Note 22 :- Right of appeal lapses after 3 months :- S.17 gives "right of appeal within three months from the date of the orders passed" and it follows that after that period there is no right of appeal against the awards of the F.S.O.

(R. 4888 of 18th June 1884)

Section 18

Note 23 :- Government have no power to revise order when there is no appeal under s.17:- S.18 empowers Government to revise an appellate order when an appeal has been made under s.17. But when no such appeal is made Government have no power to revise the order of the F.S.O., nor is Government vested with authority to quash proceedings and direct a fresh enquiry.

(R.4090 of 9th June 1886 and 3027 of 14th May 1887)

Note 24 :- The Bombay Revenue Tribunal - The power vested in the Provincial Government to revise decisions in cases under s.18 and 22 has been transferred to the Bombay Revenue Tribunal by s.4 of the Bombay Revenue Tribunal Act, 1939 (XII of 1939) and serial No. 12 of the schedule thereto. For the Bombay Revenue Tribunal Rules, see G.N., 4877/33 of 31st July1939, pages 1190-91 of the B.G.G. Pt. IV-A, dated 31st July 1939.
For the Bombay Revenue Tribunal Regulations see the Tribunal's notification No. 4877/33 of 11th August 1939, pages 1348 to 1351 of the B.G.G., Pt. IV-A dated 11th August 1939. R.3724/39 of 16th August, 1941 and 10th November, 1942 prescribe the procedure for presentation of Government's case before the Revenue Tribunal in cases fixed for hearing arguments.

(BFM II, N: 33)

Section 20

Note 25:- Conversion of protected forest into reserved Forest:- Lands with regard to which the provisions of Chapter II have been duly carried out and which have been notified as Protected Forests under s.29 can, without further enquiry being made, be notified under s.20. (R.5305 of 31st May, 1906)
But lands once disforested, cannot again be notified as reserved forest unless the provisions of Chapter II are duly carried out.

Note 26:-- Reasonability of time-span between issuance of Notifications u/s 4 and 20 [Legal Opinion Tendered by the Advocate General]—
The issue-- In a matter related to land admeasuring more than 24,000 ha. in Taluka and District Kolhapur, Notification u/s 4 was issued on 12th November, 1953 and the FSO submitted the settlement report to the concerned authorities on 5th September, 1957. However, the Notification u/s 20 was not issued till 2016. The Revenue and Forest Department referred the question before the Law and Judiciary Department as to whether there is any legal impediment in issuing Notification u/s 20 after a lapse of a period of about 63 years from the date of issuance of section 4 Notification or whether it would be advisable to issue fresh notifications under sections 4 and 20 respectively. In response thereto, the Law and Judiciary Department opined as follows---

Views of the Law and Judiciary Department--- "In the present case it is after a gap of 63 years from the date of issuance of preliminary notification the department is intending to issue the final notification. Hon'ble Courts, on several occasions, have taken a view that if the law does not specify the time limit within which the official acts have to be completed, it is settled law that it has to be done within a reasonable time. If there were any practical difficulties, it is open to them to issue one more preliminary notification and then issue a final notification within reasonable time. The length of delay so occurred in the present file appears unreasonable. In the absence of any prescription in respect of time limit expressly under the statute, having regard to the fact that the right to property is a constitutional right and the law expects the authorities to discharge their statutory functions within the reasonable period. Having regard to huge time lag of more than 60 years the issues of final notification u/s 20 of the act, at this juncture may not be legally sustained as an act of exercise of statutory power within reasonable time."

Legal Opinion tendered by the Advocate General—Excerpts from Paragraphs 20, 21 and 23 to 26 of the Legal Opinion tendered by the Advocate General, vide UOR No. 1209-2016/E, dated 3rd December, 2016, which analyzes applicability of the provisions contained in section 4, 5 and 20 are reproduced as under—

20. It is settled position in law that, when a statue does not provide a time limit within which an act is to be done, the same must be done within a reasonable time. However, what would be reasonable time in a particular case would depend on the facts and circumstances involved therein.

21. In the case at hand, the preliminary notification u/s 4 has been issued on 12th November, 1953. Thereafter, the Forest Settlement Officer proceeded with inquiry mandated by section 4 and after finally determining the claims in respect to the said Land forwarded a report of the same dated 5th September, 1957 to the

Divisional Commissioner and Conservator of Forests, Pune. Therefore, if the Revenue and Forests Department were to issue the final notification at this stage, the delay in the present case would be approximately 63 years. However, propriety of issuance of final notification under Section 20 after a period of approximately 63 years would have to be judged on the principle of reasonable time as mentioned above.

23. A conjoint reading of Section 4 and Section 5 of the Indian Forest Act, 1927 reflects that, once a notification declaring intention to constitute any land as reserved forest is issued under Section 4, Section 5 bars the accrual of any rights in respect to the said land except under the contingencies specified in Section 5.

24. That being so, and in consideration of the fact that the rights existing as on the date of the notification under Section 4 have already been determined by the Forest Settlement Officer, it is not a case where the issuance of final notification under section 20 would have any prejudicial effect on any lawful rights of any person as the accrual of the same is itself barred under Section 5. It must be borne in mind that a notification under Section 20 of the Indian Forest Act, 1927 essentially pertains to land owned by the government and therefore cannot be compared to notification akin to one under the laws relating to land acquisition, which if delayed would cause serious prejudice to the owner of private land. The reasonableness of delay or rather the effect of delay would have to be addressed from the perspective of the prejudice likely to be caused to a citizen. In the case in hand, I don't envisage any prejudice being occasioned to any person because of the delay.

25. In view of the aforesaid, and in consideration of the fact the land admeasuring 4496.356 Ha. from 75 villages of Mouje Shahuwadi, Tal. and District Kolhapur which is proposed to be declared as Reserve Forest by issuing the final notification under Section 20 is owned by the government, if the Forest Department were to now issue the said final notification under Section 20 of the Indian Forest Act, 1927 it would not cause any prejudice to the rights of any third party.

26. Keeping in view the facts and circumstances involved in the present case, I disagree with the view taken by the Law and Judiciary Department, It is my opinion that, it would not be unreasonable for the Forest Department to proceed with the issue of final notification under Section 20 of the Indian Forest Act, 1927 at this juncture.

Based on the said Legal Opinion of the Advocate General, the State Government proceeded further and issued notification u/s 20 accordingly.

Section 22

Note 27 :- Limitations on the revisional power of Government :- R.L.A.'s Memorandum :- The Collector has confirmed the F.S.O.'s decision, in so far as it related to the award to the lessee, under s.12, of three articles of forest produce. The Conservator asks Government, under s.22, to rescind the Collector's order and require him to try the appeal over again and, in his new decision, to comply with the provisions of the Act, which prescribes that the extent of admitted rights shall be clearly defined

S.18 enacts that the decision of the Appellate officer shall be final, subject only to revision by the Provincial Government. S.22 prescribes the revisional power of Government. It says that Government may "rescind or modify any order made under s.15 or 18, and direct that any one of the proceedings specified in s.15 be taken in lieu of any other of such proceedings, or that the rights admitted under s.12 be commuted under s.16." If, therefore, Government think fit to modify the Collector's order under s.18, they are limited, in doing so to directing either,

i) that some other course than that ordered by the Collector under s.15 be taken, or,
ii) that the admitted rights, or some of them, be commuted under s.16.

It is not open to Government, I think, to pass such an order as the Conservator suggests; and as no order has been made by the Collector or the F.S.O. in respect of the admitted rights in question under s.15, none can be made by Government. It is, in my opinion, only possible for Government, if they think fit, now to direct that the admitted rights be commuted under s.16.

(R.4149 of 25-6-1888).

2) Further opinion of the R.L.A.: -- The Conservator, Northern Circle, takes exception to the construction put by the Honorable Mr. Naylor, on s.22.

The Honorable Mr. Naylor pointed out that the revisional power of Government is limited by that section to the substitution of any one of the arrangement which a F.S.O. has power to make under s.15 for any arrangement actually adopted by such officer.

The Conservator appears to argue that s.22 must extend to the revision of the order admitting or rejecting the claim, because it gives the Provincial Government power to revise an order under s.18, which is silent as to commutative arrangements,

This argument, however, seems untenable. An appeal may be made under s.17 from any order under s.15, and, therefore, includes commutative arrangements, and such an appeal must be dealt with under s. 18 and the order on appeal is subject only to revision. The Conservator is mistaken, therefore, in thinking that the Collector, as appellate Court, has nothing to do with an order under s.15, s.17 and 18 require him to deal with an appeal against an order passed under s.15, and his order thereon is liable to revision only.

The revisional powers of the Provincial Government are not defined, but only referred to in s.18. No provision is made in that section as to when they are to be exercised. The only provision as to the exercise of those revisional powers is to be found in s.22, and it is clear from s.22 and the intervening s. 19 and 20, that so far as the admission or rejection of a right claimed is concerned , the decision of the appellate Court under s.18 is final. For s.19 provides for the appearance on behalf of the Provincial Government, as a party interested, at the enquiry and appeal, and s.20 provides for a notification issuing on the decision of the appellate Court, or on the period allowed for appeal expiring without appeal made. It is, therefore, clear :-

a) that the time for the Provincial Government to prefer their claims is when the enquiry or the appeal is proceeding,
b) that on the decision on appeal, or on the expiry of the period allowed without an appeal, the rights are taken to be so definitely settled that the Government are empowered to act on the decision as to them by issuing the final notification.

I would note that it is most improbable that the Legislature intended that Government after appearing as a party in the proceedings and after acting on the decision as binding one, should then assume judicial functions in the very same matter and should exercise them at any time within five years.

S.22 clearly refers to executive or administrative orders only, and as there is no other section defining their powers in revision, those powers must be strictly limited by s.22. The words governing the whole section are "The Provincial Government may an order under s.15 or s.18 **Expressio, unius est exlusio alterius** and Government can revise **any arrangement** and it is **only `for that purpose'** that Government may rescind not, therefore, set aside an order under s.12 as to the existence of a right claimed. They can only deal with the arrangements made under s.15 as confirmed or modified by the appellate Court under s.18 as to the manner in which the rights are to be exercised or commuted. The latter part of the section clearly restricts the power of the Provincial Government in rescinding or modifying an order under s.15 or 18 to the selection of commutative **arrangements.**

It is very possible the original or the appellate Court may or in admitting or rejecting a claim, and an error may have occurred in the present instance. But when the Legislation has appointed the forum, it is not open to the one of the parties interested, if dissatisfied with the decision, to assume appellate powers not conferred by law. Under s.18, the order of the appellate Court is final except so far as the Provincial government may revise it under s.22, and neither Government nor the claimant has any further right of appeal. Government are not more helpless to prevent the alienation of public property in this instance than in other which comes before a judicial tribunal. They have a right to be heard by the tribunals constituted by law, and the Legislature evidently never intended to empower them to readjudicate on their own rights.

No doubt s.14 requires the F.S.O. to record the extent to which a claim is admitted, and for this purpose the quantity of timber or other forest produce which the claimant is from time to time authorized to take or receive must be specified, and the record must also show whether such timber or other forest produce may be sold or bartered. **But certum est quod certum reddi potest,** and Mr. Lawrence's decision, confirmed by Mr. Keyser, limits the right by a test as definite arithmetic. The claimant's right to wood is limited by the order which he is permitted by the Collector to take, and the power to take wood for sale is, I think, clearly excluded by the words "for purely domestic purposes in the village". The rights to fruit trees and brab trees are no less clearly defined under paragraphs 4 and 6 of Mr. Lawrence's decision, and Mr. Keyser as appellate Court, has confirmed the decision on these points without qualification.

The Conservator, Northern Circle, in paragraph 14 of his letter leaves incomplete his quotation of s.15. The F.S.O. may make arrangements under (a),(b) and (c) of s.15, but is not bound to do so. All he is bound to do is, to "pass such orders as will ensure the continued exercise of rights admitted". This is to protect the interests of the claimant. The imperative shall at which Conservator's quotation stops short, refers only to the passing of those orders. The manner of effecting the object of those orders is discretional, and if the Provincial Government consider that better arrangements might be made by commuting the admitted rights, the law allows them five years to judge by the light of practical experience as to the best way in which such arrangements may be effected.

It is very possible that the orders of the F.S.O. as confirmed by the appellate Court, may not have provided for the continued exercise of the rights admitted, in such a way as to provide adequately for the maintenance of the reserved forest, and it is here that the revisional power of the Provincial Government may legally be exercised, who may proceed under (a),(b) or (c) of s.15, or under s.16 may commute the claimants' rights by a money payment or a grant of land, or in any other manner they may think fit.

(R.957 of 6-2-1889)

Note 28:- The revisional power of the Provincial Government under s.22 has been transferred to the Bombay Revenue Tribunal.

Section 26

Note 29:- Possession of flint and steel is no offence- S.26 (1) (c) :- The mere possession of a flint and steel within the forest limits does not constitute an offence under s.26 (1) (c).

(Runchhod, 4 Bom.L.R.935)

Note 30 :- Trespass of a human being is an offence :- S.26(1) (d) makes punishable the trespass of a human being in a reserved forest.

(Umdya, C.R. 21 of 1892)

Note 31 :- Entry except by authorized paths is trespass:- S.26 (1)(d) - Any person who enters a forest except by a public or private way, the rights of which have been recorded under s.7, is a trespasser. An unlawful entry on another's land is a trespass; but it is not an offence punishable under the I.P.C., which only contemplates the offence called "criminal trespass", i.e., trespass with intent to commit an offence or to annoy the person in possession. But unlawful entry on a reserved forest is a forest offence punishable under the I.F.A. (R.3112 of 31-5-1881)

Note 32 :- Permitting cattle to trespass :- s.26 (1) (d)- The question whether the owner of cattle, whose animals trespass in a reserved forest, is criminally liable for committing an offence under s.26 (I) (d), depends upon the whole circumstances of each particular case. In a great many cases, the question will resolve itself into `did he or did he not take proper precautions to prevent such trespass?', and it does not depend upon the presence or absence of the owner at the moment. (Samandar, 16 P.R. 1909)

Note 33 :- Liability of absentee owners for cattle trespass :- S.26 (1) (d) - R.L.A.'s Memorandum on the question whether an absentee owner of cattle is criminally responsible for the acts of his servants in permitting cattle entrusted to their care to trespass into forest area closed to grazing.

S.26 of the Cattle Trespass Act, 1871, and s.26 of the I.F.A., impose penalties for trespass by cattle. The former enactment (when made applicable by the Provincial Government to cattle) would render the owner of cattle liable for any trespass committed by his cattle, if he allowed his cattle to trespass on any particular land and, through neglect or otherwise, caused or permitted the land or its produce to be thereby damaged. This section applies to any land and the penalty may be raised to Rs.50. S.26 (1) (d) of the I.F.A. makes it an offence to permit cattle to trespass in a reserved forest. In the case of both of these enactments, if a competent herdsman were employed, it would be necessary, before an absentee owner could be convicted, to prove at least that he had reason to believe that offence was likely to be committed, and willfully neglected to take proper precautions against it. I suppose that there would generally be difficulty in proving this.

S.32 (i) of the I.F.A. provides for the making of rules respecting the pasturing of cattle in protected forests and s.33 (l) (h) imposes a penalty for infringement of any such rule. But I doubt whether Government could insert in such rules a more stringent provision than the Act enacts for reserved forests, and in any case such rules apply only to protected forests.

It will be noted that s.55 of the Forest Act prescribes that cattle used in committing a forest offence may be confiscated; this would subject the owner to considerable loss and would probably have as much effect as any other penalty.

A master is in general criminally liable for the criminal acts of his servant only if he abets them; and to render him liable for any less degree of complicity an express legislative enactment is required. Except those stated above, I do not think there is any such enactment at present touching the matter under reference.

(R.621 of 21-1-1919)

Note 34 :- Removal of private timber through reserved forest by an unauthorised route causing damage :- s.26 (1) (e) - A had some timber cut from trees in occupied land which he wished to take to a port for exportation. The nearest way from the place where the timber was lying was through reserved forest. A asked and obtained the permission of the D.F.O. to transport the timber through forest. The permission was stated to have been conditioned on A carrying his timber by route B and not causing any injury to the forest. A moved the timber by another route C, making a timber slide for the purpose and injuring trees in reserved forest. Thereupon the D.F.O. attached the timber after it had reached the bunder and subsequently accepted compensation under s.68 (l) (b) as consideration for releasing the timber. On the question being raised whether the D.F.O.'s action was legal, the R.L.A. recorded the following opinion which was concurred in by Government :-

'Forest produce' includes timber whether found in or brought from a forest or not, and the timber in question was therefore "forest produce". If therefore a "forest offence" was committed regarding such timber, it could be seized under s.52.

A "Forest offence" is an offence punishable under the Act or under any rule made under the Act. Under s.26 (l) (e) it is an offence to cause damage in a reserved forest by negligently dragging timber. If timber is so negligently dragged, in my opinion an offence is committed regarding such timber. In the case put the facts apparently constitute an offence under s.26.

Further, under rule 66 of the rules framed under s.41 no timber shall be moved within any district of the Bombay Province, without a pass from some person duly authorized to issue pass, or otherwise than in accordance with the condition of such pass. The pass must prescribe a route as laid down in rules 66 and 68, and if such route was not observed, then the removal of the timber was punishable under rule

129. If so, a "forest offence" was committed in regard to such timber and could be attached under s.52.

(R.3308 of 13-4-1910)

Note 35 :- Conviction of a dumb person under section 26 (l) (f) -- A District Magistrate forwarded for the orders of the High Court, under s.341 of the Code of Criminal Procedure, the proceedings of a case in which the accused who was dumb, was convicted by a third class Magistrate of an offence under s.26 (l) (f) of the Forest Act.

Held, returning the proceedings, that as the accused was reported to have understood the proceedings, s.341 was not applicable.

(C.R.No.7 of May 1901)

Note 36 :- Conviction under s.26 (1)(i) is illegal in the absence of rules under that clauses :- A conviction recorded under clause (i) of s.26 (l) for shooting in a reserved forest in contravention of any rules which the Provincial Government may from time to time prescribe is illegal, in the absence of any such rules having been passed by Government. (Hanmanta, C.R.No.51 of 1893)

Note 37:- Question whether the word 'hunting' in s.26 (1) (i) includes carrying a gun or rifle loaded or unloaded in a reserved forest except along recognized roads or paths while actually traveling. :- The word 'hunting' as used in the rules under s.26 (1) (i) and 32 (j) includes tracking for the purpose of discovering the lie of wild animals, and in the Northern and Central Circles no licensee is prohibited from employing any number of trackers (see rules 10 and 21, Pt.II-A). Hunting according to its dictionary meaning means the action of chasing, pursuing or searching (see Murray's Dictionary). The definition of the word 'hunting' in rule 10 is inclusive and it includes something more than what the word 'signifies' according to its natural import. Carrying a gun or rifle loaded or unloaded in a reserved forest except along recognized roads or paths while actually travelling in ordinary course cannot amount to hunting as defined in rule 10 and much less to hunting according to its ordinary meaning. Carrying a gun or a rifle loaded or unloaded in a reserved forest even along recognized roads or paths may raise a presumption that the object of it may be for hunting; but such a presumption would be rebuttable and the mere carrying of a gun or rifle would not, by itself, be necessarily sufficient to constitute or prove hunting within the meaning of s.26 (1)(i) although, of course, the presumption will be stronger if such arms are carried into the interior i.e. not along recognized road or paths. Each case will depend upon its own facts. Hunting connotes an element of pursuit of game or wild animals and would be such hunting, chasing or pursuit that will be culpable if carried out in reserved forest. For this purpose it will be immaterial whether this pursuit is along recognized roads or paths or in any other part of the reserved forest. Mere carrying of gun loaded or unloaded and whether inside or outside reserved forest would not, per se, constitute hunting.

(R.L.A.'s 7089 of 17-9-1938 and R.9518/33 of 24-9-1938)

Note 38 :- A case under s.26 is a "summons case" - A case under s.26 is a "summons case" and Tahsildar, if he did not find the accused guilty, was bound to acquit him, and no order under s.437, Criminal Procedure Code, directing further enquiry could be passed by the District Magistrate or Sessions Judge.

(Amir Khan, I Punj .L.R.50)

Note 39 :- Order for payment of court-fees is illegal :- S.26 and 64 - Accused were convicted of an offence under s.26 (1) (g), and each sentenced to pay a fine of 13 annas, or in default to suffer one day's simple imprisonment, and all of them were ordered to pay annas five as compensation for the loss of the forest fuel or wood and Rs. 1-4-0 as court fee expenses under s.31 of Act VII of 1870. Held setting aside so much of the order of the trying Magistrate as directed payment of court fees, that no court fees had been paid as none were due under s.31 of the Court Fees Act 1870, offences under the I.F.A., being under s.64 of the kind for which police officers may arrest without warrant.

(C.R., Bom. 25 of 1894)

Note 40:- Operation of general criminal law :- No inference can be drawn as to the intention of the legislature that it prevents the operation of general criminal law by the passing of a special Act, which nowhere expressly sets out any such intention. (Imam Baksh, P.R.10 of 1895).

The I.F.A. does not prevent any person from being prosecuted under any other law for any act or commission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act. No person can however be punished twice for the same offence.

(Vide S.26 of the General Clauses Act.)

Note 41:- Reforestation of lands disforested under s. 27:- When land has been once disforested it can be made reserved forest only in accordance with the provisions of s.4 to 20 since the existence of rights which may have been acquired subsequent to the disforestment must be inquired into. Such rights can be acquired even though the land remains as Government waste after disforestment. To guard against any subsequent complaints or claims against the Forest department the procedure laid down in s.4 to 20 should be followed. A mere cancellation of the notification issued under s. 27 is not sufficient.

(R.1157/24 of 1-8-1924)

Section 29

Note 42 :- Preliminary notification unnecessary :- The I.F.A. does not apparently contemplate the issue of any notification stating that it is proposed to constitute certain lands protected forests. S.29 authorizes Government to declare by notification that the provisions of Ch.IV relating to protected forests are applicable to certain descriptions of forest land or waste land, and that the lands comprised in such notification shall be called protected forests. It does not, however, provide for the publication of a notification declaring merely that it is proposed to constitute certain lands protected forests.

(R.538 of 26-1-1881)

Note 43 :- Enquiry into rights :- Under s.29 rights enquired into and recorded at a survey or settlement are sufficiently enquired into the purposes of the Act.

(R.4576 of 30-8-1879)

Note 44 :- S.9 and 16 inapplicable to protected forests :- R.L.A.'s Memorandum :- It is not competent to Government to extend the provisions of s.9 regarding the extinction of rights in reserved forests, and of s.16, regarding the commutation of rights in such forests, to protected forests. In case of a protected forest, all that the Act contemplates is an enquiry and a record of rights, not a settlement. If the existence of a right is denied by Government in a protected forest there is nothing to prevent the claimant from resorting to the usual remedy in the Civil Court to establish his claim, if he is so minded. And if his right is admitted he cannot be in any way compelled to commute or part with it. A "settlement" with him can only be made with his consent.

(R. 2711 of 31-3-1885)

Note 45:- Enquiry into rights need not necessarily be made by a F.S.O. :- The I.F.A. (vide s.4 and s.7) only really requires the appointment of a F.S.O. and of an appellate authority for the purpose of an enquiry into rights in a reserved forest. With regard to protected forests, s. 29 prescribes that "the nature and extent of the rights of Government and of private persons in or over the forest land or waste land comprised therein shall be enquired into and recorded at survey or settlement or in such other manner as the Provincial Government thinks sufficient."

It is, of course, competent to Government, if they think fit, to direct, with reference to the last ten words of this quotation, that in protected forests the enquiry and record shall be made and prepared by a F.S.O. in the same manner and subject to the same provisions and right of appeal as in the case of reserved forests, but there is no legal necessity for their doing so, it is not even necessary that the enquiry and record be made by a F.S.O.

If, however, protected forests are proposed to be constituted reserved forests, then the enquiry into rights by a F.S.O., subject to the provisions of Ch.II of the Act, will be imperative.

(R.7950 of 9-10-1884)

Note 46 :- Decision of a Civil Court not sufficient for the requirements of paragraph 3 :- The provisions of Ch. IV of the I.F.A. are applicable to any forest land not included in a reserved forest which is the property of Government. A decision of a District Court declaring certain land to belong to Government cannot be taken as sufficient to satisfy the requirements of the third paragraph of s.29.

Nor can the axiom of law, **mullum tempus occurit domino regi restrict** an express enactment.

(R. 5962 of 11-11-1880)

***Note 47 :- Disafforestation of areas declared to be protected forest: -** Extract from R.L.A.'s opinion on the question whether it is competent to Government to cancel any notification issued by them under the Act declaring a certain area to be protected forest :-

"I am of opinion that it is competent to Government to do this. It appears from the Act that in protected forests no steps are taken for extinguishing private rights. Subject to the provision of s.30 (b), which renders them liable to be merely suspended for a term, such rights continue to exist just as if no notification had issued declaring the area in or over which they are exercisable a protected forest; so that, in truth, such a notification affects only the property of Government. Now it is obviously optional with Government to continue or discontinue on any portion of their own property the restrictions contemplated in protected forests, and it is I think, because it was felt to be unnecessary specially to empower Provincial Governments to cancel notifications declaring certain areas to be protected forests that the Legislature inserted no such provision in the I.F.A. The power is one which naturally appertains to Government independently of legislative enactments. The case of reserved forest is different because it was necessary specially to provide that rights which have been extinguished in a reserved forest shall not revive in consequence merely of such forest ceasing to be a reserved forest. This special provision sufficiently accounts for section 27 which would otherwise, I think, have been unnecessary."

(R.1125 of 23-2-1881)

Although Ch. IV of the Act, dealing with protected forests, does not contain a provision similar to s.27 in the case of reserved forests a formal notification that survey numbers formerly included in a protected forest shall cease to be protected forest is required for general information, especially when it is intended to notify them as reserved forest. If the notification by which land was declared protected forest is not traceable, it will be sufficient if a general notification is issued under s.29 of the I.F.A. read with s.21 of the General Clauses Act, 1897, declaring that it shall cease to be protected forest from a date fixed therein.

(R.L.A.'s 1746 of 23-3-1931 and R.S.36/18/2720 D.of 28.2.1934)

*[It may be noted that after commencement of the Forest (Conservation) Act, 1980, the State Government is no more competent to issue such Notification without seeking prior approval of the Central Government. Further, for exercising powers under section 27, the prior leave of Hon'ble Supreme Court shall also be mandatory in view of its Order dated 13.11.2000 in WP 337/1995.]

Note 48—Although the area notified under section 29 immediately attains the legal status of the 'protected forests', however it must be borne in mind that offences in respect of protected forests are made only in case of violation of rules made by the State Government under section 32 or commission of any act specified in section 33(1) in respect of trees reserved u/s 30 (a) and / or area closed u/s 30 (b).

Examples----

(1) The then Government of Bombay, vide Notification dated 1st January, 1959 issued notification u/s 30 in respect of Vidarbha Region of the State of Bombay declaring 44 species of trees specified therein to be reserved u/s 30 (a) and declaring the portion of such protected forests lying within 66 feet of the edge of the bank of any water-course therein which holds an adequate water supply of water up to 1st January, 1959 to be closed for 30 years commencing on the date of the said Notification. Through the said Notification, rights of private persons, if any over such portion were suspended for the said duration. Further, following activities were prohibited in such protected forests from 25th January, 1959--
    (1) the quarrying of stones,
    (2) the burning of lime or charcoal.
    (3) the subjection to any manufacturing process of any forest-produce. And
    (4) breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land therein.

(2) Similarly, the Government of Maharashtra vide Notification No. S-30/97/cr-39/f-3 dated 27th November, 2001 issued similar notification in respect of Konkan and Western Maharashtra (including Marathwada region) reserving various trees species,

declaring closure of 20 meteres of the edge of the bank of any water-course therein which holds an adequate water supply of water up to 1st January, 2001 to be closed for 30 years and closing all plantations raised for 10 years commencing from the said date as well as prohibiting all the activities mentioned in para (1) above in that region.

(3) Likewise, the State Government vide, Notification dated 20th September, 2012, has reserved certain mangrove species in Konkan region u/s 30(a). (Significant chunk of such mangroves areas on government lands were notified subsequently u/s 4)

[Annexure 5.02 to 5.04]

Note 49 COMPARISON BETWEEN RESERVED FORESTS AND PROTECTED FORESTS

1. The provisions related to reserved forests and protected forests are covered under Chapter II and IV respectively. Going through these provisions, following three questions immediately arise-----
   (ii) In practical sense, how both these types of forests differ from each other?
   (iii) Why trespass, pasturing cattle or permitting cattle to trespass in reserved forests is an offence [section 26(1)(d)] but the same is not in case of protected forests?
   (iv) Why there is provision of penalty of compensation for damage done to forests in case of reserved forests [section 26] but not in protected forests?
   (v) Rationale behind the provision for summary eviction in reserved forests and bar of Civil Court in any matter related thereto? [Clause (a) of sub-section (1-A) r/w sub-section (5) in section 26 of the Indian Forest Act, 1927 in its application to the State of Maharashtra?

2. To find answers to these questions, the distinction between the two types of forests are summarized as under----

S .No	Reserved Forests	Protected Forests
1	Any forest land or waste land, which is the property of the State Government or over which the Government has proprietary rights may be declared as reserved forests.	Any forest land or waste land, **not included in reserved forests,** which is the property of the State Government or over which the Government has proprietary rights may be declared as protected forests
2	Notification of intention u/s 4 to declare reserved forests is mandatory.	Notification of intention not required. The area can directly be declared as protected forests by issuing notification u/s 29 (1). However, no notification u/s 29 (1) can be issued unless the nature and extent of the rights of the Government and of private persons have been inquired into and recorded at a survey or settlement or in such other manner as the state Government thinks sufficient. [section 29(1)] Provided that, if the State Government thinks that such inquiry and records are necessary but they will occupy such length of time as in the mean time to endanger the rights of the Government, it may, pending such inquiry and record, declare such land to be PF [section 29(3)].

S .No	Reserved Forests	Protected Forests
3	The area notified u/s 4 does not attain the status of 'reserved forests' till the notification to that effect u/s 20 is issued following procedures laid down from section 4 to 19. It may be noted that as per section 26(1)(b), only provisions contained in that section become applicable in respect of area covered in the notification u/s 4, however such area as such, does not attain the legal status of **'reserved forests'**. It may further be noted that clause (b) was substituted through an amendment in the year 1961 no such provision exists in the Central Act!	The area covered in the notification u/s 29(1) attains the legal status of protected forests as soon as such notification is issued.
4	Comprehensive procedure is laid down to ascertain existence, nature and extent of rights. The rights have not only to be ascertained, enquired and recorded **but also have to be settled** through judicial proceedings. Thus the nature and extent of rights is known to the stake holders e.g. the Government, the local people and communities.	Mere enquiry into rights and their recording is sufficient. Settlement of rights not obligatory. Every such record shall be presumed to be correct until the contrary is proved. [section 29(3)]
5	Bar of accrual of rights, immediately on issuance of notification u/s 4. [Section 5]	Rights, howsoever they are destructive continue to exist as well as keep on accruing. Rights even not claimed are not extinct.
6	All the rights, which are claimed (even the unclaimed rights of which the Settlement Officer comes to the knowledge during enquiry process) are enquired into and settled.	Under the normal circumstances, the issuance of Notification implies that the enquiry and recording of rights is pending. [Proviso below s. 29 (3)]. Legislative intent is clear that the same cannot be kept pending for indefinite time.
7	Since the rights of individuals as well as that of communities are settled, therefore entry of any other person, unless permitted under section 26(2), shall always amount to trespass. Therefore, trespass, pasturing cattle or permitting cattle to trespass in any part is an offence [section 26(1)(d)].	Since the rights remain un-decided, those recorded are presumed to be true and keep on accruing even if the recording is done, there is no concept of trespass. Moreover, only part of area can be declared as 'closed' u/s 30(b), that too, not exceeding 30 years with further rider that remaining area should be sufficient enough for the rights to be exercised.
8	For the reasons stated in Sno. 6 above, the provisions for summary eviction are laid down u/s 26(1A)(a).	Since the rights are not settled, entry of person other than in any area closed under section 30(b) does not amount to trespass.
9	For the reasons stated in Sno. 6, there is provision of compensation of damage done to reserved forests in case of conviction.	No such provision therefore exists in case of PF.

S .No	Reserved Forests	Protected Forests
10	Rights are inquired into and settled by an officer, who ordinarily does not hold any forest-office except that of Forest Settlement-officer, having powers of a Civil Court in the trial of suits [section 8]. There are provisions for appeal u/s 17 in case any person is aggrieved by any orders passed by the FSO. Therefore entry of any person other than the right holder is bound to constitute offence, unless such person is duly permitted by the forest-officer u/s 26(2). Thus, the provision of bar of Civil Court u/s 26(5) eliminates the chances for the offender to obtain stay or injunction from the Civil Court.	Since the rights are not settled, there is no rationale for the summary eviction and bar of accrual of Civil Court.
11	Felling of any tree is an offence. [section 26(1)(f)]	Felling of trees reserved through notification issued u/s 30 (a) constitutes offence [section 33(1)(a)]. Felling of trees, which are not covered under such notification is not an offence.
12	Clearing or breaking up of any land is an offence [section 26(1)(f)].	Certain acts are restricted only in respect of areas declared to be closed through a notification issued u/s [section 30(b) and not beyond that closed area.
13	The prohibitions can be exercised and regulated through section 26.	Provisions contained in section 30, read with those in section 33 (Penalty clause) safeguard existing rights of the State Government against their infringement or from being getting endangered. But both these sections are always subject to the principal rider of not abridging any existing rights of individuals or communities.
14	Rights are settled. The forest-officer in-charge of the reserved forests is sure in respect of nature and extent of rights, which have been admitted during the settlement proceedings. Hence in case of an alleged offence and subsequent prosecution in the court of law, it is easier for him to establish his complaint as to what acts of the offender constitute offence under section 26. Thus, prosecuting an offender is much easier.	If a person is prosecuted u/s 33, then the prosecution will have to convince the Court about following questions.— a) Whether the notification/s reserving trees, closing areas and prohibiting certain acts has/ve been issued by the State Government? **.....Prosecution shall collapse if no such notification is in place.** b) If at all, such Notification has been issued, then whether the accused acted beyond his rights inquired into and recorded and/or whether he infringed the existing rights of the State Government? **Prosecution will always remain uncertain about question (b), unless the rights have been inquired and recorded. This will again lead to benefit of doubt to the accused.**

S .No	Reserved Forests	Protected Forests
		c) Even if such recording is done, rights of same person or others keep on accruing, therefore such person shall always be entitled for benefit of doubt.
15	No restriction on exercise of power of arrest under Section 64.	Arrest in not authorised for any act which is an offence unless such act is prohibited under clause (c) of Section 30.
16	Reserved Forests can directly be declared as Sanctuary under section 261A(b) of the Wild Life (Protection) Act, 1972.	Protected Forests cannot be declared as Sanctuary without completing the process laid down from section 18 to 25 in the Wild Life (Protection) Act, 1972.
17	As per amendment carried out in the Wild Life (Protection) Act, 1972, sub-section (4) was inserted below sub-section (3), which reads as under--- s. 66(4)—For removal of doubts, it is hereby further declared that where any proceedings under any provision of sections 19 to 25 (both inclusive) is pending on the date of commencement of the Wild Life (Protection) (Amendment) Act, 1991, any reserved forest or part of territorial waters comprised within a sanctuary declared under section 18 to be a sanctuary before the date of such commencement, shall be deemed to be a sanctuary under section 26-A.	No such provision in case of protected forests.
18	All lands within the definition of 'private forests' under the Maharashtra Private (Forests) Acquisition Act, 1975 are deemed reserved forests within the meaning of the Indian Forest Act, 1927, and are vested in the State Government from the appointed date, free from all encumbrances.	

1. It is worth mentioning that taking into consideration the sanctity of reserved forests, where rights of Government as well as those of private persons are settled through a fair and equitable process laid down in the Act, the Government of Maharashtra has taken special drive for bringing areas in possession of the Forest Department, under the scope of Chapter II of the Indian Forest Act, 1927. During a period from 2014-15 to 2019-20, the State Government has notified about 2145 sq. km. under section 4 and about 1478 sq. km. under section 20 of the Indian Forest Act, 1927. An observation to that effect has been recorded by the Forest Survey of India, Dehradun in India State of Forest Report 2019 (Volume II, Para 11.16.1.1 of the Report).
2. It may be appreciated that the offences u/s 26 and 33 are made out only if the area concerned is covered by notification u/s 4 or 20 or 29 (and 30), as the case may be. If the area concerned is not covered by notifications, no offence under section 26 or 33 can be made out. In number of cases, significant extent of area under administrative control of the Forest Department, has not been notified u/s 4 or 29. For the administrative purposes, such areas are shown as un-classed forests in official records and Working / Management Plans. However, for the reasons stated above, offences u/s 26 and 33 are not made out in respect of such areas. The only recourse available in such case is to deal such cases under the relevant provisions of the Indian Penal Code, 1860.

3. **Applicability of Forest (Conservation) Act, 1980.---** The provisions under the Forest (Conservation) Act, 1980 can only be invoked when either the area concerned is recorded as 'forests' in Government records or it comes under the 'dictionary meaning' (commonly known as identified forests) as clarified by the Apex Court in its order dated 12th December, 1996 in Writ Petition (Civil) 202/1995 [TN Godavarman Thirumulpad vs. Union of India and Others]. It may further be borne in mind that even if the offence is registered under the Forest (Conservation) Act, 1980, then also as per rule 9 of the Forest (Conservation) Rules, 2003, no person other than an officer duly empowered by the Central Government in that behalf can file the complaint in the court of law. This is in contrast to the position under the Indian Forest Act, 1927, where in absence of any specific provision to that effect, provisions laid down in the Code of Criminal Procedure, 1973 shall be applicable and any forest-officer can file complaint in the court of law.]

Section 30

Note 50 :- Notifications under s.30 are of no avail prior to enquiry into rights as required by s.29 :- R.L.A.'s Memorandum :-

(1) As regards the question whether notifications reserving trees and prohibiting the quarrying of stone, burning of lime or charcoal, etc., can be legally issued unders.30, in respect of forest or waste lands before the nature and extent of the rights of Government and private persons in those lands have been inquired into and recorded, it must be remembered that s.29 requires that unless such rights have been inquired into and recorded

(a) at a survey or settlement, or,

(b) in such other manner as Government thinks sufficient,

no notification shall issue under that section except for the purpose of preventing the actual rights of Government from being endangered, pending enquiry, in which case the notification leaves existing rights unaffected.

The last paragraph of s.29 contemplates that the notification in cases where the rights of Government are endangered should be issued only when there is an enquiry actually pending. The notification is to be "pending enquiry and record", and it was clearly not intended that the enquiry should be indefinitely postponed after issue of the notification. Where an enquiry has been instituted and is still pending a notification under s.29, final paragraph, can issue only if the enquiry is likely to last so long that the rights of Government may be endangered, but the result of that notification is to leave actual rights, then existing, wholly unaffected. But such a notification would be of no avail whatever, unless it operated under s.33 to protect by penalties the rights of Government then actually existing. S.30, therefore, gives power to Government to declare that the infringement of certain of its rights, then actually existing, shall thereafter entail a liability to the penalties provided by s.33. But under the final paragraph of s.29 such declaration cannot abridge or affect any rights in existence and, therefore, in each prosecution under s.33 the question will be, not only whether Government have notified a reservation or prohibition, but whether such reservation or prohibition in any way affects or abridges pre-existing rights. Until the rights have been enquired into and recorded, it is almost impossible to say what act or order may not abridge or affect them, and if a forest officer prosecutes a private person and such person asserts that the act complained of was done in the exercise of a right which he claims, but which has not been enquired into, settled and recorded, it is hardly to be expected that the Criminal Courts will convict.

There would thus be a great practical difficulty in enforcing the penal provisions of s.33 in respect of any notified forest prior to enquiry into existing rights, for every prosecution would involve an enquiry into those rights, and unless it could be shown affirmatively that the reservations and prohibitions did not in any way affect or abridge existing rights, the prosecution would fail.

(R.2058 of 19-3-1890)

(2) The above argument applies equally to a declaration by Government unders.30 (b) as to a declaration under clause (a) or clause (c) of that section.

(R.5645 of 13-8-1890)

Section 33

Note 51 :- S.33 is inoperative unless provisions of s.30 and 32 have been complied with:- Unless notifications of reserved trees and restrictions on the collection of produce in protected forests are published under s.30 and rules as to the granting of licenses to remove produce are made under s.32, the felling and lopping of trees and the collection and removal of produce are not offences under s.33.

(R.8977 of 14-11-1884)

Note 52:- Conviction under s.33 (1)(a) for cutting trees in occupied land not legal:- Accused was convicted of cutting trees reserved in a protected forest under s.30 (a). Held , acquitting the accused, that a protected forest may be notified under s.29, but powers under this section are restricted to lands, which are forest or waste lands. Whatever liability the accused might be under in regard to the provisions of any other law, he could not be convicted under s.33(1)(a), for the land which formed part of survey number in an occupant's holding and was assessed, was not shown to be within the class of lands to which the powers of Government under s.29 and 30 applied.

(Sheshgirirao Vithalrao, 7 Bom. L.R.462-2C.L.J.437)

Note 53 :-Award of compensation for damage to protected forest is illegal :- There is no provision, either in the Act or the rules framed thereunder , to award compensation for damages in respect of the protected forest.

(Karianna Hulianna, 8 Bom. L.R.987, and 5 C.L.J. 9)

Note 54 :- Conviction for quarrying stones in protected forest by a P.W.D. contractor without formal permission of the Forest Department:- Accused, a contractor engaged by the P.W.D., quarried stones required for a public road, from a place which was pointed out to him by the Officers of that Department. The place in question was in a protected forest and no permission was taken of the Forest Department for quarrying. The accused was, under these circumstances, convicted of an offence under s.33 (1), clauses (a),(b) and (c), of the I.F.A. read with s.40 and 114 of the I.P.C. Held, reversing the conviction and sentence, that the accused was entitled to the protection of s.79 of the I.P.C.

(Emperor V.Kassim Isub, 128)

Section 45

Note 55:- Settlement of claims of the Forest and Salt Departments to salved timber :- Timber salved in tidal waters should not be disposed of by the Salt Department as 'wreck' under Pt.VII of the Merchant Shipping Act 1923, unless proof is forthcoming that it was carried from the sea into tidal waters. Similarly any timber salved from the sea should be handed over to the Forest Department for disposal under Ch.VIII of the Indian Forest Act, 1927, as drift timber if it is proved by that Department that it was carried away by flood from any forest depot. Prima facie timber salved at sea or on the-open sea shore outside the limits of a creek and timber which can be proved to have entered a creek on a flood tide should be treated as "wreck" and dealt with by the Salt Department in the first instance, while timber stranded on a creek bank which cannot be proved to have come in on a flood tide should be dealt with by the Forest Department.

(R.1800/28 of 31-5-1929)

Note 56 :- Right of Government under s.45 to collect and store drift and stranded timber with obligation to notify:- The object of Ch.VIII of the I.F.A. is to tangle the rights of owners, and not to deprive them of their property in drift and stranded timber and wood. S.45 does not divest the owner of, or transfer to the Government, any right therein. Nor does anything in the Act affect the right of the Government to take possession and dispose of timber and wood whereof they are the undisputed owners. But upon certain conditions only, the Government have a right to the possession of any drift and stranded timber and wood collected by their officers, which, however, may be claimed by the true owner, who may be a person holding a jalkar or water right comprehending those things. The conditions are that the officers of Government shall store the timber in the manner, and issue the notifications, required by the Act. In case of such procedure not being followed, and the wood being treated as the property of the Government, the latter are in the event of the wood being found not to belong to them in

no better position than any other trespasser. The title to collect given to the Government by the Act is coupled with, and dependent upon, the duty of giving notice to the public, in order that the true owner, whether he be a person from whom the wood has drifted away or the owner of a jalkar, or however he may be entitled, may claim the drifted timber in the manner, and within the time, prescribed by the Act. There is no presumptive ownership of the Government save where their officers collect and hold for the true owner, in the first instance subject to the statutory duty of giving notice.
(Amriteswari Debi v. Secretary of State for India; I.L.R. 24 Cal. 504; L.R.I.A. 33; I.C.W.N.249)

Section 55

Note 57:--Order confiscating Government property cannot be made.—No order confiscating forest produce which is the property of Government in respect of which a forest-offence has been committed is necessary or can be made. All that need be done is to direct a forest-officer to take charge of such forest-produce. An order directing the confiscation of forest-produce not belonging to Government, in respect of which a forest-offence has been committed, can only be made at the time the offender is convicted.

(Nathu, Khan I.L.R. 4 All. 417; Ramaji, C.R. 3. Of 1888)

Note 58:-- Order of confiscation to be simultaneous with other punishment.— The accused were convicted under s. 26 and sentenced to pay fines. By a subsequent order under s. 55 their boats were confiscated. Held, that under the terms of s. 55 an order of confiscation cannot be regarded as an order incidental on the conviction. The confiscation is by the terms of that section declared to be a punishment, for it is in addition to any other punishment prescribed for the offence. That, being a punishment, the order should have been passed simultaneously with the other punishment for the offence of which the accused have been convicted.

(Alunddl Shik, 27 Cal.450)

Section 56

Note 59:- Proper order to be made regarding Government property :- When the forest-produce, in respect of which an offence is committed, is found to be the property of Government the only order which the Magistrate can legally make regarding it under s.56 is that it should be taken charge of by a forest- officer. An order for its sale and the payment of a reward to the informer from its proceeds is therefore illegal.

(Ramaji, C.R. 3 of 1888)

Note 60:- Disposal of Government property:- S.56 is imperative. If an offence with reference to any forest property be committed, the property must be ordered to be returned to the forest-officer.

(Mahomed Shekubhal,5 Bom.L.R.124)

Section 57

Note 61 :--Forfeiture not a consequence of a forest-offence.— Under the orders issued by the Collector of Khandesh, certain Bhils entered the forest, brought from it teak logs under the customary passes and sold them in open market to applicants who purchased in good faith. The Government sought to forfeit those logs on the ground that a forest-offence had been committed in respect of them, in as much as permission under which the Bhils acted only allowed them to cut dead-wood and the logs did not fall under that description, and that the offenders could not be found.
Held ordering the logs to be restored to the custody of purchasers, that it was clear from the terms of s. 57 that a forfeiture was not a consequence of a forest-offence, under the conditions stated in that section, where a good title had vested in a third person.

(Bhau Ydu Patil, 2 Bom. LR 675)

Section 53, 55, 56, 61-A, 61-C, 61-D, 61-G

Note 62:- Approach in release of property seized, which is liable for confiscation.— Setting aside the Order passed by the Karnataka High Court, Hon'ble Supreme Court made following observations—

"The liberal approach in the matter would perpetuate the commission of more offences with respect to the forest and its produce which, if not protected, is surely to affect the mother-earth and the atmosphere surrounding it. The courts cannot shut their eyes and ignore their obligations indicated in the Act enacted for the purposes of protecting and safeguarding both the forests and their produce. The forests are not only the natural wealth of the country but also protector of human life by providing a clean and unpolluted atmosphere. We are of the considered view that when any vehicle is seized on the allegation that it was used for committing a forest offence, the same shall not normally be returned to a party till the culmination of all the proceedings in respect of such offence, including confiscatory proceedings, if any. Nonetheless, if for any exceptional reasons a court is inclined to release the vehicle during such pendency, furnishing a bank guarantee should be the minimum condition. No party shall be under the impression that release of vehicle would be possible on easier terms, when such vehicle is alleged to have been evolved in commission of a forest offence. Any such easy release would tempt the forest offenders to repeat commission of such offences. Its casualty will be the forests as the same cannot be replenished for years to come."

[Order dated 17th August, 2000 in Special Leave Petition (Crl.) 233 of 2000 (State of Karnataka vs. K. Krishnan)]

Section 64

Note 63:- A Forest-Officer has no authority to keep an arrested person in confinement :- S.64 provides that any forest-officer may arrest without warrant any person "against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards". He is bound to take or send any person so arrested before the Magistrate without unnecessary delay. S.223 of the I.P.C. contemplates the "keeping in confinement" a person who is charged with or convicted of any offence or lawfully committed to custody, and not a person who is arrested and taken at once before a Magistrate on suspicion of being concerned in any offence. A forest-officer has no authority to keep in confinement any person charged with having committed a forest-offence. A person who is arrested on suspicion by a forest-officer cannot be said to be "charged with having committed a forest offence". S.223 of the I.P.C. provides for a more serious kind of offence than such an act of negligence as that of a forest guard who negligently suffers a person arrested on suspicion of having committed a forest-offence to escape, which can only be punished departmentally by fine, suspension or dismissal.

(R. 5459 of 21-9-1881)

Section 68

Note 64:- Meaning of the words "such officer" in clause (2) :- A District Magistrate having reported a case to the High Court under s.438, Criminal Procedure Code, stated that, in his opinion, the prosecution and conviction of an accused under s.26,I.F.A., was illegal, after a R.F.O., not empowered so to do, had accepted compensation from him under s.68,I.F.A. Held that the conviction of the accused and the sentence passed upon him under s.26 were not illegal, as the forest-officer who accepted the compensation was not an officer empowered so to do; that the words" such officer" in clause 2 of s. 68 meant an officer empowered and that, therefore, the case did not fall within clause 2.

(Ganu, C.R.6 of 1892)

Note 65 :- Acceptance of compensation by officers not empowered is illegal:- The acceptance of compensation by officers not empowered by name or as holding an office to accept compensation is clearly illegal, and when payment to such unempowered officers is induced by threat of prosecution or by restraint, it might amount to an offence under the I.P.C.

Note 66:--Compensation cannot be demanded.— S. 68 does not contemplate threat of prosecution or **demand** of compensation even by an officer empowered under the section.

Note 67:- Compensation is not for damage but for offence :- Under s.68 compensation is allowed not for the damage but for the offence, i.e., for the actual criminality of the act. and the only limit placed is that in sub-s.(3), requiring that the officer empowered should be in receipt of Rs. 100/- per mensem and that the sum accepted as compensation should in no case exceed *Rs. 50/-.

***[Now 5000/-]**

(R.L.A.'s 1246 or 25-8-1892 in R.7907 of 6-10-1892)

Note 68:-- Recovery of compensation by coercive process inadmissible.—A forest-officer duly empowered under s. 68 is authorized to accept money and not a promise to pay the same. If no money is paid and accepted by way of compromise under s. 68, the only alternative for the forest-officer would be to prosecute the party concerned. The object of s. 68 is evidently to avoid the worry and harassment attendant to prosecutions and at the same time to guard the interest of Government against present and prospective loss. The settlement to be effected under this section is essentially an amicable settlement, and it entirely depends on the free will and choice of the suspected offender on the one hand and the forest-officer on the other. To import, therefore, an element of compulsion, such as the recovery of the money by revenue process, is distinctly opposed both to the letter and the spirit of the provisions of s. 68. It is clear from the wording of s. 68 that the forest-officer is not to complete the settlement of the case before the receipt of the money agreed on, and that any settlement of the case before the receipt of the money agreed on, and that any settlement made by him on the mere promise of a suspected offender is null and void. (R. 5905 of 26.8.1891)

Note 69:--S. 68 does not contain any provision to the effect that a sum which a person has promised to pay to a forest-officer becomes money "payable" under the Act. A person may promise to settle a case under the section, but afterwards may think better of it and refuses to pay. In this event the amount so promised is not payable under the Forest Act, nor it is payable "on account of the price of any forest produce", as the word "price" in s. 82 indicates that that section does not refer to cases of compensation for damage done. Therefore the compensation referred to in s. 68 cannot be recovered as an arrear of land revenue under s. 82. R.L.A.'s 3003 of 2-11-1912 and R. 11470 of, 16-12-1912.

Section 70

Note 70 :- What amounts to trespass :- The accused forcibly opposed the seizure of their cattle by village officers who found them grazing in a reserved forest. The 2nd class Magistrate acquitted them on the ground that there was no trespass as the cattle had not gone into the reserved forest of themselves, but had been driven into it by the accused. Held, reversing the order of the acquittal, that under, S. 70, I.F.A., and S.11 of Act. I of 1871, the cattle were liable to seizure.

(C.R. 22 of 1892)

Note 71 :- Cattle staying in reserved forest :- S.11 of the cattle trespass Act. 1871, in which the words "or found straying thereon" occur having been applied to forests by S.70 of the I.F.A. the seizure by a forest- officer of cattle found straying in a reserved forest is legal, even if no damage has actually be done.

(Babaji Laxman, C. R. 35 of 1897)

Note 72:- Compensation for damage in case of conviction under section 24, Cattle-trespass Act :- Accused was charged before a 3rd class Magistrate with the offence of forcibly rescuing cattle lawfully seized while grazing in a forest and convicted under s. 24 of the cattle-trespass Act and sentenced to pay Rs. 5/- as fine and Rs. 2/- in addition as compensation for the damage done to the forest. The fine and compensation were recovered and credited to Government. Held, that the order directing payment of compensation which was apparently passed under s. 545 Criminal procedure code, was illegal as such compensation could only be ordered to be paid out of the amount of the fine. The order of the Magistrate was accordingly varied by directing that the amount of Rs. 2/- paid as compensation be restored to the accused, and that such compensation should be paid out of the fine imposed.

(C.R. 12 of 1903)

Note 73:- Levy of charges for impounding inadmissible :- On the question whether charges of coolies employed on seizing cattle found trespassing in forest and taking them to a pound can be legally recovered from the owner under s. 13 of the cattle trespass Act, the following Resolution was passed:-

"S.12 of the Act prescribes the fines that may be levied. It indicates also what 'charges' (for feeding and watering cattle) may be levied as the condition for releasing impounded animals. No other claim can be legally made".

(G.1394 of 2-5-1888)

Section 72

Note 74 :- Exemption of forest officers from disclosing sources of information during trial of forest offence cases in a Court of law :- On the question whether forest officers are bound to divulge the names of informants in offence cases, the Legal Remembrancer, C.P. and Berar, recorded the following opinion in his memo. 358-A/II of 25-10-1939.

1. "In A.I.R. 1927 Bom.4, it was held that an Abkari Officer, who in the conduct of investigation of an offence punishable under the Bombay Abkari Act, exercises the powers conferred by the Code of Criminal procedure, 1898, upon an officer in charge of a Police Station for the investigation of a recognizable offence, is a police officer within the meaning of s.25 of the Indian Evidence Act, and therefore a confession made to him is inadmissible. The ratio decidendi was that the object of s.25 was to prevent the abuse of their powers by the Police in extorting confessions from persons in their custody. It is public policy to exclude all confessions made before investigating officers whether they are called police officers or excise officers or by any other name. Certain forest officers are also empowered to enquire into forest offences under s.72, I.F.A. Rules also have been framed regulating the inquiries to be made into forest offences.
2. S.125 of the Indian Evidence Act provides that no Magistrate or police officer shall be compelled to say whence he got any information as to the commission of any offence, and no revenue officers shall be compelled to say when he got any information as to the commission of any offence against the public revenue. The forest officer making an enquiry into a forest offence should, in my opinion be deemed to be a police officer within the meaning of s.125 of the Indian Evidence Act on the same analogy as in s.25 ibid. It is against public policy that a person who has the power to investigate or enquire into an offence should be compelled to state in a court of law the name of the informer. S.124 of the Indian Evidence Act provides that no public officer shall be compelled to disclose communication made to him in official confidence, when he considers that public interests would suffer by the disclosure. In cases where s. 125 ibid does not apply, and in fact in cases even where that section does apply, s.124 would apply.
3. "I am, therefore, of the opinion that if a forest officer is pressed to disclose the name of his informer he should ask the Court to exempt him from disclosing it. He should rely on s,124 and 125 of the Indian Evidence Act."

(BFM II, N: 111)

Section 73

Note 75:-- A person giving information before a forest-officer is bound to give true information.—A forest-officer being, under s.73, a public servant within the meaning of the I.P.C. any false information given to him with the intent mentioned in s. 182 of the I.P.C. is punishable under that section whether that information is volunteered by the informant or given in answer to questions put to him by the officer.

(Ramji Sajabarao, 10 Bom. 124)

Section 74

Note 76:- Conditions precedent to protection by law:- The following judgment of the High Court in appeal No.61 of 1889 (in the case of Mr. Waman Ramchandra Gavande, Sub-Assistant Conservator of Forests V. Dipchand Balkisan) shows that officers when discharging their duties with ordinary care and discretion are protected, even in a case of mistake, by any authority which in fact they have and which covers the particular act on which some person may sue as a wrong :--

"This is a suit brought against the defendant, an officer in the Forest Department, for having caused damage to the plaintiff by reason of his misconduct and his acting contrary to the law". The defendant justified his conduct under s. 74, I.F.A., alleging that what was done by him was done in good faith.

It is not in dispute that the carts containing the plaintiffs timber were stopped by the defendant on their way up the ghat to poona and the defendant himself admits that he did so, suspecting that the timber had been taken out of Government forest. Further, it is not in dispute that on the arrival of the plaintiff, who was some way behind the carts, he was asked by defendant if he had a pass, and that he replied that his servant had it; that the servant arrived the next day, when he produced a document which purported to be a pass given by the original owner to the plaintiff as purchaser of the timber. It was not contended that such a pass as a valid one under the rules made by Government with the sanction of Government of India in virtue of the I.F.A. there being no evidence that the owner, although he was a patel of the village, had authority to grant passes. The district Court, however, thinks it ought to have satisfied the defendant. This view is one which we cannot concur, the pass not being valid one-and although his principal motive at the time may have been that he suspected the timber had been stolen from Government forests, it is open to him now to the justify seizure on the ground of the commission of forest offence arising from the want of a valid pass.

It is said, indeed, by the District Court that owing to a Resolution of Government No. 5437, dated the 7th July 1884, a pass was not necessary. It is sufficient to say that, that Resolution only referred to teak, the ownership of which was in dispute between the Government and the occupants of the land on which it was grown, and, moreover, can only by understood (assuming that the Government intended to pass a Resolution **intra vires**) as setting the question whether such owners could move their timber as contemplated by clause (c) of Rule 13* (now this Rule has been superseded) without passes. But that clause clearly only allows timber to be moved within the confines of the village and has no application to this timber which was being transported to Poona for sale. The defendant was, therefore, clearly entitled by law to seize the carts. But it was urged before us that although he might have been entitled to seize them he ought not to have detained them from 18th January till 22nd June. As to this the evidence shows that defendant wrote exhibit 42 on 24th January to the Forest Ranger of Kolaba stating his suspicion that it was not **'malki'** but Government timber, and asking him to make inquiries; he also reported on 25th January 1886 what he had done to his superior officer the Divisional Conservator of Forests of the Poona District. The plaintiff says he frequently asked the defendant to give him up the timber between January and May 1886 and was told by defendant that he could not do so until he got an answer, and that at last in May 1886 he himself wrote to the Divisional Conservator, the result of which was that the defendant was directed to deliver the timber to the plaintiff.

Looking at s.52 we agree with the District Judge that the defendant cannot justify the detention on the ground of an offence against the Forest Laws, not having taken the course which that section requires of bringing the matter before a Magistrate. But suspecting as he did that the timber had been taken from a Government forest, we think the defendant was justified, under the circumstances, in laying the matter before his superior officer and waiting for his orders. The circumstance that there had been robberies from Government jungles in the neighborhood from which the timber came, as stated by defendant, and which was not denied, coupled with the absence of a valid pass from the authorities, was sufficient to justify his suspicion that it was not malki timber and his detaining the timber until he received orders from his superior on the subject, and he cannot be held personally liable for the delay which occurred in obtaining them.

It is said, indeed, that the defendant was afterwards shown a letter procured by the plaintiff at the defendant's desire stating that the Patel had sold the timber his malki number to plaintiff, and that he took the objection that it was not signed by the Kulkarni. Such an objection, we think, was one which the defendant might reasonably and in good faith take, and if plaintiff

thought that the letter was sufficient for the purpose he could have taken it or asked defendant to send it to the Divisional Conservator of Forests in whose hands the matter then was, and, as we cannot doubt, with the plaintiff's full knowledge. Upon the whole, we think that the defendant acted throughout in good faith and has satisfactorily justified his conduct under s. 74 of the Act.

That the question should have remained with the superior forest authorities in suspense until May is necessarily matter of surprise, and if Government are unable to give some satisfactory explanation of it, the plaintiff is, to say the least, entitled to favourable consideration at their hands.

We must, therefore, reverse the decree and dismiss the plaint, with costs throughout on plaintiff.

C. SARGENT
K.T. TELANG.
(R. 6528 of 15-9-1890)

Section 76

Note 77 :- "Fines and confiscations" referred to in s. 76 (b) include fines inflicted under the provisions of this Act and proceeds of property (not belonging to Government) confiscated under s. 55. They do not include compensation referred to in s. 68 or fines inflicted under other Acts (e. g. s. 379, I.P.C.) for forest offences.

(BFM II, N: 117)

Note 78:- S. 76 (c) refers to reserved trees in **occupied lands** and it was held in koya Mavaji (C. R. 49 of 1896) that a conviction under the rule framed under this section for cutting a teak tree in Government waste land was illegal. The cutting and removal of trees from **Government waste land** can be dealt with under s. 43 of the L.R.C. or s. 379 of the I.P.C.

(R. 3394 of 25-5-1903)

Section 79

Note 79:- Refusal to serve as member of a panch- A person was convicted under section 187 of theI.P.C. for refusing, when called on by a forest guard, to serve as one of a panch for the purpose of drawing up a **panchnama** with reference to certain wood alleged to have been illegally cut in reserved forest. **Held** that the conviction was illegal. The accused was not shown to be one of the persons contemplated by the first two paragraphs of s. 79 (1), I.F.A., nor was the purpose for which he was called upon (a) to (d) of the section. He was therefore not legally bound to assist the forest guard.

(Queen –Express v. Babaji, I.L.R.22 Bom.769)

Section 82

Note 80:- Recovery of grazing fees as an arrear of land-revenue :- Grazing fee can be recovered as an arrear of land-revenue under s. 82, as being on account of the price of forest produce There is no material distinction between the case of a person who buys grass and of one who pays a grazing fee in order that his cattle may consume the grass.

Rule 40 of the Bombay Forest Rules, 1942 framed since the above opinion was recorded by the R.L.A., has legalized the levy of grazing fees which are therefore payable under a rule under the Act and hence recoverable under s. 82 as an arrear of land-revenue.

(BFM II, N:121)

Note 81 Scope of s. 82 – This section authorizes summary recovery, as arrears of land-revenue, of money payable-

(a) under the Act or under any rule made under the Act, e.g., duty payable under s.39, fees payable under rules made under s. 41 (c), fines for cattle-trespass under s. 71, etc,; and

(b) on account of the price of any forest produce or of expenses incurred in the execution of the Act in respect of such produce.

Expenses that may be incurred by the Forest Department in completing the work left incomplete by contactors in contravention of their agreements are not "expenses incurred in the execution of the Act" and cannot be recovered by a summary process as an arrear of land-revenue. They can be recovered by a civil suit.

(R. 3932 of 20-6-1922)

Section 83

Note 82:- Recovery by Collector after sale by Forest Department. -- R.L.A.'s Memorandum:- A purchaser of Government timber at auction paid only a portion of the price. The forest Department appears to have taken possession of a portion of such timber and to have sold it by public auction in order to realize the balance of the price.

The price fetched at this second sale not realizing all that was due, the Conservator applied to the Collector to realize the outstanding under s.82, I.F.A.

The collector declined on the ground that the balance due was not part of the price but a deficit on resale for which no provision existed such as in analogous cases under the L.R.C. is made by s.175,176 and 177.

The question is whether the money can be recovered under s.82 of the I.F.A. as if it were and arrear of land revenue.

S.82 provides that money payable on account of forest produce may be recovered as if it were an arrear of land-revenue.

Money payable on account of the price does not lose its character by the mere fact the part recovery has been effected under another procedure. If a portion of the price had been recovered as it fell due by civil suit or by auction sale under the L.R.C. or in any other way that would not affect the power conferred by s.82 in respect of the balance.

The collector appears to regard s. 83, I.F.A., as providing for a resale.

I do not think s.83 refers to resale. It was evidently framed so as to include all cases where money is due under the Act or under the rules and would cover such cases as are provided for by rules under s.51 (c) , and all cases in which money is payable under the Act as duty, fee, royalty, etc.

This I think accounts for the omission in s. 83 of all reference to deficit and resale.

Indeed s. 83 does not treat the sales made by a forest officer under its provisions as a resale at all. In cases where the legislature provides for resale (vide Civil Procedure Code, s.308*, and L.R.Cs. 175) the defaulting purchaser is declared to forfeit all claims to the property or to any part of the sum for which it may be sold.

S. 83 does not do this and does not extinguish the property in the produce sold, but only declares it subject to a charge.

S.83 therefore does not operate as a rescission of the sale, but only as one of the means by which money payable for or in respect of produce may be recovered, and the balance unrecovered is therefore still due on account of the price, and does not become due as a deficit on resale.

I am therefore of the opinion that such balance of the price is recoverable under s.82 as if it were on arrear of land revenue notwithstanding any other steps short of rescission of the sale that may have been previously taken for recovery.

(R.7373 of 6-11-1888)

Section 85

Note 83:- Limitations of s. 85- This section contains provisions similar to s.74 of the Contract Act only with this difference, viz., the recovery of the stipulated amount in case of breach of s. 74 of the Contract Act is to be decided by the Civil Court whereas the breach of s. 85 of the I.F.A. is penalized by empowering one of the parties to make the recovery of the amount stipulated as an arrear of land-revenue. In both the cases the amounts to be paid in case of breach of the conditions must be clearly mentioned in the bond or agreement, i.e., the sum must be determined and agreed upon between the two parties before the agreement is signed. This is clear from paragraph 5 of the objects and reasons of the bill amending the

I.F.A. of 1878 by the addition of this section. This paragraph states **"The section is intended to recover penalties stipulated in the bond or agreement"** and the new section will make the contractors responsible up to **the amount to which they have agreed,** and such sum will be recovered summarily".

The amounts to be recovered should, accordingly, be pre-determined and recited in the bond. Amounts which cannot be so determined beforehand, e.g., expenses which Government may have to incur in carrying out work left incomplete by contractors, compensation due to Government for damage by fire or cattle-trespass in the contract area, etc. cannot be recovered as arrears of land-revenue, the only course in such cases being a Civil suit.

(R.3932 of 21-9-1923.)

The recovery, in whole or in part, of the amount of damage to forest produce by fire or by cattle grazing in contract areas and of expenses incurred by Government in finishing the work left incomplete by contractors has been made possible by suitable amendment of the standard forest agreement forms in accordance with R 3932 of 21-9-1923 quoted above whereby a definite amount of penalty for failure to pay the damages and expenses has to be specified in the clauses concerned.

(BFM II, N: 124)

Note 84:- Liability of forest contractors for breach of terms discovered after expiry of contracts.--- On the question whether a contractor who had entered into an agreement (in standard form 2, Press No. For. 196) for the felling, collection, removal and purchase of forest produce could be subjected to the payment of fine under the terms of the contract for a breach of a condition therein discovered after the expiry of the contract period and after the security deposit under the contract had been returned to the contractor, the R.L.A. gave the following opinion in which Government concurred:-

" * * * * The Contract may provide for a period during which the contractor was to fell or remove the forest produce. But the expiration of such period would not necessarily put an end to or extinguish liabilities which the contractor may have incurred under the contract. It, however, appears that in the case under consideration the security which was deposited by the contractor was returned. The security was deposited for the due performance of the conditions in the contract and the return of such deposit might lead to and inference that the forest authorities held that all the conditions of the contract were duly performed and that they released any right of action which Government had under the terms of the contract for breach of a condition. But such inference would not be inevitable in all cases. A release is not construed as applying to facts of which the creditor had no knowledge at the time when it was given (Halsbury's Laws of England, Vol.7 page 351). If the contractor through fraud concealed a breach of any of the conditions, it may be argued that the return of the deposit did not amount to a release of all rights which Government had under the contract. In the absence of any express or implied conduct on the part of Government to indicate that they had released or waived their rights to recover the penalty due under the contract, it would not be right to hold that the contractor is freed from the liability to pay the said penalty by the mere expiration of the period for which the contractor was allowed to fell or remove the forest produce or by the return or the security deposit".

(R.L.A's 2997 of 7-6-1937, R6481/33 of 9-7-1937)

—— CHAPTER 6 ——
STATUTORY POWERS UNDER OTHER STATUTES AND ADMINISTRATIVE ORDERS

6.01 **Legal Protection under section 197 (2) and 197(3) of the Code of Criminal Procedure, 1973.-**The State Government vide Revenue and Forest Department Notification No. TRS-1095/CR-112/F-6, dated 19/9/2006 has provided legal protection available under section 197(2) and 197 (3) of the Code of Criminal Procedure, 1973 to public servants charged with the maintenance of public order. Such protection has been provided to Forest Guards, Foresters, Range Forest Officers, Assistant Conservator of Forests, and Deputy Conservators of Forests and Divisional Forest Officers, who are charged with the maintenance of public order relating to forest protection.

[Annexure 6.01]

6.02 **Powers of Collectors under section 53, 54 of the Maharashtra Land Revenue Code, 1966,-** The powers exercisable under section 53, 54 of the Maharashtra Land Revenue Code, 1966 have been delegated by the State Government, in exercise of powers conferred under section 330A of the said Code, vide Notification Revenue and Forests Department No. PWR-1196/CR-296/CR-17/L-2 dated 30th January, 1997, to Asst. Conservator of Forests / Sub-Divisional Forest Officer and Deputy Conservator of Forests of the Forest Department of Government of Maharashtra in their respective jurisdictions in respect of lands declared as reserved forests, protected forests and other lands in their possession.

[Annexure 6.02]

6.03 In exercise of powers conferred by section 67 of the Indian Forest Act, 1927, the Government of Maharashtra has empowered all the Judicial Magistrates First Class and all the Metropolitan Magistrates in the city of Mumbai to try forest-offences summarily, as contemplated in that section.

[Annexure 4.10]

6.04 Forest-Officers of the ranks of Divisional Forest Officer, Sub-Divisional Forest Officers of independent Sub-divisions and Range Forest Officers were empowered under various clauses in sub-rule (1) of rule 2 of the Bombay Minor Mineral Rules, 1955. However, the State Government, vide Revenue and Forests Department Notification No. Gaukhani-10/0812/CR-613/kh dated 18th July, 2013 has notified the Maharashtra Minor Mineral Extraction (Development and Regulation) Rules, 2013 and defined Competent Authorities for the purpose of CHAPTER IV therein. Officers of the Forest Department are not included in the list of officers designated as the Competent Authorities under rule 2(h).

6.05 **Protection of Forests and Treatment of Forest Offences in General**

AO:01 **On the necessity for protecting forests :-**

The Question of forest protection, always a troublesome one, presents special difficulties in the Maharashtra State, owing to the nature of the forests and the manner in which they are interspersed with cultivation. On the one hand it is imperative that the forest property of the State should be efficiently protected or the danger may arise that the areas reserved become forests in name only, and of no practical use to the country, while on the other hand, the population should not be treated with harshness. The position is rendered more difficult by the fact that some of the most pernicious forest offences are trivial if taken individually, but assume dangerous proportions if considered in the aggregate.

AO:02 Forest conservancy depends on co-operation of people. Need for discrimination in treating offences :-

Forest conservancy will never be effective if the people, who live in or near the forests, are opposed to it; their co-operation may be enlisted by considerate treatment, while injudicious severity inevitably creates a spirit of antagonism. No Magistrate of ordinary intelligence would dismiss a case of wanton destruction of seedlings as trivial on the ground that the wood after being cut would fetch a small price, and the District Magistrate should take steps to prevent any such failure of justice. On the other hand, the officers of the Forest Department should be enjoined to act with discrimination in bringing prosecutions.

AO:03 Treatment of trivial offences :-

(i) It is most undesirable that ignorant villagers should be prosecuted in the criminal Courts for taking from the Government forests a few twigs or small braches, or a little brushwood of inappreciable value. Such injudicious severity on the part of the officers of the Forest Department is calculated to do more harm than good and to excite widespread dissatisfaction and angry feelings. In no instance, at all events, should a person be prosecuted for a first offence of so exceedingly trivial a nature. A warning on the part of the forest officer would suffice. But if after being detected and warned once or twice, the same person is again discovered cutting Government trees the circumstances of the case would be altered, and willful and repeated infractions of the law may form a suitable and proper ground for criminal prosecution. As far as possible, however, such prosecutions should be avoided, and recourse should only be had to them when real injury is being caused to the Government forests, and when there is good reason to believe that the offender is deliberately and of set purpose transgressing the law.

(ii) The prosecution of petty offences against the Forest Act should be discouraged as leading to a great deal of petty oppression. Government would, therefore, press on all magisterial and forest officers the necessity of using great caution and judgment in regard to such offences. For the benefit of the general public and the country at large, Government are bound to do all that lies in their power to recover the forests from deteriorated condition into which, by the uncontrolled action of villagers, they have fallen throughout the State. In carrying out this policy efficiently, the villagers must be treated with a certain amount of firmness which appears to them harsh after the liberty they for so long enjoyed, but Government trust that Commissioners, Collectors and forest officers do as far as they can, and in future will try still further to act in a discreet and judicious manner.

AO:04 Care to be exercised in instituting prosecutions :-

The exercise of the greatest care and forbearance are absolutely necessary in the institution of prosecutions under the Forest Act. Criminal charges under the Act should only be preferred after warnings have been disregarded, and in cases where no reasonable doubt can exist that the offender has intentionally and knowingly transgressed the provisions of the Act, and has not merely ignorantly acted in accordance with previous custom or in pursuance of a right which he in good faith believed that he possessed.

AO:05 Duties of village officers :-

It is very necessary that village officers should be made to understand that they are indirectly responsible for the preservation of forests, as being the property of Government. The fact that there is a forest establishment, whose prime duty is solely to look after forests, does not relieve the village officers from their share of responsibility in the matter.

AO:06 Village officers to be punished for neglect of duty :-

Exemplary punishment should be inflicted on village officers whenever damage has resulted to Government forests through culpable negligence on the part of those officers.

6.06 Fire Offences and Fire Protection [S.26(1) (b) and (c), 32 (h) and 33 (d) and (e)]

AO:07 Fire offences should not as a rule be compounded: -

In cases involving injury to forests by fire the provisions of s. 68, I.F.A., should only be applied cautiously and for very special reasons; any action which might tend to foster in the minds of an ignorant population the idea that firing of the forests, whether set purpose or through culpable negligence, is not a serious offence, or one which in the opinion of Government calls for vigorous suppression, is manifestly to be deprecated. S. 68 was enacted to meet the case of petty offences, like the illicit removal of forest produce; but cases in which considerable damage is caused by fire to reserved forests certainly do not fall within this category.

AO:08 Duties of Magistrates when trying offenders in forest fire case :-

The following instructions are laid down for the guidance of all Magistrates

(i) The setting fire to a reserved forest is a very serious offence, and as such merits severe notice. It is not the actual damage caused at the time that is to be considered, but the injury caused to Government and the people in general by the destruction of the young forest growth and the consequent delay in afforesting the treeless reserves.

(ii) There is reason to believe that some Magistrates consider the offence a venial one owing to the absence of any 'intention' on the part of the offender. It is not necessary, however, under the Forest Act that intention should be proved. Carelessness in the use of fire by which a reserve is burnt is equally an offence, but in the meting out of punishment a distinction can be made if the Magistrate sees fit.

(iii) All Magistrates should be careful in dealing with such forest cases. Forest fires are unhappily but too frequent, and in most cases it is very difficult to discover their origin, but when an accused has been convicted, the above-stated considerations should not be lost sight of, and when the circumstances establish either deliberate intention or very gross carelessness and disregard of ordinary precautions, it is obvious that the punishment awarded should be adequate.

AO:09 Regarding findings of Magistrates in fire cases :-

The statistical information furnished as regards punishments awarded by the Magistracy for forest offences requires explanation. It has been pointed out by Government that the principal factor in determining the gravity of a forest offence is not the extent of damage committed but the degree of malice or culpable negligence disclosed, and it has been directed that the classification of offences of incendiarism should be based on the Magistrate's opinion. The experiment of sending at least a proportion of cases believed to be "malicious" to First Class Magistrates, may be tried. Government trusts that in reporting results the orders of Government will be more closely followed, and that the statistics supplied will be compiled more intelligently.

AO:10 Fire tracing :-

Wherever fire-paths are required in the interests of forest conservancy they must be provided by the Forest Department and not at the expense of the occupants of the lands bordering on forests or within forest limits. The Forest Department must rely mainly on the exertions of its own establishments for guarding the forests against

damage. The establishment of the 'coupe' system under which felling is restricted in each season to specified blocks of forest and entirely prohibited elsewhere, must make conservancy more easy than it was when felling was allowed indiscriminately in all parts of the forests.

AO:11 Villagers employed on forest works to be paid at market rates :-

(i) Villagers should not be compelled to carry out forest works such as plantation | works, burning of fire-lines and clearing of boundaries. Where they are not bound to do such work in return for the privileges enjoyed by them, the work should invariably be paid for either by daily wages at the rates sanctioned by the Government for the forestry work or by piece work rates so calculated as to give a suitable daily wage.

(ii) The wages should not be paid to the village Patel in lump for distribution among the labourers but to the individual labourers direct.

AO:12 Protection of forests from fire

i. The success of fire protection must depend to some extent on the nature of the tract, the attitude of the people and the season. The successful protection for a term of years of a comparatively small area of valuable forest appears to the Government to be of greater importance than imperfect protection of a large area, of which perhaps only an inconsiderable portion enjoys continuous immunity for any length of time. Information on this point should be given in the Annual Administration Reports. It should be stated for each circle what area has been completely protected for five years or more.

ii. P.C.C.F. (HoFF) office has issued Standing Order No.D-18/vig/CRNo.204/2000-01/210 Dt.12/5/2001 giving details about the way in which the fires occurring in forests are to be handled and reported.

[Annexure 6.03]

iii. The instructions issued by the Ministry of Environment, Forest and Climate Change from time to time in respect of protection against fire must scrupulously be followed.

iv. At the end of Monthly diary, the Divisional Forest Officer and his Gazetted Assistants must include in their diaries, remarks on fire protection measures taken by them.

v. If not more, the importance of proper fire conservancy is at par with the proper execution of cultural operations and following the prescription of working plans.

vi. People of the adjoining villages need to be educated in the matter of forest fires and obligations under the laws in force.

vii. Exemplary punishment should be inflicted in cases of neglect of the staff and non-cooperation by villagers in extinguishing fires. At the same time, members of the staff whose beats or charges remain free from fires need to be suitably rewarded an encouragement.

viii. During the course of their inspections the Chief Conservators of Forests will pay particular attention to these matters and report in their diaries the success or otherwise of these measures.

AO:13 Communal punishment for bad fires in exceptional Cases :-

The system of communal punishment on account of bad fires in villages should be adopted in exceptional cases, and that too with the sanction of Government. Villages

in which fires have been frequent or extensive should be selected and the villagers thereof assembled with a view to a formal warning being issued in the first instance by the Mamlatdar or R.F.O. or when possible by the Dy.C.F./D.F.O. and Sub-D.F.O. in person, to bring home to the village community as a whole its responsibility for the well-being of the forests in its vicinity. In cases where serious and repeated neglect by a village of its responsibilities is proved to the satisfaction of the Dy.C.F./D.F.O. and the Collector, recommendations should be made to Government to enable them to inflict punishment on the village concerned in such manner as they deem fit.

AO:14 Rewards for help in fire-protection and powers of officers to sanction them :-

Rewards may be granted to villagers who assist the Forest Department in protecting the forests from fire. The Dy.C.F./D.F.O. concerned should submit recommendations to the sanctioning authority regarding the form of reward suitable in each case, within the budget allotment sanctioned for the purpose.

The powers of officers to sanction rewards in such cases are detailed in Sr.no. 4(3) of the Manual of Financial Powers (F.P. VII).

6.07 Forest Fire Alerts

Forest-fire Alerts SMS are received by the State Forest Department on regular basis from the Forest Survey of India, Dehradun, through APCCF (Protection), who has been designated as the Nodal Officer for this purpose. These alerts are detected by MODIS sensor on board Aqua and Terra Satellite of NASA since 2004. From 2017 onwards, the State Forest Department has been receiving fire alerts obtained from SNPP-VIIRS sensor, having resolution 375 m x 375 m, compared to MODIS (1 km x 1 km).

Such Alerts are disseminated up to beat level. These alerts are also communicated to concerned Chief Conservator through E-mail. These alerts have a geo-coordination of the fire location through which location of fire can easily be traced out. With the help of fire alerts received over last five years, Fire-sensitive maps have been prepared and provided to the field officers.

6.08 Control of Timber and Other Forest Produce in Transit (Section 41 and 42, I.F.A.)

AO:15 Railways not exempted from transit rules :-

Railways have not been exempted from the operation of the rules for regulating the transit of timber and other produce under s. 41 of the Forest Act, and it is the duty of the Chief Conservator of Forests to enforce obedience to those rules on part of the railway officials, and to seize and detain railway wagons in which timber, or other forest produce may be transported in contravention of them. Railway officials, like other persons must comply with the provisions of the law.

AO:16 Time limit for which a pass is valid: -

Every forest pass accompanying imports of forest produce is, legally speaking, null and void as soon as the period for which it was granted expires. A renewed pass is requisite to cover the forest produce to which it relates. But when the delay in transit is such as could not have been foreseen and is due to no fault of the person in charge, it would not be equitable to enforce penalties.

AO:17 Authorizing persons under Rule 67(1) (c) to issue passes [Bombay Forest Rules, 1942]:-

A person who had obtained from the Forest Department a contract for cutting timber, and had been supplied by the forest officer with pass-books containing the following endorsement : "There are 100 passes in this book and there is the official seal in the center of each pass. This pass-book is given to B, the contractor of Mouje M, Taluka W, in order that he may let the timber in the compartment go away" was sufficiently authorized in writing for the purposes of rule 67(1) (c) and was guilty of no offence in

issuing the passes. The accused who had acted in good faith could not be held criminally liable for the latches of the forest officer in not complying with the requirement of the rule by giving the accused the authority in writing.

AO: 18 Issue of passes for Government produce by a person authorized to issue passes for private produce :-

An Inamdar obtained in October 1891 a book of passes for produce belonging to himself. Between October 1891 and March, 1892, he issued passes covering produce belonging to Government but it could not be made out what particular pass or passes covered the produce belonging to the Inamdar. The Inamdar was convicted under sections 411 and 109 I.P.C., and rules 71(3) and 129 made under s. 41 of the I.F.A. on a charge in general terms with reference to all the transactions. Held that conviction under rule 71(3) could not be sustained, there being no express prohibition in rule 71(3) against issuing passes for forest produce belonging to Government; held also, that the general charge was correct.

Note :- The particular forest and produce for which passes may be issued should be mentioned in the authorization to be granted under the 67 (1) (c). When passes are issued for a different produce, it becomes an offence under rule 71(3) and the therefore punishable under rule 129 of the rules under I.F.A.

AO:19 Omission to return a transit pass not an offence :-

There is no rule made under section 41 which provides for return of passes issued under the act and in the absence of any substantive provision, requiring the holders of passes to return them, the omission to return a pass cannot be held to be penal under the rules in force.

AO:20 Shipments of certain minor forest produce do not require passes:-

It is unnecessary to extend the list of articles of minor forest produce for which passes should be required before their export by sea is permitted. (Refer rules under section 157(c) of Sea Customs Act, 1878, regulating transit of forest produce by Sea.)

AO:21 Passes and Pass Books

(i) Form of transit Pass:- The transit passes prescribed in rule 31 of the Maharashtra Forest Rules, 2014 for regulating the transport of forest produce, should be in the "Prescribed Formats".

(ii) Pass should be in duplicate:- The pass should be in duplicate. So that the outer may be issued and the inner or counterfoil may be retained in the office of issue.

(iii) Malki Passes should be stamped: - The office stamp of the principal forest officer of the district from which the pass or passbook is supplied for issue should be imprinted upon the dividing line between the two copies of the pass, so that one-half of the stamp should appear upon the counterfoil and the other upon the duplicate copy issued.

(iv) In view of provisions contained in the Rules notified under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the State Government, vide Revenue and Forests Department Resolution No. S-10/2013/CR-87/F-3 dated 30th July, 2013, has prescribed specific colour and format, for the transit permit to be used in respect of transit of minor forest produce in exercise of community forest-rights recognized and vested under the said Act.

[Annexure 6.04]

(v) The State Government vide Government Resolution No. Revenue and Forests Department No. S-30/2015/cr-546/F-3 dated 30th January, 2016 has prescribed formats for transit permits and challan.

[Annexure 6.05]

(vi) Similarly, the State Government has issued specific colour and format for the transit permit to be used in respect of transit of minor forest produce in Scheduled areas as per section 28-A of the Indian Forest Act, 1927 in its application to the State of Maharashtra.

[Annexure 6.06]

AO:22 Prices of pass Books and Fees for Registration of private property Marks:-

(i) Prices of pass Books:- Fees should be charged for books of passes furnished to persons authorized to issue passes under rule 67 (1)(C) of the rules under I.F.A.

For a book containing 100 passes in duplicate For a book containing 50 passes in duplicate For a book containing 25 passes in duplicate	Transit pass fee should be recovered at the rates in force as per the orders issued by the Government from time to time.

(ii) Fees for Registration of private property Marks :- Fees for registration of private property marks should be recovered from the persons doing business in private forests within the Maharashtra State or importing timber from other States into Maharashtra State at the following rates:-

Particulars..	Fees
(1) Persons who import timber from other States	Rs. 50/- per property mark (Valid only during the period of authorization granted by the State concerned)

Note :- No fees are to be charged to the Forest Department contractors who are given forest coupes for exploitation. *(PRF – 1255/15110-J of 9-1-1956 and IFA-1060/)(18825-IIJ dated 22-9-1960)*

6.09 Forest produce exempted from time to time, from operation of transit rules made under the Indian Forest Act, 1927 in its application to the State of Maharashtra

[Annexure 4.23 to 4.33]

S .No	Details of Forest Produce	Extent of Exemption	Notification
1	Nilgiri *(Eucalyptus species)* tree or parts thereof.	Throughout Maharashtra	Revenue and Forest Department notification No. TRS 1090/CR-32/90(ii)/ F-6, dated 05/03/1990

S .No	Details of Forest Produce	Extent of Exemption	Notification
2	Babhul *(Acacia nilotica)*, Subabhul *(Leucaena leucocephala)* and Prosopis *(Prosopis juliflora)* trees or parts thereof	Throughout Maharashtra	Revenue and Forest Department notification No. TRS.1090/CR 32/90(i)/ F-6, dated 21/06/1990
3	Ashok *(Polyalthia longifolia)*, Drumstick *(Moringa oleifera)*, Sindi *(Phoenix sylvestris)*, Orange *(Citrus aurantium)*, Chiku *(Achras zapota)*, Bhendi *(Thespesia populnea)*, Acacia *(Acacia mangium)* and Poplar *(Populus)* trees or parts thereof	Throughout Maharashtra	Revenue and Forest Department notification No.TRS.1095/CR-34/F-6, dated 23/10/1997.
4	*Dendrocalamus strictus and Bambusa bambos on private lands*	Except in the areas of Amravati, Yawatmal, Gadchiroli,Bhandara, Gondiya, Chandrapur, Nagpur, Thane, Nashik and Raigad Districts	Revenue and Forest Department notification No.TRS.2009/CR-69/F-9, dated 9/8/2012.
5	Lac	Throughout Maharashtra	Revenue and Forest Department notification No.Sankirna.2012/CR-118/ F-9, dated 17/11/2012
6	Suru *(Casuarina equisetifolia) trees or parts thereof on non forest lands*	Throughout Maharashtra	Revenue and Forest Department notification No.S-10/2012/CR.226/F-3,dated 09/04/2013
7	All the species of Bamboo other than Dendrocalamus strictus and Bambusa bambos on non forest land in the State	Throughout Maharashtra	Revenue and Forest Department notification No.TRS.2009/CR-67/F-9, dated 24/06/2013.
8	Rubber Wood *(Hevea brasiliensis, Ficus elastica)* on non-forest land in the State	Throughout Maharashtra	Revenue and Forest Department notification no. TRS.303/2015/CR.81 /F-6,dated 04/06/2015
9	Mahua Flowers *(Madhuca longifolia)*	Throughout Maharashtra	Revenue and Forest Department notification no. Goun Upaj 2015/CR.353/F-9, dated 30/03/2017
10	All species of bamboo on non-forest land	Throughout Maharashtra	Revenue and Forest Department notification no. Bambusa 2017/CR.59/F-9,dated 11/04/2017
11	Silver Oak *(Grevillea robusta)*, Malabar Neem *(Melia dubia)*, Indian Willow *(Salix alba)*, Sweet Lime *(Citrus limetta)*, Guajava/Peru, *(Psideum guajava) and* Maharukh *(Ailanthus excelsa)* in non-forest land	Throughout Maharashtra	Revenue and Forest Department notification no.TRS.01/2018/CR.27/F-6, dt.01/02/2018.

6.10 Penalties and Procedure (S. 52 to 69, I.F.A.)

AO:23 Procedure to be followed in taking bail: -

In cases coming under s. 64, when the nearest Magistrate's Court is at a distance from the scene of the offence and a Police Station is within convenient access, an accused person who is ready and willing to give bail should be taken for that purpose to the Police Station.

The Police Superintendents should be directed in communication with the District Magistrates to issue orders to officers in charge of Police Stations requiring them in these cases to take bail in accordance with chapter XXXIX of the Criminal Procedure Code. It is not desirable to increase the number of Police Stations, merely for the sake of giving a wider operation to these orders.

Under section 65, I.F.A., 1927 a forest officer not below the rank of Ranger can release on a bond a person arrested. There is therefore no need now to take an arrested person to a Police Station for the above purpose unless the officer arresting happens to be below the rank of Ranger and the Ranger or higher officer is at a greater distance than a Police Station.

AO:24 Cases in which offenders may be arrested :-

No restraint should be placed by subordinate forest officers on persons suspected of offences, except when they fail to satisfy the officer as to their identity and residence or when there is reason to fear they may not be forthcoming when wanted. In such cases the officers concerned should, if the case is one in which in his opinion further proceedings (apart from mere impounding of cattle) are necessary, arrest the offenders and send them to the nearest Magistrate or police Station as required by section 64, making at the same time the usual report to the Dy.C.F./D.F.O. Cases in which the accused has been arrested as above should take their usual course without waiting for the orders of the Dy.C.F./D.F.O. But in case an order to compound is received at any time before such a case is disposed of by the Magistrate having jurisdiction, the Magistrate should be informed of it and asked, if the accused complies with its terms, to discharge him under s. 68 (2).

Note 1:- This article should be read subject to the provisions of section 65 of the Forest Act.

6.11 Compounding of Forest Offence Cases and Prosecution of offenders (S. 68, I.F.A.)

AO:25 Gravity of a case not always represented by money value of damage:-

(i) The orders in **AO:03** should be strictly observed by all officers concerned, and should be applied to cases reported for departmental disposal by forest officers, empowered under s. 68 of the I.F.A. as well as to prosecution in the Magistrate's Court. Arrests and punishments of all kinds for trivial forest offences should be avoided. It must at the same time be remembered that the gravity of a forest offence is not always to be measured by the amount of actual damage done to forest property. When mischief of even small actual money value has been deliberately committed, or when there has been persistent infraction of forest rules, the breach of law is aggravated by intention with which it was committed and the offender may properly be punished. But it is necessary that punishment should be preceded by judicial investigation and that in cases of the kind just noticed the intentions of the offenders as well as their act should be weighed, on the consideration of evidence recorded under the sections prescribed by the law and after the accused persons have had opportunity for making their defense in the presence of the adjudicating officers. The Magistrates' Courts established in every taluka afford sufficient and accessible means for the trial of cases of

forest offences in which forest officers may consider the infliction of punishment to be necessary, and the Government sees no reason in the circumstances of the forests of the State that would call for the removal of such cases from the cognizance of the regular Courts and their reference to departmental tribunals specially constituted under the provisions of the Forest Act.

(ii) **Cases which may be compounded :-** On the other hand the Government is not prepared to accept at once the recommendation that the operation of s. 68 should be placed in absolute abeyance. The Government does not contemplate the punishment of trivial forest offences either through prosecutions in the Magistrates' Courts, or through departmental proceedings; but the Government would not object, in the case of offences in which substantial damage has been done to the forests, or the payment of forest dues has been evaded, under circumstances that do not call for the infliction of exemplary or deterrent punishment, to their being compounded by the acceptance of compensation, equivalent in value to the damage done or the amount of the dues evaded. It appears that the provisions of s. 68 may probably be worked with benefit to the subject and to the Forest Department in a number of cases, under the limitation above mentioned and provided that the proceedings of forest officers under that section are subjected to the supervision of the Collectors.

(iii) **Care to be exercised by forest officers not to exceed powers under s. 68 :-** The attention of officers exercising the powers prescribed by s. 68 is directed to the observations in paragraphs 5 and 10 of the report (given below) of the R.L.A. No. 1246 of 25/8/1892.

It is open to serious question whether some forest officers have not exceeded their lawful powers in making arrests and detaining offenders and in holding inquiries into alleged forest offences, as well as in paying rewards for detection out of amounts accepted as compensation. The attention of all officers concerned is directed to the observations on these points in paragraphs 6, 7, 8 and 10 (given below) of the report of the R.L.A. above referred to.

Extracts from paragraphs 5 to 10 of the R.L.A.'s report 1246 of 25/08/1892

(5) **Alternative procedure which is open to an offender :-**

The alternative to payment of compensation is prosecution, and the suspected offender would necessarily be aware that he was liable to prosecution unless compensation is accepted. It rests with the suspected offender to elect whether he will await a judicial decision or tender compensation, and with the officer empowered to consider whether the tender should be accepted. Neither threat of prosecution nor demand of compensation is contemplated by the section.

(6) **No rewards can be given out of compensation :-**

The practices under which sums realized as compensation are usually distributed as rewards among the forest subordinates who detected the cases, is utterly illegal, as even the State Government has no power to direct rewards to be paid to officers and informers out of the sums realized under s. 68 as compensation. Such power exists under s.76 only as to rewards to be paid out of fines and confiscations which must be regulated by rules. The Legislature has evidently not thought fit to give the Forest Department power both to assess and to distribute sums accepted in compensation.

(7) **Powers to arrest but not to detain persons :-**

The second sub-clause of s. 64 directs persons arrested for forest offences to be taken or sent without unnecessary delay before the Magistrate having jurisdiction or to the officer in charge of the nearest Police Station. The power of

arrest exists only where there is reasonable suspicion against the person arrested of his having been concerned in a forest offence punishable with imprisonment for one month or upwards. The Act gives no power of detection or restraint and for mere cattle trespass, unaccompanied by opposition to seizure or by rescue after seizure, except when it is permitted by the offender within the meaning of s. 26(1) (d) or s. 33(1) (g), it is difficult to see how there can be any power whatever to arrest.

(8) Concerning Panchayats - Maxwell on interpretation of statutes, 358. et seq.:-

Forest officers have no power, and cannot be given power to hold Panchayats. A strict construction must be placed on s. 72 as on all enactments conferring special powers.

No special power is necessary to authorize forest officers to take opinions of a Panchayat for their own information or that their superiors. But special power should be requisite and is not given to compel the attendance at such Panchayat of the accused. The attendance of witnesses as to the amount of damage might be enforced by officers specially empowered in that behalf under s. 72 (1) (b).

(9) A compensation can only be taken by authorized officers :-

The acceptance of compensation by officers not empowered by name or as holding an office to accept compensation is clearly illegal, and when payment to such underpowered officers is induced by threat of prosecution or by restraint, it might amount to an offence under the I.P.C.

(10) Persons cannot be detained in order to make them comply with terms :-

No detention would be justifiable for the purpose of inducing suspected offender to accede to a particular demand for compensation, nor does s. 68 appear to contemplate any demand even by an officer empowered to accept."

AO:26 R.L.A.'s opinion on powers conferred by s. 68 :-

The principles given below consisting of paragraphs 7 to 14 of the R.L.A.'s report 1512 of 17/10/1892, are in accordance with the instructions conveyed vide preceding AO, and have the approval of Government.

Determining gravity of an offence :- The officer empowered under s. 68 should subject to the procedure laid down in the rules on the subject, satisfy themselves by correspondence as to the facts in each case. They must properly take into consideration consequential or prospective as well as actual damage in deciding whether amounts offered should, or should not be accepted as compensation for offence committed in stay of further proceedings.

Extracts from paragraphs 7 to 14 of the R.L.A.'s report 1512 of 17/10/1892

(7) "Reasons for necessity of departmental enquiries :-

One of the objects which Government evidently had in view in directing such departmental enquiry was to prevent compensation being taken in cases which a Court would treat as too trivial to call for punishment.

In other words, the departmental enquiry is deemed necessary to ascertain in each case that the offer of compensation has not been improperly induced.

(8) Regarding the extent of compensation liable to be paid: -

The Act requires no inquiry whatever. The only limit which s.68 (i) (a) imposes on officers is a pecuniary limit. The Legislature presumably considers that a man would not be likely to offer more than he would expect to lose by a judicial decision. The suspected offender is left to judge for himself as to adequacy of his offer.

(9) No pressure to be used on the part of the officer empowered: -
But, then the Legislature presupposes that no demand will be made or pressure used on the part of the officer empowered to accept compensation.

(10) The offer should be spontaneous:-
The section, in empowering acceptance by implication, requires that the offer should originate spontaneously with the person suspected.

(11) The Ideal practice :-
If in practice it could be confidently expected that suspected offenders would always be left thus entirely to exercise their own free will and judgment, there might be little cause for fear that the sums offered and accepted would be unduly penal in amount.

(12) But since this ideal freedom of will is not invariably secured in practice, the only means to guard against the exercise of pressure by subordinates seems to be to require officers empowered to accept compensation to ascertain :
(a) That appreciable damage has been done.
(b) That the offer made is not disproportionally high.

(13) Control of Forest Officers by the Executive Government :-
The Legislature have left to the Executive Government the power of supplementing the Act in the regulation and control of forest officers.

(14) Rules may be framed to check unauthorized action :-
The Act itself implies that there should be no demand or pressure on the part of forest officers. It would be unnecessary and out of place to prohibit by rules action which the Legislature has by implication left unauthorized. But it is within the legitimate scope of rules to provide procedure to guard against such unauthorized action."

AO:27 Sufficient evidence required before cases are compounded :-
(i) The operation of S. 68 requires to be carefully watched, and any tendency to have recourse to this mode of settlement in doubtful cases where the evidence would be insufficient to secure conviction before Magistrates must be promptly repressed. "Reasonable suspicion" of the commission of a forest offence is essential in every case compounded under S. 68.
(ii) If the accused is willing to compound the offence, a Razinama undertaking in the prescribed form should be obtained by the officer making an investigation.

AO:28 Rules regulating the proceedings of forest officers under section 68:-
The object which the Government has chiefly at heart is that people should be protected against the imposition of unnecessary penalties under pretext of compositions for trivial offences and against illegal detentions and undue harassment in the course of proceedings taken with a view to such compositions.
It is clear that his object can only be attained if the Dy.C.F./D.F.O. is made acquainted with the discovery of an offence at the earliest possible date and thus placed in a position to watch the course of the subsequent enquiry.
Writing of proceedings in Case diary :- Every officer making an investigation, shall be duty bound to keep the case-diary update comprising of details of action taken by him during the course of such investigation.

6.12 Offence Related Procedure

The term, 'Offence' has been defined in section 2(n) of the Code of Criminal Procedure, 1973. The term, 'forest-offence' has been specifically defined under the Indian Forest Act, 1927 in context of offences dealt under that Act. Thus, in absence of specific definition related to offence in the Acts, viz. the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980 and other Acts, the term 'offence' must be reckoned as it is defined in the Code of Criminal Procedure, 1973. Procedures for dealing such offences and officers to carry out functions and duties viz. arrest, seizure, investigation, inquiry, receiving evidence during such inquiry and investigation, compounding, confiscation, eviction, disposal of property seized in offence, filing complaint in the Court of law etc. are dealt either in the above mentioned Acts or rules made or statutory powers conferred thereunder. In absence of specific provisions in respect of any of such proceedings in any Act, provisions prescribed in the Code of Criminal Procedure, 1973 shall be applicable, as stipulated in section 4 and 5 therein. Relevant statutory provisions, which come across by forest-officers are covered in CHAPTER 3 of this Volume. Administrative functions and duties assigned to officials in Forest-Department are covered in CHAPTER 4 of the Volume I. This segment covers the general procedure for dealing in offences, for the purpose of ensuring uniformity, without any prejudice to statutory provisions.

I-FIRST REPORT

6.12.01 FIRST REPORT Book or more commonly known as POR or FOR (Preliminary Offence Report or First Offence Report) book, containing Forms in quadruplicate (in four copies), prescribed by the State Government from to time in that regard shall be maintained and furnished up to the level of forest-guards.

6.12.02 If a forest-guard detects an offence, he shall register the same in his First Report. If the knowledge of the same is obtained from an informer, the forest-guard shall proceed at once to the place, and after verifying the facts, shall make his First Report without delay. He shall thereafter, retain the first copy (Counterfoil) with himself and shall dispatch within 24 hours, the second, third and fourth copy directly to the Round Officer, Division Office and Range Office respectively.

6.12.03 If the offence is so registered by any other forest-officer, he shall ensure that authenticated copies of POR so registered, shall reach to officers, mentioned above, without any delay.

6.12.04 Forest-guard shall always carry his First Report Book with him and shall produce it for inspection on demand by his official superior.

6.12.05 The First Report shall on no account be enclosed in a packet with other papers, and the envelope containing it shall be distinctly marked as "FIRST REPORT".

II-INVESTIGATION REGISTER AND REPORT

6.12.06 Every Round Officer shall maintain an "Investigation Register" in the prescribed form and immediately on receipt of a First Report in accordance with para 6.12.02 above, or immediately after recording the offence himself as the case may be, shall fill the Entries to that effect in that Register.

6.12.07 He shall thereafter, carry out the investigation into forest-offence and submit his Investigation Report to the RFO within a period of 15 days. He shall also complete the Entries to that effect in the Investigation Register. The Round Officer shall ensure that the fullest possible investigation is made, including the drawing up of the Panchanama, obtaining undertaking in the prescribed form, if the accused person is willing to compound the

offence, the recording of statements of the accused person and witnesses concerned, if any. The accused person must always be formally asked to cite witnesses, and should he refuse to do so, it should be recorded as part of the statement.

6.12.08 No letter or statement of his own opinion is to accompany the Investigation Report. However, documents to that effect may be embodied in his Statement as a witness for the prosecution and attached to the Report.

6.12.09 The above procedure is applicable for Round officers who are entrusted with the duty to carry out Investigation under the Indian Forest Act, 1927.

6.12.10 Except for making the investigation, all other procedures mentioned above, shall be applicable to the offences under the Wild Life (Protection) Act, 1972 also. For the purpose of making investigation into offences under the Wild Life (Protection) Act, 1972, powers under section 50(8) of that Act have been conferred to the officers not below the rank of Assistant Conservator of Forests. Clauses (a) to (d) of the said sub-section empower the Investigating Officers with certain other powers also. Thus, investigation into offences under the Wild Life (Protection) Act, 1972, made by any other officer, who is not empowered u/s 50 (8) of that Act, shall not be tenable in the subsequent trial before the Court or in other proceedings before any other Authority. Notwithstanding the above, the forest-officials, below in rank to the officials empowered under section 50(8) are duty-bound to discharge duties cast upon them under sub-sections (1), (3) and (4) of section 50 of the said Act. In fact as per the express provisions contained under sub-section (5), failure in performing duties mentioned under sub-section (4), makes the person concerned guilty of an offence against the said Act.

III- RANGE OFFENCE REGISTER

6.12.11 The R.F.O. shall maintain the Range Offence Register in his Office.

6.12.12 After receiving Investigation Report as stated above, if, based on the official records or as per his own knowledge, it comes to the notice of the R.F.O. that any previous warning or conviction or reason for special punishment, which has not been recorded by the Round Officer in his Investigation Report, he shall incorporate the same in the case papers, along with corroborative documents to that effect. No addition or alteration may on any excuse be made in the Investigation Report.

6.12.13 The RFO himself is invested with the powers contained in section 72 of the Indian Forest Act, 1927,which include the powers to hold an inquiry into forest-offences and in the course of such inquiry, to receive and record evidence. Thus, so far as the offences under the Indian Forest Act, 1927 are concerned, the RFO shall exercise powers conferred to him under that Act.

6.12.14 If, in the opinion of the RFO, the investigation made by the Round Officer is complete in all respect, he shall forward the same to the Assistant Conservator of Forests / Sub-Divisional Forest Officer, forthwith, recording his remarks separately, to proceed in accordance with section 68 or section 61-A, as the case may be, of the Indian Forest Act, 1927. If, considering the merit of the case, he is of the opinion that the case deserves to be prosecuted before the Court of Law, he shall proceed to file complaint before the Court of law. In the cases recommended to the ACF / Sub DFO for confiscation proceedings, if required, the RFO shall also ensure to file complaint before the Court of law without waiting for the outcome of the confiscation proceedings. Unlike the provisions contained in the Wild Life (Protection) Act, 1972, no restrictions are stipulated in the Indian Forest Act, 1927, as to officer of which rank shall be competent to file the

Complaint in the Court of Law. Therefore, there is no bar in filing of the Complaint by a Forester or a Forest-guard. However, as an abundant precaution and in order to adequately safeguard the interests of the Government, if the Complaint is to be filed by the Forester or Forest guard, it shall always be desirable that the Draft of the Complaint must be approved beforehand by the RFO.

6.12.15 If however, in the opinion of the R.F.O. further investigation is required, he shall on no excuse return the papers to the Round Officer, but shall himself, proceed, with the least possible delay, to make such further investigation and proceed in accordance with law, by adopting procedure mentioned in para 6.12.14.

6.12.16 On the other hand, in case of offences under the Wild Life (Protection) Act, 1972, for the purposes of making investigation, to issue search warrant, to enforce the attendance of witnesses, to compel the discovery and production of documents and material objects and to receive and record evidence under section 50(8) are invested with officers not below the rank of the Assistant Conservator of Forests. Thus, offences related to the Wild Life (Protection) Act, 1972 must be dealt by the officers competent in that regard, accordingly.

IV- ACF OFFENCE REGISTER

6.12.17 The ACF has been empowered for exercising powers under sections 61-A and 68 of the Indian Forest Act, 1927 and sections 53, 54 of the Maharashtra Land Revenue Code, 1966. He shall therefore examine the case and shall pass appropriate order under the relevant Statute, depending upon the merit of the case in accordance with law and shall forthwith, forward the certified Copies of his Order to concerned Parties, the RFO and DCF / DFO. The certified copy of the order passed under section 61-A shall also be submitted to the Authority under section 61-C. The ACF shall retain and preserve the original case papers with him as they may be required during subsequent proceedings, if any, before the Revision or Appellate Authorities under above mentioned Statutes or in the proceedings before any other statutory authority. However, he shall provide certified copies of such case papers on request from the RFO concerned to that effect.

6.12.18 In respect of offences under the Wild Life (Protection) Act, 1972, after completion of the investigation, if he is of the opinion that the case deserves to be prosecuted in the Court of law, he shall, himself file the Complaint in the Court of Law or shall direct the RFO concerned to do so, under intimation to the DCF/DFO. If he considers that the matter deserves to be dealt u/s 54, he shall submit his Report to that effect to the DCF / DFO accordingly.

V- DIVISIONAL FOREST REGISTER

6.12.19 The DCF / DFO shall maintain a "Divisional Offence Register". Information about each andevery First Report, Investigation, Inquiry, Filing of Complaint, Order of Compounding, Confiscation etc. contemplated in the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980 etc. and orders passed u/s 53, 54 of the Maharashtra Land Revenue Code, 1966 and all intermediate stages as reported by the subordinate officials from time to time after registration of offences, shall be entered into this Register promptly from time to time.

6.12.20 The DCF / DFO shall ensure that the Divisional Offence Register is maintained update and all periodical reports related to offence cases are submitted to the official superiors based on this Register.

6.12.21 He shall scrupulously monitor the offence cases, in respect of which Complaints have been filed in the Court of Law and depending on the merit of the case, shall ensure that such cases are attended by the officer of appropriate seniority, who is conversant with the matter.

6.12.22 He shall also ensure that complaints are filed on time in Court of law in respect of cases, which deserve to be prosecuted in the Court of Law.

6.12.23 DCF / DFO is also empowered u/s 61 of the Indian Forest Act, 1927. However, he shall be careful while using such powers and shall communicate the Orders passed under this provision to his official superiors.

6.12.24 For removal of doubts, it is clarified that the powers under section 61-A, 68 of the Indian Forest Act, 1927 and that under section 53, 54 of the Maharashtra Land Revenue Code, 1966 have also been delegated to the DCF / DFO. Thus, while exercising such powers, DCF / DFO shall follow the same procedure as laid down in respect of the ACF.

VI-GENERAL

6.12.25 From the date of the First Report it shall be the duty of the R.F.O. and the ACF concerned (and still more of DCF / DFO) to watch the progress of the case and each of such Officers in his own jurisdiction, shall ensure that offence cases are dealt in accordance with law and without undue delay.

6.12.26 The DCF / DFO shall ensure that the decision as to an offence case under the Indian Forest Act, 1927 and / or the Wild Life (Protection) Act, 1972 is to be prosecuted before the Court of Law must be taken within a period of 60 days from the date of its detection. Cases to be dealt under section 61-A of the Indian Forest Act, 1927 and 53, 54 of the Maharashtra Land Revenue Code, 1966 must also be filed before the competent authorities under those statues within the said time limit of 60 days. He shall also ensure that Cases to be dealt under section 68 of the Indian Forest Act, 1927 or section 54 of the Wild Life (Protection) Act, 1972 must be disposed of within the same time frame.

6.12.27 So far as offences under the Forest (Conservation) Act, 1980 are concerned, the Central Government may, by notification, authorize any officer not below the rank of Conservator of Forests or the concerned forest officer having territorial jurisdiction over the forest land in respect of which the said offence is said to have been committed, to file complaints against the person(s) prima-facie found guilty of offence under the Act or the violation of the rules made thereunder in the court having jurisdiction in the matter. Accordingly, powers to file complaint in the Court have been delegated to the officers in the Regional Office of the Ministry of Environment, Forest and Climate Change under Rule 9 of the Forest (Conservation) Rules, 2003 **[Annexure 10.09]**. The DCF / DFO shall personally examine the cases in respect of offences registered under the Forest (Conservation) Act 1980. Thereafter, if he comes to the conclusion that it deserves to be prosecuted before the Court of Law, the formal proposal for filing the complaint under rule 9, complete in all respect along with authenticated copies of case papers, including authenticated English Translation (wherever required) must be submitted to his official superior within 75 days.

6.12.28 It will be noted that this procedure refers exclusively to offences under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972 and the Forest (Conservation) Act, 1980. It is on no account to be applied to offences under the I.P.C., or any other Act. Such cases shall be reported forthwith to the police or the Competent Authority under intimation to the official superiors

6.13 Revised Norms of Forest Protection

The State Government Resolution Revenue and Forests Department No. TRS-04/2014/CR-72/F-6 Dated 13th August, 2014 has issued comprehensive instructions which include the handling of forest-offences also.

[Annexure 6.07]

AO:29 Recovery of and receipts for compensation ordered under S. 68:-
Compensation should be paid in the presence of the Patel of the village concerned if possible, and one consolidated receipt should be made out showing on the front the lump sum recovered and on the back the details thereof, i.e. the sum recovered from each offender and the offenders' names.

AO:30 Employment of pleaders in Magisterial cases:-
For the Conduct of cases in Court the services of the public Prosecutor should be availed of whenever necessary: where the services of the public prosecutor are not available and the case is of sufficient importance, the conservator or the Dy.C.F./D.F.O. should take action under relevant the Rules for the Conduct of Legal Affairs of Government.

6.14 Rewards from Fines and Confiscations etc.

AO:31 Powers of officers to grant rewards in forest offence cases:-

(i) The powers of forest and revenue officers to grant rewards out of fines and the proceeds of confiscations under the Forest Act or when the punishment consists of imprisonment only are described in rule 83 of the rules under the Act and serial Nos. 4(5) and 4 (6) of the Manual of Financial powers (F. P. No. VII).

(ii) To enable him to exercise due check over such proceedings, the Conservator may require the submission of a monthly statement showing the details of the cases in which Dy.C.Fs./D.F.Os. have exercised the above powers.

AO:32 No rewards can be granted from compensation for damage: -
The proceed of fines and confiscation referred to in rule 82 do not include compensation for damage done to forest property.

AO:33 No rewards can be given out of sale proceeds of Government property:-
In the case of a conviction under the Forest Act a reward can only be paid to officers and informers out of the proceeds of any forest produce legally confiscated; and in the case of such produce being the property of Government, and therefore, not liable to confiscation under s. 55, the payment of a reward under s. 76(b) would be illegal.

AO:34 (I) Magistrate's order only necessary if amount of reward exceeds one-half :-
The order of the trying Magistrate is not necessary under rule 83 of the rules under the Forest Act to enable a reward to be granted: it is only required to allow a reward in excess of one half of the proceeds of fines and confiscations in a case to be given.

(ii) Distribution and apportionment left to departmental officers:-
The intention of the rule is that the section of the magistracy should be confined to directing, when it is thought fit, that a larger amount than one-half of the proceeds shall be paid as rewards and that distribution and apportionment of the rewards should be left to the Conservators and other officers mentioned in the rule.

AO:35 An informer should not lose a reward on account of other faults :-
If an officer has been instrumental in obtaining a conviction or discovering property, he should not lose the reward because he is deserving of penalty on some other ground.

6.15 The Secret Service Fund

The State Government vide Revenue and Forest Department letter No. TRS-12/2000/CR-566/F-6 Dated 5th February, 2013 has forwarded the Finance Department Notification No. MAAKHA-1011/CR-52/2011/Viniyam dated 22nd January, 2013 and Rules for operation of secret Service Fund.

[Annexure 6.08]

CHAPTER 7
ACQUISITION OF LANDS FOR FORESTS, SETTLEMENT AND DEMARCATION

[A] ACQUISITION OF LANDS FOR FORESTS
[S. 11 and 84, of the Indian Forest Act, 1927]

7.01 Acquisition of Lands for Forests [S.11 and 84, I.F.A.]

(I) Preface

No private properties or lands should be purchased on behalf of Government by private negotiations, nor private land occupied unauthorisedly by Government officers without recourse to the provisions of the Land Acquisition Act and except in accordance with the instructions contained in the **Manual of Land Acquisition** (see 4th edition of 1941) in which is also incorporated the Land Acquisition Act, 1894 (I OF 1894)

(R.7751 of 25.09.1905, 1161/24 of 14.10.1924 and L.C. 2096 of 30.11.1925)

(ii) Procedure to be followed in acquiring land for forests

Whenever the Forest Department proposes to take up lands for forests, the application should invariably be forwarded, in the first instance, to the Collector of the district, who should submit the matter with his opinion thereon to the Commissioner of the division. The opinion of the Collector should always be given fully.

Government look to the Collectors, who are in a better position to judge than forest officers, that in no instance, more money is given by Government for the rights of occupancy of its own land than is absolutely necessary.

(R. 1653 of 26.03.1879)

(iii) Land Acquisition Act should only be applied where absolutely necessary

It is not desirable to bring into operation the provisions of the Land Acquisition Act in order to secure land for forest, except in special cases when the immediate acquisition of the occupied land is urgently needed. It is undesirable to employ the Land Acquisition Act for the purpose of acquiring land to round off a forest block which is intended to be classified as pasture.

(F.3530 of 30.12.1887, 3950 of 21.12.1888, R.2483 of 30.03.1889 and 9019 of 16.11.1892)

(iv) Powers of Commissioner to purchase land

Commissioners are authorized to sanction purchase of lands, the inclusion of which in forest has already been approved by Government, provided there is a budget provision to meet the expenditure proposed to be incurred in each case.

(R. 1609 of 27.02.1883)

(v) Acquisition of malki land for passage of forest produce purchased by contractors

When the use of occupied land for the passage of carts carrying forest produce from the adjoining Government forests or for any other public purpose is refused by the occupant, the provision of the Land Acquisition Act I of 1894, should be applied and the land acquired either under section 6, if it is permanently required, or under section 35, if it is required for a period not exceeding 3 years. The provisions of the Act cannot be put into force unless the acquisition is on behalf, and at the expense of Government.

(R. 70/28 of 24.04.1928)

On the question whether Government through their Officers, Servants or Agents, including contractors, have a right to take their forest produce to the market through the lands of others and whether the acquisition of land to provide passage for carts carrying produce purchased by a contractor would amount to a public purpose, the R. L.A. gave the following opinion in his memo. No. O. Misc. 25 of 18th August, 1928 :-
"The Government has no right of way and cannot exercise or enforce such a right over the land surrounding forest, for the purpose of removing a forest produce. Still less has to the contractor. The only course open is to acquire the necessary land.
The collector is doubtful whether the purpose can be said to be public purpose for the acquisition of land. The point was considered before and the purpose was held to be public purpose."

(R. 70/28 of 04.09.1928)

Government concurred in the opinion expressed on the same subject by the R.L.A. in his memo No. 1622 of 12th February, 1940 which is reproduced below --
"The only question that appears to have been raised for consideration is whether there is any expeditious way of acquiring the lands temporarily for a way to transport forest materials other than that provided under section 35 of the Land Acquisition Act, 1894.
There being no provision in any existing law in force in this state, other than that contained in section 35 of the Land Acquisition Act for the purpose, the reply to question is in the negative."

(R.70/28 –II of 01.03.1940)

(vi) Principles to regulate the use of land in the possession of Government departments and disposal of such land when not required for departmental purposes :-

(a) Lands in the possession of Government departments are intended for their departmental purpose only, and when any portion of these lands ceases to be required for their purposes, it is to be surrendered for disposal to the Revenue Department as being the department in charge of all Government lands.

(b) Lands reserved or earmarked for departmental purposes but not required for their immediate use should, on their temporary relinquishment, be held by the Revenue Department in order that profitable arrangements for their temporary disposal can be made by the department. Brief notes showing the nature of the departmental use originally contemplated should be kept in the records of rights and the departments for which the lands were originally earmarked should be consulted before the lands are disposed of temporarily.

(R. 9002/24 of 03. 02. 1941)

(c) Disposal of land acquired for particular schemes of development :-
Lands which have been acquired for particular schemes of development on behalf of other departments shall be surrendered to the Revenue Department for disposal when no longer required, but the sale proceeds of such lands shall be credited to those schemes according to the classification in article 39 of the Account Code, Volume I (1st edition, 1940).

(R. 9002 /24 of 22.10.1928)

(vii) Procedure for the payment of compensation for land
For the procedure for the payment of compensation for land taken up for public purposes, under the Land Acquisition Act, see rule 110 of F. P. I and Appendix 5 thereto. For other orders on the subject see the Manual of Land Acquisition.

(viii) Forest Department to be consulted before disposal of alluvion adjacent to forest :-
Before disposing of alluvion formed adjacent to forest the Collector should in the first instance consult the Forest Department. In case of transfer of such land to that department for inclusion in forest, a notification under the I.F.A. would be necessary before the land could be treated as forest proper.

(R.5080/24 of 17.07.1926)

[B] SETTLEMENT AND DEMARCATION
[S. 3 to 25 and 29, I.F.A.]

7.02. System of Forest Settlement Adopted in the Maharashtra State

(i) Outline of settlement procedure in force in the Maharashtra State

The system of Forest settlement adopted in the Maharashtra State is as follows----

(a) The settlement work is carried on chiefly by special officers belonging to the Civil Service, who are relieved of all duties and are deputed upon forest settlement work alone.

(b) In a few cases the Assistant of Deputy Collector in revenue charge of a taluka is F.S.O. in respect of that taluka and performs the Forest Settlement work in addition to his ordinary revenue and magisterial duties.

(c) The Collector of the district is generally appointed under s. 17, I.F.A. to hear appeals from such orders as the F. S. O. in his Collectorate may pass under s. 11, 12, 15 or 16.

(d) In Collectorates, in which forest reservations have not been completed, the F. S. O. who is invariably in such cases an Assistant Collector, is appointed Demarcation as well as Settlement Officer, and it then becomes his duty to arrange, in personal communication with the forest officer in charge of the district, what lands are required to be finally maintained as forest under the Forest Act; each taluka of a Collectorate is taken up in turn and demarcated, and in this manner complete selections of lands for forest are made. Lists of these lands are prepared and the latter are entered upon the map of the taluka in distinguishing colours and a report containing among other matters the recommendations of the Demarcation officer, made in his executive capacity, as to the privileges which may be allowed in the lands when they have been constituted forests, is drawn up. These documents are then submitted to the Collector of the district, by the Demarcation Officer. If any settlement work has been completed the results are embodied in the demarcation and settlement report. The Collector criticizes the proposal and records his opinion, and the papers then pass to the Chief Conservator of Forests of the circle, who attaches his remarks and transmits all the documents to the Commissioner of the division. The Commissioner, after recording his views, submits the papers to Government for final orders. The demarcation lists comprise :-

(1) Lands already forest.
(2) Government waste land
(3) Occupied lands for alienated lands which are to be acquired :

The forest Demarcation and Settlement Officer is invested by Government with special powers for the acquisition of occupied lands. Some of these lands are purchased by payment of such compensation as the Demarcation Officer and the occupant may jointly agree to. Others are obtained by exchange, waste lands being given in their place, and sometimes the Demarcation Officer remits, for one, two or three years, the assessment upon the new lands to be given in exchange for the occupied lands to be included in forests.

(Govt. letter No.3150 of 23.04.1883 to the Government of Madras)

(ii) **Aim of administration must be to constitute forests reserved**
While it is conceivable that circumstances may exist under which, as a transitory measure, it might be preferable to declare forests to be protected, their constitution as reserved forests must be the aim of administration.

(R. 6731 of 09.09.1899)

7.03. Position of a Forest Settlement Officer

(i) **Forest Settlement Officers should submit diaries to Chief Conservator**
The F.S.O. should submit their diaries to the Chief Conservator of Forests in charge of the circle in which they are employed.

(R. 4072 of 30.05.1883)

(ii) **Position of Forest Settlement Officer in relation to Chief Conservator**
Neither F.S.O. nor their establishments are under the control of the Chief Conservator, but as he is responsible for expenditure debited to the head of forests, he should countersign the salary and travelling allowance bills of the establishments of F.S.Os. As these establishments are not subordinate to the DCFs / DFOs, bills need not be submitted through these officers.

(R. 4018 of 19.05.1885)

(iii) **Forest Settlement Officer's Position is solely that of a Judge**
However, valuable and useful suggestions and advice of the F.S.O. may be, both to the Forest Department and to the district authorities, in connection with the administration of forest lands, it is not constitutionally any part of that officer's duties to submit to the executive authorities official recommendations which relate to the executive management of forests. His position, in proceedings affecting reservation under the Forest Act, is solely that of a judge. In this capacity he has the power to determine the rights of the State and or the people in certain forest areas, to provide for the exercise of adverse rights, to regulate them or to extinguish them; and the Government would prefer, both for the administrative and financial reasons, that the official action of F. S.Os., should be confined to performance of these duties.
(G.I., Revenue and Agriculture No. 651-F of 06.06.1891, vide R. 4560 of 06.07.1891)

(iv) **Collectors and their assistants should co-operate with F.S.O.**
The collectors and their Assistants in charge of talukas are to the utmost of their powers to co-operate with the F.S.O. so as to facilitate the progress of his settlements and prevent undesirable delay in their completion.

(R. 4576 of 30.08.1879)

(v) **Forest Demarcation Officer should consult Dy.C.F./D.F.O.**
It is essential that the F.S.O. should, when preparing the demarcation scheme, work in consultation with the Dy.C.F./D.F.O.

(R. 17 of 4.01.1889)

(vi) **Duties of district officers with regard to settlement**
District officers should consider it to be their duty to bring to the notice of F.S.Os. the existence of any rights likely to be overlooked.

(R. 9305 of 24.11.1884)

7.04. Duties of a Forest Settlement Officer

(i) **Proclamation by the Forest Settlement Officer under section 6**
The proclamation by the F.S.O. under s. 6, I.F.A., for lands proposed to be constituted reserved forests under s. 4 should be as simple as possible and follow the order of the heads (I) (a), (b), (c). Under (a) the whole extent of the reserve should be indicated in

general terms, and afterwards the particular numbers taken up in each village should be specified in the proclamation for that village, under (b) the consequences appear to be those set forth in s. 23, 24 and 26.

(R. 4310 of 18.08.1879)

(ii) Proceedings under s. 7 and 11 should be full and formal

The proceedings of F.S.Os. under s. 7 and 11 should be full and formal, following the forms of procedure in civil suits. They should, of course, regard the contention of Government in reliance on the opinion of the R.L.A. simply as the case of one party to a suit.

(R. 8438 of 16.10.1885)

(iii) The extent of which rights should be enquired into

As regards inquiries by F.S.Os. into rights, it is sufficient if full and clear notice is given as required by the Forest Act. It is part of the duty of these officers to hunt up imaginary claims for decision or to put up people to making claims they never dreamt of. The F.S.O. will of course take care that no stupid, ignorant man is injured by his claims not being considered, but beyond this he is not required to go.

(R. 409 of 17.01.1883)

(iv) Rights cannot be admitted in one taluka simply because they exist in another. Privilege to be kept separate from rights

As regards privileges, a F.S.O. may make such recommendations as the circumstances seem to him to justify or necessitate, but the question of privileges must be kept entirely separate from that of rights, and no rights should be admitted except those which are satisfactorily established. It cannot be allowed that the fact that certain rights have been proved or admitted in certain talukas furnishes of itself sufficient evidence or authority to warrant a F.S.O. in ruling that those rights must be granted in other talukas. The F.S.O. is required in each case to take the facts he finds them and to admit rights only where he finds their existence proved. He cannot admit rights in one taluka simply because they have been admitted in another.

(R. 2051 of 12.03.1883)

(v) Rights of way

It is the duty of the F.S.O. to enquire into the existence of rights of way as well as any other rights, even if they are not claimed, and necessarily to define in his proceedings whether they are public or private, high roads, cart tracts or bye-paths. No right of way thus defined and admitted can be afterwards stopped without the previous sanction of the State Government and until a reasonably convenient substitute has been provided. The provisions of the Act are most distinct and careful, and Government desires that they may be most strictly followed by all officers concerned in forest settlement and management. Any vexatious and illegal interference with forest rights or rights of way in forests will be visited with the severest displeasure of Government.

(R. 3112 of 31.05.1881)

(vi) Particulars to be recorded in awarding rights of way

In awarding rights of way the following particulars should be recorded under the following distinct heads by F.S Os. :-

(a) in whom the right vests, namely (1) the general public (2) the inhabitants of any particular village or villages to be named (3) any private person or persons, to be specified by name;
(b) the nature of the right whether for men, animals or carts a roadway, cart tract or path;
(c) the width of the roadway or pathway; and
(d) whether the way is marked on the village survey map or not. When the way is so marked, it should be distinctly decided that the way will lie along the route so

marked. If for special reasons diversion is allowed, such diversion should be specified and its locality indicated as nearly as may be feasible, without actual survey.

Past cases need not be re-opened in any wholesale fashion. But when it is found that want of precision in defining a right of way has led to substantial inconvenience and serious trespass on forest reserves, the Dy.C.F./D.F.O may in his discretion move the F.S.O. to define the right of way with the accuracy required in this article, and the latter shall thereupon supplement the record with the necessary particulars. The Dy.C.F./D.F.O. may then take any action that may be required under s.25

(R.8344 of 22.08.1907)

(vii) F.S.O. should consult Chief Conservator before exchanging forest land

The F.S.O. should always consult the Chief Conservator before actually concluding any exchange of notified forest land for other land.

(R. 5888 of 21.07.1885)

(viii) (a) Various ways of commuting rights

There is no objection to commutation, where necessary by the F.S.O. of rights either by the payment of a lump sum or by a cash allowance, or by remission of Judi, or by giving land revenue free; but a cash payment would in most instances be most advisable in the interest of Government.

(R. 1190 of 09.02.1985)

(b) Proposals for afforestation under s. 20 should contain details of rights

In submitting proposals for afforestation under s. 20 it should invariably be stated whether any rights have been established over the lands proposed for afforestation and, if so, the nature of such rights should be indicated.

(R. 9434 of 30.09.1916)

7.05. Appeals against Orders passed by Forest Settlement Officer

(i) Cases in which Assistant and Deputy Collectors should appeal

The Assistant or Deputy Collector in charge of the taluka should be empowered, under s. 17 to present an appeal against any order of the F.S.O. under s. 16 which may appear to him injurious to the interest of Government land revenue, so that all such cases may be brought under the review of the Collector. To enable the Assistant or Deputy Collector to decide whether an appeal should or should not be preferred, a copy of every decision passed by the F.S.O. under s.16 should be communicated to him by that officer.

(R.1190 of 09.02.1985)

(ii) Cases in which Chief Conservator should appeal

Care should be taken that a copy of the F.S.O.'s report and of any orders passed by him under s.12 is communicated to the Chief Conservator of Forests in time to enable him to prepare an appeal under s.17 within period specified in that section, should such an appeal to be deemed expedient.

(R. 4560 of 06.08.1881)

(iii) Copy of award of rights to be supplied to Chief Conservator through Dy.C.F./D.F.O.

A copy of every award of a right against the forests, save of a right of way, in respect of any lands which may be made by a F.S.O. should be forwarded through the Dy.C.F./D.F.O. to the Chief Conservator of Forests by the F.S.O. immediately upon the award being made.

(R. 2988 of 09.04.1884 & 278 of 13.01.1890)

(iv) Pleaders (section 19)

In the margin of s.19 is the word "pleaders", which seems to show that the section refers to the appointment of Counsel by the parties. It may be assumed, as a matter of course, that the F.S.O. will consult the Forest Department in all his proceedings, and a formal permanent appointment of the forest officers, under s. 19 to appear for Government is not necessary.

(R. 4034 of 01.08.1879)

(v) Employment of District Government Pleaders in appeals

Chief Conservators of Forests are authorized to employ District Government Pleaders generally for the purpose of appeals against the orders of F.S.Os. whenever such appeals are preferred. The Chief Conservators should instruct the District Government pleaders as to the ground on which their appeals are to be based.

(R. 1048 of 04.02.1884)

(vi) Advice of Legal Remembrance to be obtained in important cases; Collector and Forest Settlement Officer should not take part in correspondence regarding appeals

In the inquiry into all important claims on which the F.S.O. will pass orders under s. 11, 12, 15 or 16 or in regard to which appeal is preferred under s.17, the forest officers who are responsible that the interests of Government are adequately represented should apply under the standing rules for the advice and assistance of the R.L.A., who will make proposals to engage counsel as he may think necessary. The Collector, who is deputed to appeals under s. 17, should not, of course, take part in these proceedings. The F.S.O., who exercises in these enquiries the powers of a Civil Court, cannot with propriety take part in communications relating to the evidence to be collected for the defence. Any decision of the executive Government against admission of forest right is simply a statement of the position which Government proposes to defend if it is assailed in the F.S.O.'s Court, and is in no way intended as an instruction to the F.S.O. in his judicial capacity. This should be obvious, but the matter is plainly stated here because it has sometimes been misunderstood.

(R. 7829 of 26.09.1885)

7.06. Notifications under the Indian Forest Act, 1927.

(i) Forms of Notifications-

All Notifications must be in the forms prescribed by the Government from time to time.

[Annexure 7.01A, 7.01B]

(ii) Names of villages should be entered in Devnagari character in draft notification

In all draft notifications relating to forests submitted to Government the correct names of the villages should be entered in the Devnagari character below the English spelling.

(R. 83 of 06.01.1883)

(iii) Mention of Survey Nos. in notifications under s.4 is not obligatory

As regards the question whether a notification under s. 4 satisfies the requirements of that section in describing the lands to be constituted reserved forest by the numbers which they formally bore, but which, as the survey has been revised, they no longer bear, it is to be observed that section 4(1) (b) requires a notification "specifying as nearly as possible the situation and limits of such land", and the limits will be sufficiently described under explanation (1) to that section by boundaries that are well known and readily intelligible. The Act does not require the survey numbers to be specified at all. That is probably the most convenient mode of description in this state, but there is no necessity for citing the numbers so long as the limits of the land are indicated in a way that the public can recognize.

The notification under s.20 is intended to be more precise as a final record of rights. This is indicated by the words "definitely according to boundary marks erected or otherwise" in the last sentence but one of that sections. It is not necessary, before issuing a notification under s.4 to wait till the materials necessary for one under s. 20 are ready.

(R.3297 of 12.05.1890)

(iv) Parts of Survey Nos. should be described in detail in notifications :-

The not uncommon entry "Part of Survey No." in schedules to notifications under the I.F.A. does not convey to intending claimants sufficiently accurate information as to the situation and limits of the land notified.

A demarcated plot in the north-west corner of the survey number; plan open to inspection in the office of the Forest Settlement Officer.

It is therefore, directed that such parts of survey numbers should be described in more detail by a remark of the kind noted in the margin, care being taken to demarcate the land and plot it on the F.S.O.'s map before the notification is submitted.

In the case of a whole survey number its situation and limits are sufficiently described by the survey number itself without further description.

(R. 8439 of 19.11.1897)

(v) Alterations in areas due to measurement need not be notified

It is not necessary to notify alterations in the areas of forest lands due to measurement by the Survey Department, it will be sufficient if the necessary corrections are made in the forest registers of the villages concerned and the alterations are taken into account in preparing the area statements appended to the forest administration reports.

(R. 4611 of 15.07.1898)

(vi) In notifying revised Survey Nos., areas need not be specified

In the notification publishing the revised survey numbers by which the lands originally notified as reserved forest under the other numbers are subsequently designated, it is not necessary to specify the area according to revision survey.

(R.3402 of 16.05.1902)

(vii) Re-notifying boundaries of forest reserves

Cases arise in which it may be desirable to publish, by means of a fresh notification, amended description of the boundaries of forest reserves already notified under s. 20 of the I.F.A. or under other forest enactments. It has been ascertained that there is no legal objection to this course, if the fresh notification provides for the substitution of the boundaries for that which was originally notified, and which, though purporting to describe the boundaries as they existed at the time, has subsequently become incorrect or proved to be open to misconstruction. The form of notification given in Form iii is considered suitable for such cases and may be employed whenever necessary. The procedure permitted in this paragraph must not be held to extend to any such alteration of the boundaries on the ground as would involve either the inclusion of new areas or the exclusion of lands which have already been notified as reserved forest. Such changes require either new settlement or, in the case of disforestation, the previous sanction of Government.

(R.5338 of 25.07.1893 and 764/33 of 13.06.1933)

(viii) Method of numbering forest areas parts of which are disforested

When parts of a forest number are disforested and the remaining forest area of the number is in consequence split into separate sub-divisions unconnected with each other, the newly formed sub-divisions should bear the number of the parent number with the addition of alphabetical letters, e.g., 80-A, 80-B, 80-C and so on.

(R.7207 of 04.01.1923)

(ix) Notification of sub-divisions of forest survey numbers

If a survey number, after being once notified as a reserved forest, is split up into sub-divisions, or if on re-measurement the area of the land is found to differ slightly from the area as originally recorded, no fresh notification is required under s. 20. Since, however, that section requires that the limits of the reserved forest should be definitely specified it is desirable that the changes should be notified whenever the numbering of the land has been changed and there is a difference in area, the form of notification being as shown in Form iv.

(R. 36/9 of 05.05.1925)

7.07. Demarcation

(i) Objective of demarcation

The work of demarcation is of primary importance not more than the interest of the Forest Department than to protect the cultivators from the oppression and hardship they must necessarily be subjected to if the restrictions essential to forest conservancy are not limited to well-defined areas.

(R.3756 of 06.08.1870)

(ii) Revenue and forest officers should be consulted in drawing up demarcation scheme

The opinion of the forest officers should be obtained in passing demarcation proposals. The Demarcation Officer should consult every local official concerned in forests or agriculture, and any differences of opinion should be placed before the Commissioner and Chief Conservator, that, if possible, unanimity may be attained before proposals are submitted to Government. The excessive bulk and complexity of forest settlement reports might thus be greatly reduced. A Dy.C.F./D.F.O. should always have an opportunity of offering his observations concerning proposals made by a F.S.O. and his remarks should be forwarded to Government with the other reports.

(R.8018 of 10.10.1884 and 1306 of 12.02.1885)

(iii) Channel of submission of demarcation proposals

Any forest demarcation proposal prepared by the Chief Conservator of Forests should be forwarded through the Collector and Commissioner, who will after such examination of them as they may deem necessary submit them to Government with their remarks.

(R.5646 of 05.08.1889)

(iv) Survey No. should not be split up to secure straight boundary

To throw up river bank forest to attain symmetry of boundary or to provide a small additional area of land for cultivation is in the opinion of Government a mistaken policy. The splitting up of survey numbers should be most carefully avoided, except in cases where owing to the very large size of the number or any other very special cause such a course is found to be absolutely necessary.

Resort should certainly not be had to it merely to secure straight and even boundary lines.

(R.641 of 24.01.1889)

7.08. Settlement and Demarcation Report

(i) Data required in the Settlement Report

The papers of a forest settlement when placed before Government should comprise :-

(a) a list of already notified reserves as they are to be retained permanently;
(b) a list of notified reserved lands which it is proposed to exclude from reserves with reasons in details, and the view of the Dy.C.F./D.F.O.;
(c) a list of new lands which it is proposed to constitute reserved forest (to be notified under s. 4) with reasons;
(d) a list of lands, if any, which it is proposed to make protected forest under s. 29, perhaps also;
(e) a list of occupied lands which it is desirable to acquire for forests; and
(f) a record of rights awarded in reserves.

The Collector should draw up a sketch plan when F.S.O. is a young officer

Where the work of forest settlement is to be done by a young officer of two or three years service, and especially when there has been previous discussion, the Collector may secure a great economy of time and labour by laying down a general plan after consulting with the Dy.C.F./D.F.O. before the Settlement Officer begins his work and indicating on the map in what localities the notified forests, chiefly seem to require enlargement, reduction or consolidation. He might also, with excellent effect, supervise and direct his Assistant's forest work and assure himself that his proceedings are guided by right principles and recorded in a clear and intelligible way.

(R.3245 of 06.06.1881)

(ii) Demarcation report should, as a rule, be also a settlement report

It is desirable, as a general rule, that a demarcation report should also be a settlement report, and still more desirable that when proposals for the forest demarcation of a taluka are submitted they should at least be accompanied by a full statement of the nature and extent of the forest privileges, of which the grant is advocated. In case where the combination of a report on the settlement with a report on the demarcation would materially delay the submission of a report for a taluka, the demarcation report should be supplied separately but in such instances the report on the demarcation should clearly state the forest privileges recommended to be given.

(R.3892 of 14.05.1885 and 5007of 19.06.1885)

(iii) Instructions for submission of settlement and demarcation reports

The following instructions to F.S.Os., Commissioners, Collectors, Assistant Collectors and Forest Officers have been laid down by Government :

(a) Interests of both agriculture and forest conservancy should be considered

No precise instructions having been issued as to the form in which proposals for the demarcation and settlement of forests should be placed before Government, the reports of the F.S.Os. are not uniform and are often less complete than is desirable. Government should be in possession of all relevant facts needed for a decision whether both the interests of agriculture and the requirements of forest conservancy have been adequately regarded and if these facts are carefully collected and arranged before the Collectors, Commissioners and Chief Conservators may form their conclusions upon them, there will be a greater probability that the revenue and forest officers will be able to submit to Government a scheme on which they are all substantially agreed.

(b) Details which the report should contain- Such a scheme should comprise facts and proposals under the following heads:-

Demarcation of the area naturally suited for reservation as reserved or protected forests; proposals for alternate closure and opening for grazing and other uses; estimate of the number of cattle for which grazing can be provided; months in which grazing is to be available; probable amount of supply of cut grass from closed reserves; history of previous uses of all land enclosed in forests under head of "old reserves", "free pasture", "assessed and unassessed waste"; review of live stock of taluka and purposes for which it is used, i.e., for the agriculturists' personal uses or for profit; grazing resources of each village which has contributed land to forests, demand of each village for grazing in forests; opinions as to proportion of free grazing and grazing on fee, with regard to the general regulations on the subject, what animals (sheep, goats, camels) are to be excluded; what privileges other than grazing are recommended; what rights are claimed and admitted; proposals for disforestment.

(c) Division of labour among the officers concerned in framing the report–

The division of labour among the officers concerned in framing the settlement proposals, and the heads under which their several tasks would fall, may be thus suggested:-

Part I The F.S.O. submits his demarcation proposals, stating the area to be constituted and maintained as reserved and protected forest. He works in consultation with the revenue and forest officers of the district, is bound to have careful regard to their criticisms on behalf of the interests they represent respectively, and is expected to submit proposals which are either unanimously approved or contain full elucidation of any conflict of opinions.

Part II The submission of a provisional scheme by the Dy.C.F./D.F.O. and Chief Conservator with illustrative map, for the utilization of the demarcated area, general plan of working, proportion and rotation of closed area where plantation and sowing will take place, stating time when it is likely to be taken up for forest uses, extent and locality of grazing land, capacity (estimated in acres per head) of the grazing land to admit cattle. The proposals should as far as possible have the concurrence of the revenue officers and should be submitted by the F.S.O. as Part II of his record. Part I and II having dealt with disposition and capacity of the forest area, Part III will deal with the popular requirements for its use. The data will be worked out by the F.S.O. thus

Part III The Forest Settlement Officer will supply –

(1) The facts as to user for grazing and other forest produce as existing before his demarcation and his proceedings under the Forest Act, respecting all the land included in the forest area. He should particularly note the area of "old reserves" included in the demarcated area, the density of forests in the old reserves, and state from what date these reserves have existed as such, and what has been practice as to grazing or other privileges in them.

*(2) Statement by villages of gairan, gurcharan or other free pasture (Set apart under s.28 L.R.C., or otherwise) included in demarcated area. (Section 22 of MLRC, 1966)

*(3) Statement by villages of unoccupied waste, assessed and unassessed, and of grazing land previously sold annually by Collector now included in demarcated area and of proceeds of such sale.

*(4) Statement by villages of any other grazing or cultivated land previously outside but now included in demarcated area e.g. occupied land bought or acquired by exchange.

[*- (2), (3) & (4) may conveniently be united in one statement, together with statistics of population, number of cattle, total area, area under cultivation, unoccupied waste, assessed and unassessed, left after demarcation.]

[Note :- By R. 2559 of 2-4-1886 and 4160 of 10-6-1886, a form of village statistical statement to accompany Forest Settlement Reports has been prescribed]

(5) The local practice as to cattle-keeping for –
- the plough,
- dairy produce,
- breeding for sale;
  also to sheep and goats;

Whether the plough-cattle are grazed on forest areas or stall-fed. If the former, in what months forest grazing is demanded and in what months the cattle are at home. If the latter, whether the plough – cattle cannot be stall-fed by grass cut and taken from closed reserves. Whether sheep, goats and camels cannot be fed outside forest area.

(6) For each village contributing land to forests :-
- The amount of grazing land in village limits not taken into forests; position of each village as to extension of cultivation; suggestions as to future use of such grazing lands as free pasture or to be sold annually by auction; quality and - where assessed-average assessment of this land.
- Analysis for each village of all grazing resources outside of forests and calculation of number of cattle which :-
  - can be provided with grazing in the village outside forests,
  - can be stall-fed on grass cut in forests,
  - must have grazing provided in forests; of which
- how many for plough and supply of milk, etc., to owners.
- how many for trade and profit.

(7) Average acreage given out for cultivation during the last ten years.

(d) Grazing scheme

It is not intended that on these statistics exact rules should be formulated by Government for the limitation of cattle to be admitted to graze in forests, as that is a matter which should be left to local arrangement according to circumstances. The facts will enable Government to judge the nature of the requirements in each case and the reasonableness of the scheme submitted, and they will also furnish the local revenue and the forest officers with a guide in shaping correctly the local regulations as to the opening of forest areas for grazing and the levy of fees.

(e) Report should be approved by both revenue and forest officers

A forest settlement scheme will be considered satisfactory only when, after full consideration of all interests, it is unanimously recommended by both the departments with a clear demonstration that it adequately provides for the wants of agriculture as well as for judicious and beneficial forest conservancy.

(iv) Report to be submitted by Commissioner in print

All forest settlement and demarcation reports, with the remarks thereon of the officers concerned, should be submitted by the Commissioners to Government in print instead of in manuscript. The appendices to the reports may be submitted in manuscript.

Number of copies to be printed :- On receipt from the Commissioner of the manuscript report the Manager, Government Central Press, should in each case, ascertain in the usual way the number of copies required for the use of Government.

The Commissioners will ascertain in each case the number of copies required by the revenue and forest officers and communicate it to the Manger, Government Central Press.

(v) Maps to accompany forest settlement reports

The maps of the Topographical Survey should be made use of in forest settlement reports and the effect of proposals indicated on them.

(vi) Village sites should be shown on the maps

In all maps sent with forest demarcation reports the different village-sites should be shown, so that their proximity to the proposed reserves might be seen at a glance.

7.09. Settlement Records

(i) Supply of forest demarcation maps to the Survey Department and correction of survey records

When any demarcation has been finally sanctioned by Government the Demarcation Officer should forward to the Revenue Survey Department, through the Chief Conservator of Forests, the copy of the village map or maps on which he has laid down the boundaries of the land included in the forest reserves showing by a distinguishing colour whether the reserve is of the first or second class; and in cases where both classes or reserves may be represented on the same map, indicating the limits of each by their respective colours. The position of the forest boundary marks should also be entered in the map.

The map should be accompanied by a statement showing in a tabular form the survey numbers, areas and assessment of such lands as have been included in the reserves. On receipt of these papers the Superintendent of Survey will make the necessary correction in the Survey Records, returning the demarcation map to the Chief Conservator. The Superintendent should, at the same time furnish the Chief Conservator with two fresh copies of the village map with the forest boundaries shown thereon. The Superintendent should make the reduction of assessment appertaining to the lands taken up for the reserves, reporting the amount to the Commissioner in view to his issuing orders for being deducted from the village accounts.

(ii) Settlement and demarcation records should remain in Collector's record room

The entire record of a Forest Settlement and Demarcation Officer, including original maps, proceedings etc., should on the completion of the work be made over to the Collector and remain in his record room. Copies of such of the maps and documents as the Commissioners consider are likely to prove useful to forest and Revenue Officers should be supplied to them.

(R.1265 of 13.02.1891 and 2165 of 24.03.1891)

(iii) Forest register should contain statement of rights and privileges and be prepared by F.S.O. :-

(a) The forest register should contain an accurate statement of all rights and privileges. It should be prepared and signed by the F.S.O. after the work of settlement and demarcation is complete. In effecting settlement when no rights are admitted an entry to that effect should be made in the forest register.

(b) Dy.C.F./D.F.O. responsible for its subsequent maintenance The forest register should be prepared in the form ix given in Annual Plan Proposal. The details for each village should commence on a separate page of the register and sufficient space should be left for subsequent additions and corrections. On completion it should be supplied to the Dy.C.F./D.F.O. concerned who will be responsible for its subsequent maintenance.

(c) Every subsequent notification or order which effects changes in the forest survey nos., areas or rights or constitutes new areas as forest or grants further rights should be inserted, immediately after its promulgation, in the forest register under the village concerned with the necessary details.

(d) A forest register for the entire circle will also be maintained in the Chief Conservator's office. On the 1st August, in each year the Dy.C.F./D.F.O. will furnish the Chief Conservator with brief particulars concerning all entries made in the divisional forest register during the preceding 12 months.

[C] BOUNDARIES AND BOUNDARY MARKS

7.10. Boundaries and Boundary Marks

(i) Demarcation of boundaries

Perfect symmetry of forest outlines and mathematical accuracy of boundary are theoretically desirable, and may be aimed at as far as is practicable, but to secure these objects it is not desirable to sacrifice any material area of forest, to exclude from reserve, plots of land of considerable size which have been included in them for years and are covered with trees and vegetation and to take from cultivation any comparatively large quantity of land on which rice or garden crops are now grown. Save when the boundary line is very irregular, and valid reasons exist rendering its rectification expedient, the conversion of pieces of land now cultivated into reserved forests, and vice versa, should not be carried out merely in order to obtain a perfectly symmetrical boundary; what are required are well defined limits, a tolerably regular boundary, and the concentration, as far as may be, of cultivation and forest respectively in considerable areas.

(R. 4565 of 13.07.1882)

(ii) Rules relating to forest boundary marks and their upkeep

(a) A special forest boundary mark is to be built at every survey mark.

(b) If the survey boundary marks are so far apart that the special forest boundary mark at them cannot be seen owing to the distance, or the physical configuration of the ground, then intermediate special forest boundary marks must be erected between the two points so as to make the line clearly visible. It shall be ensured that one on each side of the boundary pillar must be visible clearly.

(c) To avoid erecting more special forest boundary- marks than are absolutely necessary, and also to define the true line of boundary clearly, all bushes and undergrowth between two boundary marks should first be removed.

(d) This clearing should consist of cutting down only all the undergrowth that impedes the view, preventing one forest boundary-mark being seen from its neighboring one, or when crossing the boundary line at any point, two boundary marks, one on the right hand and the other on the left, should be visible.

(e) The breadth in the clearance should, in no case, exceed six feet or two paces, unless the line constitutes a fire line or the special conditions indicate the need of clearance up to a maximum limit of 12 feet.

(f) Nothing is to be cut growing outside of the true forest boundary-line.

(g) Trees on the boundary should not be cut down so long as they do not obscure the view of the boundary marks one from the other, unless for clearing a fire line.

(h) Whether there is but little to cut, the beat guard can clear the boundary-line with his own hand if his other duties permit; if not, the work should be done with as little cost to Government as possible under the special sanction of the Dy.C.F./D.F.O. in each case and subject to provision being available in the sanctioned budget in the year.

(i) But where the undergrowth is heavy the work may be undertaken at Government cost, funds being provided for it in the budget.

(j) The beat guard must, after the boundary has once been cleared, keep down all regrowth.

(iii) Specification of forest boundary marks

The Chief Conservators of Forests should prescribe the type of forest boundary marks which they consider suitable in a particular locality or country. The following general instructions are however issued for guidance :-

(a) In hilly country and also in the plains where stones are to be found in considerable quantity there shall be two classes of forest boundary-marks of the following specification:

Shape :- A truncated cone.

Description :- Built of loose stones upon an excavated foundation so that the lowest tier of stones shall be held in position and not pushed out by the weight of the superstructure, especially when the ground becomes wet and slippery. The interstices between the large stone composing the cairn are to be filled in with small stones and the outer stones are to be wedged with stone chips. A shaped stone showing a height of a least 15 inches is to be fixed firmly on the top of the cairn in the centre.

Foundation :- 15 cm. to be dug out.

Dimensions :- First class mark to have a base of 2.1 m. diameter, to be 1.5 m high and the top to be 1.2 m diameter.

Second class mark to be on the base of 1.2 m diameter, to be 1 m high and to be 0.75 m in diameter on top.

Indicator :- A cut stone showing at least 40 cm. clear of the cairn to be embedded firmly in the centre on top, the stone to be large enough for a serial number to be cut on it if required.

Colour-wash :- The stone to be color washed annually red in the case of closed forests and white in the case of open forests and lines of the same color are to appear on the top of the cairns radiating from the centre stone to show the direction of the boundary lines.

Position :- A first class boundary-mark to occupy main points and angles, such as where the boundary of a forest block, forest compartment or village may intersect the forest boundary, and where the latter may take an abrupt turn.

A second class boundary mark to occupy intermediate points.

N.B.:-

(1) The boundary marks are to be placed at visible distance one from the other, so that from any mark its neighboring one on both sides can be seen clearly.

(2) Where loose stones are not plentiful, instead of smaller cairns to occupy intermediate stations, the first class marks can be connected by a row of stones, showing 30 cm above ground placed in a single line, one guntha chain or 20 m apart which are to be coloured red or white as the case may be.

(b) In the plains where loose stones are not plentiful, the forest boundary mark may consist of truncated cone made of earth well rammed, or of sun dried bricks, or it may consist of the ordinary survey band or boundary-mark with a stone stuck on the top which will be coloured red or white as the case may be and the bands upon the forest boundary will be connected by stones showing 1 foot above ground to be color-washed red or white as the case may be.

(c) Apart from this, Principal Chief Conservator of Forests (HoFF), vide Circular No. Desk-27/CR-86/682/2019-20 dated 27th January 2020 has issued comprehensive guidelines of erection of Class-I and Class-II cement pillars along with estimates and design thereof, which shall also be used as per directions given therein.

[Annexure 7.03]

(iv) Rules for the inspection and maintenance of forest boundary marks :-

(a) The forest guard of the beat will be responsible for the maintenance and protection of all the boundary-marks in the forests of his beat, he will color wash them annually after the Diwali holidays and will make a special report of having performed this work; he will repair with his own hands and marks that may become disarranged. Each forest boundary-mark in his "beat" is to be specially inspected by the beat guard at least once every year, and a record of his inspection is to be entered in his diary.

(b) The Round officer will be responsible for the maintenance and protection of the boundary-marks in the forests of his round and he will see that they are maintained in proper repair, and colour washed by the beat guard, as directed. The Dy.C.F./D.F.O. will divide the boundaries of the forest of each round into five specified sections by villages and allot each section to a specified year in regular rotation for detailed inspection by the Round officer. The Round officer will specially inspect every forest boundary mark in the allotted section and record every inspection made in his diary. He will also submit a special report to the Dy.C.F./D.F.O. through the R.F.O. upon the state and condition of the boundary marks, forest boundaries, etc., as soon as he has completed the inspection of the boundaries of the section allotted to the year.

(c) The R.F.O. will, during the official year, inspect and specially report on the state and condition of the forest boundaries and forest boundary marks of not less than two miles of forest boundary in every "beat" in his range. A record of inspections made will be entered in his diary when they may occur.

(v) Boundary marks of interior survey need not be kept up, those outside should be annually repaired

The boundary-marks of interior survey numbers of a forest block may be allowed to fall into disrepair, the boundary-marks on the outer boundary of the outer survey numbers on the forest reserve boundaries being annually inspected and repaired.

(R. 6626 of 07.11.1877)

(vi) Prickly-pear fencing-

Prickly-pear should not be used for fencing.

(R.2169 of 07.05.1870)

(vii) Areas which should be wire-fenced

Wire-fencing should be restricted to such works as valuable operation, nurseries, protective reboisement works, depot compounds, etc. Any large expenditure upon wire-fencing of forest should be justifiable in the interest of forest conservancy.

(R.176 of 10.01.1901)

[D] FOREST SURVEYS AND MAPS

7.11. Forest Surveys and Maps

(i) Procedure to be followed in connection with forest surveys and in obtaining forest maps

The procedure described below is laid down for the guidance of forest officers in connection with forest surveys and in obtaining forest maps :-

(a) The survey of forest area is carried out as part of the topographical survey which is gradually being extended over the whole of India. The normal scale which has been adopted for the survey is one inch to 1 mile, but in certain undeveloped parts of the country, it is ½ inch to 1 mile and, in some remote and sparsely populated regions, only ¼ inch to 1 mile, while as a rare exception in the case of very fully developed industrial districts, the scale may be larger than 1 inch to 1 mile. In each case the maps are published on the scale of the survey and are obtainable by purchase or indent about a year after the survey has taken place.

(b) The ordinary topographical map is, however, not always sufficient for forest purpose, the scale may be too small and a map showing additional forest information, such as the interior boundaries of a reserve may be required or it may be necessary to make a special survey and record of a reserve boundary where it does not follow a natural feature.

When this is the case, a special survey can be carried out and a special forest map, or boundary map, prepared at the time of the topographical survey of the area in which the reserve is situated, provided (a) that the Survey of India is informed of the special forest requirements before the month of March of the year in which the topographical survey takes place and (b) that the Forest Department is prepared to pay for the cost of meeting its requirements, that is, to pay the difference between the actual cost of the survey carried out and that which would in any case have been incurred on the ordinary survey had the forests been surveyed merely to provide the ordinary topographical maps. The Forest Department will pay the whole cost of the drawing of all special maps.

(c) If a survey is considered necessary for a forest which is situated in an area that will not come under topographical survey for some years to come and it is not desirable to wait for maps until the topographical survey takes place, or if forest situated in an area which has requirements, it may be possible for the Survey of India to arrange for a special survey on any scale, provided the Forest Department is prepared to pay the entire cost of the survey and mapping.

Such special surveys of forests which cannot be carried out as part of a survey party's ordinary programme are necessarily expensive and seriously affect the normal operations of the Survey of India, so that they should only be applied for in really important cases.

(d) The departmental rules of the Forest Department and the Survey of India provide for the necessary consultations between Chief Conservators (or Addl. Principal Chief Conservators) and Superintendents of Survey Circles, so that the former are kept informed of the progress and the immediate forecasts of topographical survey programmes and the latter of the requirements of the Forest Department in regard to the surveys of forests which fall within their programme for two years ahead. The Survey of India rules also provide for the requirements of the Forest Department in regard to the forests situated within the survey programmes, and in exceptional cases, of the cost of surveys and maps that may be required by the Forest Department outside the regular survey programmes.

(e) The following rules which have been drawn up in consultation with the Surveyor General summarise the procedure to be followed in connection with the cost of forest surveys executed by the Survey of India :-

(1) Except when the Survey of India is asked to make a special survey of a forest, all forest areas will be surveyed on the scale adopted for, and at the time of the topographical survey of the region in which they are situated, and will be shown on the Survey of India topographical sheets, which can be obtained by purchase or indent about a year after the completion of the survey.

(2) When the ordinary Survey of India topographical maps do not satisfy "Forest" requirements, a special forest survey can be carried out and a special forest map prepared of any forest, or of any forest boundary, situated within the ordinary programme of the topographical survey party, provided that the Forest Department is prepared to pay for the additional costs of the work.

(3) When the survey of a forest or of a forest boundary is urgent and the forest is situated outside the ordinary topographical programme, the Surveyor General will endeavour to make special arrangement for the necessary survey and mapping, provided that the Forest Department is prepared to pay the entire cost of the survey and maps. Such special surveys outside the ordinary topographical survey programme, require the sanction of the Government of India and no application should be made for them unless they are really urgent and necessary.

(R. 5870 of 11.01.1924)

(ii) Maintenance and correction of forest maps in Chief Conservator's and Divisional offices and Forest Map office, Dehra Dun

(a) Chief Conservators and Dy.C.Fs./D.F.Os. should maintain in their offices maps of all forest areas in their jurisdictions and keep them corrected from time to time.

(b) In order that the maps in the Map office at Dehra Dun, showing the areas covered by forests in the several states, may be completed in respect to the data available upto date, a copy of all notifications and orders constituting reserved and protected forests, or modifying (by exclusion or otherwise) the boundaries of such forests, or altering administrative limits or names of divisions or circles, or introducing any other change affecting forest maps, should be forwarded by Chief Conservators, together with an indicative tracing or sketch map, direct to the officer in charge Forest Map Office, who is charged with the duty of making the necessary entries and alterations in the maps in question. A small scale map of areas added to sanctioned working plans should also be forwarded direct to that officer.

(iii) Contributions of State Governments towards the upkeep of the Forest Map office, DehraDun

In connection with the report of the Indian Retrenchment Committee, the Government of India decided on the system of recovering the proportionate cost of maintaining the Forest Map Office at Dehra Dun from the State Governments on the ground that the survey and other mapping works done by that office are almost entirely on account of latter Governments. The cost involved is accordingly distributed among the several State Governments on the basis of areas of forest, whether reserved or not, under them which were specially surveyed in each state (on a scale larger than the ordinary topographical scale of one inch to a mile) and of which forest maps have been produced. An annual contribution thus arrived at is payable by the Maharashtra Forest Department subject to such revision in this arrangement as may be determined by the Government of India in consultation with the Government of Maharashtra.

(R. 660/24 of 11.01.1926 and 30.05.1930)

(iv) Catalogue of forest-maps

The preparation of the forest map catalogue by the Forest Map Office, Dehra Dun, has been discontinued. That office will however maintain for its own use forest indexes in manuscript which are far more valuable than the old Forest Map catalogue. Relevant extracts from these manuscript indexes can be supplied on application if there is any future demand for the publication of a catalogue or index maps, the cost thereof should be borne by the State Government concerned.

(R.660/24 of 10.01.1934)

(v) Standardisation of symbols and colours used for forest maps

Symbols and colours to be used for forest maps have been standardized by the Survey of India Department and standard tables embodying them are obtainable from that Department. As decided at the meeting of the Board of Forestry held at Dehra Dun in 1934, these symbols and colours should be adopted by Working Plan Officers and Dy.C.Fs./D.F.Os. for all forest maps in future.

(R.4002 /24 of 07.07.1936)

(vi) Normal scale to be employed for forest survey maps

The normal scale for the forest maps should be one of 4 inches to the mile, but it is open to the Chief Conservator of Forests to obtain sanction at any time before a survey is taken in hand for the enhancement of the scale of 8 inches to the mile if the forests are very valuable or for the utilization of the ordinary topographical maps if the forests are of little value, full reasons being given in each case for departure from the normal practice.

(R.5307 of 7.08.1888 and 8185 of 07.12.1888)

(vii) (a) Village Maps

To be procured from the Director and Settlement Commissioner Pune on payment of the prescribed fees.

(b) Topo Sheets:--

The Director of Maharashtra and Goa Geospatial Data Centre, of the Forest Survey of India, having its office at Phule Nagar, Alandi Road, Pune provides the topo sheets of concerned area on payment of prescribed fees.

7.12 Format prescribed for maintaining the data regarding forests in possession of the Forest Department

The State Government vide Circular Circular FLD-2013/CR-6/F-3, dated 22nd January, 2014, has prescribed the Format to be used for maintaining the data regarding forests in possession of the Forest Department. The forest area in possession of the State Forest Department as on 31st March, 2020 is as under.

[Annexure 7.02]

Maharashtra State A	Forest Area with Territorial wing B	Forest Area with Forest Development Corporation of Maharashtra Limited C	Forest Area with Wildlife Wing D
	48071.14	3462.24	8977.63

Total Area with Forest Department E = (B + C + D) = (F + G + H + I)
60511.45

Reserve Forest F	Acquired Reserved Forests (Private Forests) G	Protected Forest H = (J + K)	Remaining unclassed Area not included in Reserve Forest or Protected Forest I = (L + M)
50096.01	1192.03	6494.98	2828.43

Area out of H to which section 4 of IFA, 1927 was applied but which has not been finally notified as R.F., u/s 20 **J = (N + O)**	Area out of H to which section 4 of IFA, 1927 not yet applied **K**	Area out of I to which section 4 of IFA, 1927 applied and still pending for proceedings under chapter II of IFA, 1927 **L**	Area out of I to which section 4 of IFA, 1927 not yet applied **M**
4666.29	1728.69	2010.75	817.68

Area Out of J excluded after the completion of proceedings under chapter II of IFA 1927 **N**	Area out of J in respect of which inquiry under chapter II of IFA 1927 is in progress / pending **O**
2250.90	2415.39

Note :-
1) Column B, C, D represent the Forest area under administrative control of Territorial wing, FDCM and Wildlife wing respectively, irrespective of legal status.
2) Column F, G, H, I denote the legal status irrespective of administrative control

— CHAPTER 8 —
THE MAHARASHTRA PRIVATE FORESTS (ACQUISITION) ACT, 1975

8.01 With an objective to acquire private forests in the State of Maharashtra and to provide for certain other matters, this Act was enacted by the State Legislature. Since this Act had some provisions repugnant to the Indian Forest Act, 1975, the Presidential assent was obtained as provided in Article 254 of the Constitution. It received the assent of the President on 25th August, 1975 and came into force with effect from 30th August, 1975. The Maharashtra Private Forests (Acquisition) Rules, 1975 have been notified by the State Government.

[Annexure 8.01, 8.03]

8.02 The Legal Provisions and the Chronological Developments.

Before discussing the Act, it would be appropriate to appreciate the provisions in the Indian Forest Act, 1927 (in its application to the State of Maharashtra) regarding Forests and Land not being the property of Government. Chapter V of the said Act deals with control over Forests and Land not being the property of Government. Subsequently, by way of amendment in the year 1948, section 34A was inserted through which the word 'forest' was defined for the sake of this Chapter, which is as follows-

Section 34 A Interpretation—For the purposes of the Chapter "forest" includes any land containing trees and shrubs, pasture, lands and any other land whatsoever which the State Government may, by notification in the Official Gazette, declare to be a forest. Sub-sections (1), (2) and (3) of Section 35 in the said Chapter read as under—

Section 35 Protection of forests for special purposes-

(1) The State Government may, by notification in the Official gazette, -----

(i) regulate or prohibit in forest------

(a) the breaking up or clearing of the land for cultivation;
(b) the pasturing of cattle;
(c) the firing or clearing on the vegetation;
(d) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any trees;
(e) the lopping and pollarding of trees;
(f) the cutting, sawing, conversion and removal of trees and timber; or
(g) the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest-produce or its subjection to any manufacturing process;

(ii) regulate in any forest the regeneration of forests and their protection from fire; when such regulation or prohibition appears necessary for any of the following purposes :----

(a) for the conservation of trees and forests ;
(b) for the preservation and improvement of soil or the reclamation of saline or water-logged land, the prevention of landslips or the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones, or gravel;
(c) for the improvement of grazing;
(d) for the maintenance of a water supply in springs, rivers and tanks ;
(e) for the maintenance, increase and distribution of the supply of fodder, leaf, manure, timber or fuel ;
(f) for the maintenance of reservoirs or irrigation works and hydro-electric works;
(g) for protection against storms, winds, rolling stones, floods and drought;

(h) for the protection of roads, bridges, railways and other lines of communications; and
(i) for the preservation of the public health.

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

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue by an officer authorized by the State Government in that behalf a notice to the owner of such forest calling on him to show cause within 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 an officer duly appointed in that behalf and have been considered by the State Government.

8.03. In a number of cases, Notices under Section 35(3) of the Indian Forest Act, 1927 were issued to the owners, between 1950 to1965. In some cases notices were issued till 29th August, 1975 i.e. just before a day when the Maharashtra Private Forests (Acquisition) Act, 1975 came into force. In some of the cases after providing the opportunity of being heard to the concerned, the Government issued notifications under section 35(1) of the Indian Forest Act, 1927. However in many cases after the issue of notices under section 35(3), the Notifications under Section 35(1) were not issued.

8.04. On 7th August, 1975 a bill namely, The Maharashtra Private Forests (Acquisition) Bill, 1975 (XXXIX) was introduced in the Maharashtra Legislative assembly, with an objective to acquire private forests in the state and provide for certain other matters. The Statement of Objectives and reasons mentioned following basic objectives in support of the Bill.—

i) The forest area in the state is approximately 21% of the total area, which is less than the national average and also substantially less than $33^{1/3}$ % recommended by the National Forest Policy.
ii) As per the estimation done by the Committee appointed around 1965, the extent of Private forests was approximately 8985 Sq.Km. which were in very bad state of regression.
iii) There had been a lack of fresh plantations and investments in these areas.
iv) These Private forests are disappearing due to indiscriminate fellings.
v) Many of these forests are situated on the slopes of Sahyadri and Satpuda, the preservation and rejuvenation of which is necessary to control serious soil erosion.
vi) Agricultural lands on the lower slopes are also getting eroded.
vii) Lack of fresh plantations in such private forest is also affecting the employment opportunities of tribal and other backward population.
viii) Large investment for development of private areas and pasture lands cannot also be done unless these are acquired.
ix) The taking over of private forest is aimed at to improve the socio-economic conditions of rural population and particularly of Adivasis.
x) To conserve these resources, their over exploitation, to undertake the systematic and scientific development, to develop these forests suitable for the purpose to undertake plantations through agri-silviculture.

8.05. In general the advantages to the rural population were envisaged as follows.

(a) Increase in rural employment, particularly, in the backward areas.
(b) Control of erosion of agricultural lands.
(c) Control of siltation of reservoirs leading to increased irrigation facilities and prolonging the useful life of the reservoirs.
(d) Raising the under-ground water-table which will be conducive to more irrigation.
(e) Meeting the requirements of the rural population in respect of firewood.
(f) Promote agriculture and agricultural production.
(g) Promote ecological balance in public interest.

8.06. The Act received the assent of the President on 25th August, 1975 and was published in Maharashtra Government Gazette on 29th August, 1975. It is interesting to note that within one month of its enactment, it was again amended on 1st October, 1975, whereby its Preamble was made more elaborate to incorporate the Statement of objectives and reasons in the main body of the Act. Certain provisions of this Act are reproduced for fair understanding----

Section 2(a) "appointed day" means the date on which this Act comes into force;

Section 2(d) "Forest Act" means the Indian Forest Act, 1927 in its application to the State of Maharashtra.

Section 2(f) "private forest" means any forest which is not the property of the Government and includes, --

(i) any land declared before the appointed day to be a forest under section 34 A of the Forest Act;

(ii) any forest in respect of which any notification issued under sub-section (1) of section 35 of the Forest Act, is in force immediately before the appointed day.

(iii) Any land in respect of which a notice has been issued under sub-section (3) of section 35 of the Forest Act, but excluding an area not exceeding two hectares in extent as the Collector may specify in this behalf;

(iv) Land in respect of which a notification has been issued under section 38 of the Forest Act;

(v) In a case where the state Government and any other person are jointly interested in the forest, the interest of such person in such forest;

(vi) Sites of dwelling houses constructed in such forest which are considered to be necessary for the convenient enjoyment or use of the forest and lands appurtenant thereto;

8.07. It is pertinent to mention at this point that the procedure for issuance of Notice u/s 35(3) is stipulated in sub-section (4) of section 35, which is as under-----

Section 35(5) A notice issued under sub-section (3) shall be served on the owner of such forest in the manner provided in the Code of Civil Procedure, 1908 for the service of summons and shall also be published in the manner prescribed by rules.

8.08. The then Government of Bombay, in exercise of powers conferred by section 76 of the Indian Forest Act, 1927 notified **the Indian Forest (Control Over Forest and Lands not belonging to Government) (Bombay Area) Rules, 1950** for carrying out the provisions of Chapter V of the said Act. Rule 2 is relevant which is reproduced as under—

> Rule 2. *Notices under section 35(3).*—The Conservator of Forests shall be the officers authorized to issue notices under sub-section (3) of section 35 in respect of forests situated within their respective Circles. Such notice shall be in Form 1. The notice shall be served on the owner as laid down in sub-section (5) of section 35.

Various Forms prescribed in the said Rules are appended therein.

[Annexure 8.02]

8.09. The word 'forest' used in section 2(f) for clarifying the term, 'private forest' is defined in section 2(c-i), which was inserted subsequently (not mentioned in the Bill). Thus the word 'forest' has been defined as under (Always deemed to have been inserted!) —

Section 2(c-i) "forest" means a tract of land covered with trees (whether standing, felled, found or otherwise), shrubs, bushes, or woody vegetation, whether of natural growth or planted by human agency and existing or being maintained with or without human effort, or such tract of land on which such growth is likely to have an effect on supply of timber, fuel, forest produce, or grazing facilities, or on climate, stream flow, protection of land from erosion, or other such matters and includes—

(i) land covered with stumps of trees of forest;

(ii) land which is part of a forest or lies within it or was part of a forest or was lying within a forest on the 30th day of August 1975;

(iii) such pasture land, water logged or cultivable or non-cultivable land, lying within or linked to forest, as may be declared to be forest by the State Government;

(iv) forest land held or let for purpose of agriculture or for any purposes ancillary thereto;

(v) all forest produce therein, whether standing, felled, found or otherwise;

8.10. Needless to mention that the scheme of section 2(c-i) read with section 2(f) which define the words 'forest' and 'private forest' respectively (both definitions are 'inclusive'), encompass a broad range of lands, which is not owned by the State Government.

8.11. Section 3(1) of the said Act starts with a non-obstante clause and creates a legal fiction, whereby all private forests in the State, on the appointed day shall stand acquired and vest, free from all encumbrances in the State Government and all rights, title and interest of the owner or any person other than Government subsisting in any such forest on the said day shall be deemed to have been extinguished.

> **Section 3(1)** Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom or any decree or order of any Court, Tribunal or authority or any other document, with effect on and from the appointed day, all private forests in the State shall acquired and vest, free from all encumbrances, in, and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of the State Government, all rights, title and interest of the owner or any person other than Government subsisting in any such forest on the said day shall be deemed to have been extinguished.

8.12. However, sub-section (2) is a saving clause, which reads as under:

> **Section 3(2)** Nothing contained in sub-section (1) shall apply to so much extent of land comprised in a private forest as held by an occupant or tenant and is lawfully under cultivation on the appointed day and is not in excess of the ceiling area provided by section 5 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, for the time being in force or any building or structure standing thereon or appurtenant thereto.

8.13. Sub-section (3) creates another legal fiction—

> **Section 3(3)** All private forests vested in the State Government under sub-section (1) shall be deemed to be reserved forests within the meaning of Forest Act.

8.14. Section 5 provides for taking over possession of private forests. The original and amended provisions under this section, which are as under—

Original provision	**Amended Provision** **(Deemed always to have been substituted for the original)**
5(1) Where any private forest vests in the State Government under the provisions of this Act, any person who is in possession of such forest at the time of such vesting shall immediately hand over possession thereof to the Collector or to any other officer authorised by the State Government or by the Collector in this behalf.	5(1) Where any private forest vests in the State Government under the provisions of this Act, the person authorized by the State Government or by the Collector in this behalf, shall enter into and take over possession thereof, and if any person resists the taking over of such possession, he shall without prejudice to any other action to which he may be liable, be liable to be removed by the use of such force as may be necessary.
5(2) Any person who does not hand over possession of a forest as required by sub-section (1) shall be deemed to be in unauthorized occupation of such forest, and shall be liable to be summarily evicted.	

8.15. The intention of the Legislature of taking over private forests on urgency basis is also reflected in section 22—

> **Section 22(1)** Whenever an officer authorized by the State Government in this behalf so directs, the owner of the private forest, which has vested in the State Government under the provision of this Act, shall deliver to such officer or to such other officer as may be specified in the direction, the records relating to such private forest maintained by the owner.

(2) If the owner fails, without reasonable cause, to deliver any such records, he shall, on conviction, be punished with fine which may extend to two hundred rupees and in the case of continuing failure to deliver any such records, he shall be punished with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after conviction for the first failure.

8.16. The urgency for immediate implementation of the said Act is amply reflected in the instructions issued by the State Government vide letter dated 27th August, 1975 (3 days prior to the day on which it came into force). The relevant extracts of such instructions are reproduced as under—

[Annexure 8.04]

"5. Basically, it would be observed that on the morning of the 30th instt., the private forests as defined in the Act would become vested in the State Government as reserved forests. The Range Forest Officers and the Divisional Forest Officers having jurisdiction over the area in which the private forests are located will accordingly enter on the private forests as if they were reserved under the Indian Forest Act and exercise all powers and functions in respect thereof as if they were free from any private rights, title and interest of anybody. They will thus prevent the exploitation thereof and prohibit the removal of forest produce thereon in the same manner as they do for reserved forests in which there are no private interests."

6. "------swift action will be necessary to summarily evict all those who do not handover the possession of the private forests to the Range Forests Officers. The Sub Divisional Forest Officers in charge of the Akkalkuwa Taluka, the Surgana Taluka and Shahuwadi sub division will therefore, have to be extra vigilant in ensuring that as far as possible notices of summary enquiry are issued immediately, hearing fixed the next day, orders passed preferably the same if justified, minimum time say 24 hours, given to them to vacate the land and the Jagirdars or Chieftons or any other unauthorized persons immediately evicted from the land.----"

At the same time, it was also clarified in para 10 of the letter that—

"-----The intention of the Government in making this provision is to ensure that small isolated areas in respect whereof notification under section 35 (3) of the Forest Act are issued and also those areas reasonably required by the cultivators for rab or for grazing are excluded from vesting particularly in case of small holders. Government desires that small holders should not be inconvenienced in respect of the lands genuinely and reasonably required for grazing or for rab."

8.17. To settle the disputes as to whether or not a forest is a private forest or whether or not any private forest or portion thereof has vested in the State Government, provisions are laid down in section 6 of the said Act—

Section 6 Where any question arises as to whether or not any forest is a private forest, or whether or not any private forest or portion thereof has vested in the State Government or whether or not any dwelling house constructed in a forest stands acquired under this Act, the Collector shall decide the question, and the decision of the Collector shall, subject to the decision of the Tribunal in appeal which may be preferred to the Tribunal within sixty days from the date of the decision of the Collector, or the order of the State Government under section 18, be final.

8.18. As transpires from the preamble of the Act, it is abundantly clear that the very intention of the Legislature was to acquire the private forests as an endeavors to increase the forest cover. Needless to mention that this was intended to be achieved by acquiring and vesting larger chunk of private forests without causing inconvenience to the small land holders or the land lawfully under cultivation on the appointed day. The in-built mechanisms under section 2(f) (iii) and 3(2) in the Act, and reiterated by the Government in its letter dated 27th August, 1975 leave no ambiguity on that count.

8.19. However, circumstances lead to inconvenience to the small land holders also. Within less than 3 years of the promulgation of the Maharashtra Private Forests (Acquisition) Act, 1975, the State Government came up with an Ordinance to make certain amendments in the Principal Act. The Statement of the Objectives of the said Ordinance reads as under—

> "------The data collected by the study teams appointed by the Government has revealed that in the villages surveyed by them until recently, nearly ninety percent of the persons affected by the implementation of the Act are small farmers having less than twelve hectares of land and some of the affected farmers are even rendered landless. In order to alleviate the genuine grievances of small farmers, it is proposed to amend the Maharashtra Private Forests (Acquisition) Act, 1975 by this Ordinance, to provide that in the case of owners of private forests (other than those whose lands were used for extracting minor minerals such as stone quarries), whose total holdings of lands became less than twelve hectares on the appointed day, that is, 30th August, 1975, the date on which the said Act came into force, on account of acquisition of their forest lands there under or whose total holding of lands was already less than twelve hectares on the day immediately preceding the said day, the whole or the appropriate portion of their forest lands so acquired shall be restored to, and re-vested in, them, so that their total holdings of lands may be twelve hectares or less, as the case may be, and they may be able to continue to earn their livelihood from such lands. On restoration of their lands to such farmers the lands shall cease to be reserved forests and the original encumbrances thereon lawfully subsisting immediately prior to their vesting in Government shall stand revived. The owner of the private forest will have to repay to the State Government the amount payable to him under section 7 of the Act in respect of the land restored to the holders of the encumbrances. ----------"
>
> "It is also proposed to provide that the provisions of section 34A, 35, 36, 36A, 36B, 36C and 37 of the Indian Forest Act 1927, shall be deemed to have been re-enacted and be deemed always to have been in force and applicable in respect of such lands, as if they had not been repealed in their application to this State by the Maharashtra Private Forests (Acquisition) Act, 1975."
>
> "As both Houses of the State are not in session and immediate action is required to mitigate the hardship caused to the small farmers, this ordinance is promulgated."

Thus, promulgation of an Ordinance for restoring certain portion of private forests, clearly shows that the State Government, by that time was fully convinced that the provisions of the Act did cause inconvenience to the small land holders.

8.20. In Accordance with the said ordinance, Section 22 A was inserted through an amendment whereby provisions were laid down for restoration of forest land to owner in certain circumstances. Section 22 A again starts with a non-obstante clause----

> **Section 22A(1)** Notwithstanding anything contained in the foregoing provisions of this Act, if, on an application made by any owner of private forest, within a period of six months from the date of commencement of the Maharashtra Private Forests (Acquisition) Act, 1978, or suo motu at any time, the Collector, after holding such inquiry as he deems fit, is satisfied that the total holding of land of such owner became less than twelve hectares on the appointed day on account of acquisition of his forest land under this Act or that the total holding of land of such owner was already less than twelve hectares on the day immediately preceding the appointed day, the Collector shall determine whether the whole of the forest land acquired from such owner or what portion thereof shall be restored to him, so, however that his total holding of land, on appointed day, shall not exceed twelve hectares.
>
> **Section 22A(2)** After the Collector has determined the area and situation of the land to be restored to any owner of private forest, the Collector shall make an order, that with effect from the date of his order, the land specified therein, which was acquired and vested in State Government, shall cease to be a reserve forest within the meaning of the Forest Act, be deemed to have been re-granted to the owner and shall be re-vested in him, subject, however, to all encumbrances, if any, lawfully subsisting on the day immediately preceding the appointed day, which shall stand revived. Possession of the land so restored shall be given by the Collector to the owner, as far as may be practicable under the circumstances, within a period of one month from the date of the order.

8.21. By the same amendment, section 24 of the principal Act was re-numbered as 24 (1) as follows— **Section 24(1)** On and from the appointed day, sections 34A, 35, 36, 36A, 36B, 36C and 37 of the Forest Act shall stand repealed.
and another sub-section (2) was added with a non-obstante clause and created another legal fiction as follows----

> (2) Notwithstanding anything contained in sub-section (1), on and from the date of commencement of the Maharashtra Private Forests (Acquisition) (Amendment) Act, 1978, sections 34A, 35, 36, 36A, 36B, 36C and 37 of the Forest Act, shall, in respect of lands restored under section 22 A, be deemed to have been re-enacted in the same form and be deemed always to have been in force and applicable in respect of such lands, as if they had been not repealed.

8.22. Now, if a land is restored u/s 22A, then from the date of order of restoration, it ceases to be a reserve forest and re-vests to the owner and shall be re-vested in him and provisions of section 34 (A), 35, 36, 36(A), 36(B), 36(C) and 37 will be applicable to it, by virtue of section 24 (2). Nevertheless, by virtue of section 24(2) and due to the reason that the notice under section 35(3) was issued to the owner of forest, the status of the restored land remains as private forests.

8.23. Detailed guidelines were issued by the State Government vide Letter dated 30th January, 1978 and 25th May, 1978 for expeditious restoration. The letter dated 25th May, 1978 classified the restoration cases into two categories—

> Category-I-- Khatedars each having total holding of 12 hectares or less inclusive of acquired land, were to be dealt with simple enquiry,
> Category-II- Khatedars each having total holding more than 12 hectares inclusive of acquired land, were to be dealt with detailed procedure.

8.24. It was stipulated in the said letter that—
"2. The Collectors and the Forest Officers should ensure that the work in respect of the restoration of acquired lands to the concerned Khatedars falling under category (I) should be completed before 30th July 1978 and that to the Khatedars falling under category (II) should be completed before 31st August 1978, positively."

[Annexure 8.14]

8.25. However this deadline could never have been met. In fact in a number of cases the restoration proceedings are yet to reach their logical conclusions even after long duration thereafter.

8.26. **Effect on operation of Private Forest Act due to the Forest (Conservation) Act, 1980.--** Meanwhile, the Parliament enacted the Forest (Conservation) Act 1980, which came in force with effect from 25th October, 1980, with following provisions----

> **Section 2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose----**Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or any other authority shall make, except with the prior approval of the Central Government, any order directing,--
>
> **(i)** that any reserve forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved.
> **(ii)** That any forest land or any portion thereof may be used for any non-forest purpose.
> **(iii)** That any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government.
> **(iv)** That any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

8.27. The term 'forest' and 'forest land' occurring in the said Act have not been defined therein. However these were subsequently clarified by Hon'ble Supreme Court in the Order dated 12.12.1996 in WP 202/1995 (T.N. Godavarman v/s the Union of India and ors) as follows—

> 'The Forest (Conservation) Act 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of section 2(i) of the Forest Conservation Act. The term "forest land" occurring in Section-2, will not only include "forest" as understood in dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section-2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.'

8.28. After the promulgation of the Forest (Conservation) Act, 1980 and the clarification by the Apex Court of the word 'forest' appearing in the said Act, with following consequences-----

a) The private forests, acquired and vested under section 3(1) attained the legal status of reserved forests within the meaning of the Indian Forest Act, 1927,
b) Though the lands restored and re-granted to the owner u/s 22, no more remained as 'reserved forests', but were still private forests in view of provisions in section 24(2),
c) Even the lands upto 2 ha, which were intended to be excluded u/s 2(f) (iii), were to be construed as forests,
d) The private forests, lawfully under cultivation were not intended to be acquired and vested, but were to be construed as forests,
e) Thus, no non-forestry activity was allowed without the prior permission of the Central Government.
f) Even the Collectors who are legally empowered under the Act, to decide cases under section 6 and 22A could no more exercise their powers obtaining prior approval from the Central Government.

8.29. This legal position was from time to time clarified by the Central Government as well as the State Government. Eventually a Circular dated 16.12.2004 was issued by the State Government, whereby the procedure was laid down for the Collectors to exercise powers u/s 6 and 22A of the Maharashtra Private Forests (Acquisition) Act, 1975 as under—

[Annexure 8.29]

(a) The Collector shall prepare the proposal and submit to the Government of India for seeking approval under Section 2 of the Forest (Conservation) Act 1980, as per procedure laid down under Rule 4 of Forest (Conservation) Rules, 1981.
(b) After receiving the approval from Government of India the Collector shall issue order u/s 6 and 22A of the Maharashtra Private Forests (Acquisition) Act, 1975.

This Circular went further by directing that —

The Collectors shall also initiate proceedings for the recall / cancellation of all such certificates that they may have been issued in breach of section 2 of the Forest (Conservation) Act 1980, after the same came into force. In view of this all the orders that have been passed under Section 6 of the Maharashtra Private Forests (Acquisition) Act, 1975, will need revision and may be issued only after getting the approval from Government of India under Section 2 of the Forest (Conservation) Act, 1980.

8.30. Sale and Purchase of private forests.

As discussed above, section 22A have provisions for restoration of private forests. Section 6 deals with Settlement of disputes and stipulates as follows.—

Section 6.—Where any question arises as to whether or not any forest is a private forest, or whether or not any private forest or portion thereof has vested in the State Government or whether or not any dwelling house constructed in a forest stands acquired under this Act, the Collector shall decide the question, and the decision of the Collector shall, subject to the decision of the tribunal in appeal which may be preferred to the tribunal within sixty days from the date of the decision of the Collector, or the order of the State Government under section 18, shall be final.

8.31. Problem was encountered when references were received by the State Government raising a question, as to whether the provisions of the Forest (Conservation) Act, 1980 shall be applicable in case of sale and purchase of private forests, lawfully restored under section 22A or released under section 6 of the Maharashtra Private Forests (Acquisition) Act, 1975. The Central Government in MoEFCC vide letter dated 31st July, 2017 eventually clarified as under.----

> "The FC Act prohibits only the change in land use by the owner (Government or private) having control over the forest land. The FC Act does not prohibit the change in ownership of private forest by way of sale and transfer as per relevant provisions in the state so long there is no change in land use of forests. Any change in land use from forest to non-forest after 25.10.1980 shall be as per the provisions of the Forest (Conservation) Act, 1980"

In consonance with the said communication from the Central Government, the State Government vide Circular dated 8th December, 2017 issued detailed guidelines in this regard.

[Annexure 8.30]

8.32. Circular dated 30th September, 2019 issued by the PCCF (HoFF).

It is worth mentioning that, Hon'ble Supreme Court, vide Order dated 13.11.2000 in Writ Petition (Civil) 337/1995 (Centre for Environmental Law, WWF-I v/s the Union of India and Others) directed as follows.—

"THAT pending further orders no dereservation of Forests/Sanctuaries/National parks shall be affected."

It may therefore be seen that as per section 22A(2) of the Maharashtra Private Forests (Acquisition) Act, 1975, the consequence of the order of restoration is that the forest-land so restored, ceases to be reserved forest. Considering the fact that the subject matter of "Forests" is enumerated in the Concurrent List of the Constitution [Entry 17-A of List III in Seventh Schedule], the conjoint reading of Section 22A of the Maharashtra Private Forests (Acquisition) Act, 1975 and sub-section (i) of section 2 of the Forest (Conservation) Act, 1980 makes it clear that, on and after 25 October, 1980, the Collector shall be legally bound to obtain prior approval of the Central Government under the Forest (Conservation) Act, 1980 before passing any Order of restoration u/s. 22 A (due to which a forest-land ceases to be reserved forest). To clarify this position, the State Government had already issued Circular dated 16th December, 2004 as stated in paragraph 2.27 above. Thus, with effect on and from 25th October, 1980 no restoration order u/s 22A can be passed without obtaining prior approval of the Central Government under the Forest (Conservation) Act, 1980. Further on and from 13th November, 2000, no such order can be passed without order from the Apex Court as well as without obtaining prior approval of the Central Government under the Forest (Conservation) Act, 1980. Thus, reiterating, the directives of the State Government as mentioned above, the PCCF (HoFF), vide Circular dated 30th September, 2019 invited the attention of all concerned to take appropriate action in conformity with the statutory provisions and the directives of Hon'ble Supreme Court. The directions issued by the PCCF (HoFF) are reproduced as under.---

(a) The Collectors must take a thorough review of the orders passed u/s 22A under their territorial jurisdictions and to formally revoke all such orders, which have been passed on and after 25th October, 1980 without seeking the prior approval of the Central Government under section 2(i) of the Forest (Conservation) Act, 1980.

(b) The Collectors are also directed to submit a compliance report up to 30th November, 2019 to this Office in the following format.—

S no.	Taluka	No. and date of Restoration orders passed u/s 22A after 25.10.1980.	Name and Designation of the Authority, who has passed the order mentioned in Col 3.	Whether prior approval of the Central Government obtained before passing order mentioned in Col 3?. If yes the no. and date of the prior approval. (Copy to be enclosed)	If prior approval of Central Government not taken, then no. and date of the formal order of the Collector, revoking the order passed in Col 3. (Copy to be enclosed)
1	2	3	4	5	6

(c) In all such cases, where the restoration orders are not lawfully passed as stated in para (a) above, since the legal status of the forest-land in question remains as reserved forests, acquired and vested in the State Government free from all encumbrances, the Collectors must ensure to take back the possession of such forest-lands and hand them over to the Forest Department and correct the entries in the revenue records accordingly.

(d) The respective Disciplinary Authorities must initiate disciplinary proceedings against the concerned officers, who have passed such erroneous orders in violation of the Government Circulars under reference.

The Competent Authorities may also take appropriate decision to prosecute the concerned officers, u/s 3A of the Forest (Conservation) Act, 1980, who have passed erroneous orders by following due process of law.

[Annexure 8.31]

8.33 **Inclusion in Ninth Schedule of the Constitution**—Article 31-B was inserted through the First Amendment in the year 1951. It is reproduced as under—

> **Article 31-B. Validation of certain Acts and Regulations**—Without prejudice to the generality of the provisions contained in article 31-A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provision thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any Court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continues in force.

8.34 The Maharashtra Private Forests (Acquisition) Act, 1975 is listed at Entry No. 158 in the Ninth Schedule.

8.35 **Landmark judgments pertaining to Private forests.**

S .No	Judgments of Hon'ble Supreme Court.
1	Only issuance of Notice under section 35(3) of Indian Forest Act,1927 is sufficient. (Hon'ble Supreme Court order dated February 1, 2000 in the matter of Chintamani Gajanan Velkar v. State of Maharashtra in Civil Appeal No. 781 of 2000.)
2	The "means and includes" definition of forests in section 2(c-I) of the Maharashtra Private Forest (Acquisition) Act 1975 does not detract or take away from the primary meaning of the word 226-234"forests"- Supreme Court is in agreement with this view. (para 46&47 of the Judgment (Hon'ble Supreme Court order dated 30 January, 2014 in the matter of Godrej & Boyce Mfg. Co. Ltd. & Anr. – Vs- State of Maharashtra.)

S .No	Judgments of Hon'ble Supreme Court.
3	Hon'ble High Court order dated 13.07.2005 in w.p.no.3943/1991 and w.p.no.3196/1991 has been upheld in which Hon'ble High Court decided that the land in question which was not under cultivation is "forest" . (Hon'ble Supreme Court order dated 30 March, 2017 in the matter of Rajaram Soma Gawas & others – Vs- State of Maharashtra)
	Judgments of Hon'ble Bombay High Court.
1	Constitutional validity of the Maharashtra Private Forest (Acquisition) Act 1975 was upheld (Order dated 14 July, 1977 in the matter of Janu Chandra Waghmare And Ors. vs The State Of Maharashtra And Ors.)
2	The Collectors of the Districts are directed not to issue certificates under Section 6 of the Maharashtra Private Forest (Acquisition) Act, 1975 without obtaining prior approval of the Central Government under Section 2 of the Forest (Conservation) Act, 1980. They shall also initiate proceeding for the recall/cancellation of all such certificates that they may have issued in breach of Section 2 of the Forest (Conservation) Act, 1980 after the same came into force (Order dated 10 October 2001 in WP 2980 / 2001 in the matter of Bombay Environmental Action Group and Anr. Petitioners Versus The state of Maharashtra.)
3	" We, however , make it clear that we have not decided the question whether the said land is otherwise a private forest or a forest under any other provisions of the Forest Act or the Private Forests Act, as the case may be. The said question is kept expressly open. We have examined the issue only in the context of the applicability of the sub clause (iii) of clause (f) of the section 2 of the Private Forests Act. (Order dated 30 March, 2017 in the matter of Vimal M. Khhana & others Vs. State Maharashtra in writ petition no 13737/2016.)
4	Hon'ble Supreme Court order is binding on all the parties the State Government cannot continue to take a similar stand. The State Government therefore to take a policy decision and, if necessary, issue Government Resolution as per law laid down by Hon'ble Supreme Court in Godrej Matter. (Order dated 04 May, 2016 in the matter of Naresh Babubhai Patel and Ors. Vs. State of Maharashtra and Ors in w.p.no.2657/2016 and others.)
5	Hon'ble High Court directed that the subsequent purchasers can claim compensation being persons interested despite having no locus standi to challenge the acquisition proceedings. We do not see any similarly in the issue decided by the Hon'ble Supreme Court to the issue before u. [Order dated 27th September 2018 in the matter of Devkumar Gopaldas Agrawal and others vs State of Maharashtra and others in w.p.no.4814/2016 and others (175 clubbed matters)]

8.36 **Directives by the State Government--**Since the enactment of the Act, the State Government and Other Authorities has issued directives and advisories in the form of Notifications, Circulars and Letters, from time to time for its implementation. Prominent directives are annexed to this Manual.

[Annexure 8.04 to 8.28, 8.33]

— CHAPTER 9 —
REGION SPECIFIC FOREST LANDS IN MAHARASHTRA

[A] ZUDPI JUNGLE (NAGPUR REVENUE DIVISION)

9.01 The Background.

The revenue lands traditionally burdened with community rights eg. Grazing, burial grounds etc, colloquially called as 'Zudpi Jungle' exist in about 7000 villages six districts of Nagpur Revenue Division. Due to the association of the term 'jungle', the provisions of the Forest (Conservation) Act, 1980 apply on such lands.

9.02 'Zudup' in Marathi language connotes to shrubs and scanty growth of vegetation. In six districts of Vidarbha, namely Gondia, Bhandara, Chandrapur, Gadchiroli, Nagpur and Wardha area having shrubby vegetation is called as "Zudpi Jungle". The Zudpi lands are basically fragmented pieces of lands burdened with community rights and spread over 7000 villages in the above mentioned six districts of Nagpur Division. The legal definition of this term finds place in the Central Provinces Grazing and Nistar Act, 1948 as follows.--
"Scrub Jungle means forest growth of four years or less".

9.03 The Zudpi jungle lands, vested with Revenue Department were also used by the State Government for developing basic amenities for village communities e.g. school buildings, primary health centers, laying of water supply pipe line and construction of overhead water tanks (Elevated Storage Reservoirs or ESRs), laying of electrical poles, burial grounds, bus stops, Panchayat Bhavans. These lands were also allowed to be used by State Government for various projects e.g. construction of railway stations, post offices, telegraph offices.

9.04. Zudpi Jungle vis-à-vis Forests.-- The term 'forest' has not been defined in the Indian Forest Act, 1927. The category of forests viz. 'reserved forests' and 'protected forests' and procedure for constituting and declaring such forests have been laid down in the said Act.

9.05. Chronology of Events

Since the term "Zudpi Jungle" does not have a precise definition, both the Governments of India and Maharashtra tried to take various measures during 1970 to 1995 to resolve the problems arising out of the different interpretations. Major steps taken in this direction are chronologically mentioned below.---

9.05.01 The State Legislature of Maharashtra passed a Resolution requesting the Government of India to exempt the Zudpi Jungle land from the provisions of Forest (Conservation) Act 1980. As a result, Government of Maharashtra vide its notification dated 6/11/1987 clarified that Zudpi Jungle lands will not be covered under the provisions of Forest (Conservation) Act 1980.

9.05.02 An NGO named as the Bombay Environmental Action Group filed a Writ Petition No.2840/1998 in Bombay High Court Bench at Nagpur against the above mentioned Notification.

9.05.03 The Central Government vide letter dated 12/02/1992 clarified that Zudpi Jungle shall attract all the provisions of FC Act 1980 necessitating prior permission of the Central Government for any non-forest use of the said land.

[Annexure 9.01]

9.05.04 The sudden interpretation covering this community Nistar Lands as lands covered under FC Act 1980 was taken as a retrograde step adversely affecting the community and poor people of the six district of Vidarbha.

9.05.05 On 17/3/1994, the Government of Maharashtra withdrew its notification dated 6th November 1987.

9.05.06 As a result, for each individual case of non-forest use of zudpi lands, seeking prior approval of the Central Government under the Forest (Conservation) Act, 1980 became mandatory.

9.05.07 The terms "Forest" and "forest land" appearing in the said Act have not been defined in the Forest (Conservation) Act, 1980 also. However, Hon'ble Supreme Court vide its order dated 12.12.1996 in WP 202/1995 (T.N. Godavarman and Union of India vs. Others) clarified as under.----

"The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of section 2(i) of the Forest Conservation Act. The term "forest land" occurring in Section-2, will not only include "forest" as understood in dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section-2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.'

9.05.08 **Compliance of the order dated 12.12.1996 of Hon' Supreme Court by the Government of Maharashtra---**In pursuance to the above said orders of Hon'ble Supreme Court, the Government of Maharashtra constituted an Expert Committee, comprising of the following members—

1	Principal Chief Conservator of Forests, Maharashtra State	Chairman
2	Chief Conservator of Forests (Conservation), Maharashtra State	Member
3	Director, Social Forestry, Maharashtra State	Member
4	Settlement Commissioner and Director of Land Records, Pune	Member
5	Deputy Secretary (Revnue), Revenue and Forests Department	Member
6	Representative of Private Company indulging in raising of planation of tree species	Member
7	Representative of the NGO, Fr. Krispino Lobo of Indo-German Watershed Development Programme, Ahmednagar	Member
8	Nodal Officer in the o/o the Principal Chief Conservator of Forests	Member-Secretary

9.05.09. Based on the report of the said Expert Committee, the Government of Maharashtra filed an affidavit on 20.08.1997 before the Hon'ble Court stating the details of the areas identified in all the three categories, which could be construed as 'forests', as directed in the order dated 12.12.1996. The said affidavit is on record, para 5 of which is reproduced as under-----

"Even as we are seeking to include areas covered by the dictionary meaning of the word 'forest', in the areas already notified as forests 2680 sq. km. of zudpi lands are also included. In these, there are vast stretches which have no attributes of forest. The Government of Maharashtra has been persistently requesting the Union Government to exclude such areas from the application of the Forest (Conservation) Act, 1980. It is prayed that this Hon'ble Court may issue suitable directions to the Union Government for exclusion of such zudpi areas from the purview of the Forest (Conservation) Act, 1980.

9.05.10. Being recorded as 'Jungle' in Revenue Records, it is mandatory to obtain prior permission of Central Government (GOI) under Forest (Conservation) Act 1980, before executing any non-forestry works over Zudpi Jungle.

9.05.11. To resolve the difficulties arising out of the above situation, the Central Government vide notification dated 21/9/1998, constituted a High Power Committee, comprising of. –

Additional Inspector General of Forests, Government of India	--- Chairperson
Divisional Commissioner, Nagpur	--- Member
Joint Secretary, Government of Maharashtra	--- Member
Nodal Officer, Forest Department, Government of Maharashtra	---Member

9.05.12. The terms of reference of the above said High Powered Committee were as under.-------

i) To identify and sort out the problems of Zudpi Jungle for their future management.

ii) To examine for in depth analysis, the reports of various committees constitutes in the past on the issue of Zudpi Jungle.

iii) To oversee the survey work of Zudpi Jungle areas undertaken by Government of Maharashtra.

iv) To suggest different land uses to which the existing Zudpi Jungle areas can be categorised and maintained for future in the interest of conservation as well as development.

9.05.13. Recommendations of the High Powered Committee.--The High Powered Committee submitted its report in the year 1999 and recommended as follows.—

(i) 92,116 ha. of Zudpi Jungle, which is found to be suitable for forestry management, development and conservation should be notified as protected/reserved forest under Forest Act 1927. (16309.99 ha of this is already notified as PF/RF) .

(ii) 86,409 ha. Zudpi Jungle land, which is not suitable for forest management, as mentioned below, should be brought out of the ambit of FC Act, 1980 and be allowed for any purpose including non-forestry as decided by the Revenue Department.

a)	Land under encroachment	27,507 ha.
b)	Land already under non-forestry use	26,672 ha.
c)	Fragmented land etc.	32,230 ha.
	Total	**86,409 ha.**

(iii) Government of India should give permission under Forest (Conservation) Act to the above land 86409 ha. through a consolidated proposal without insisting on individual proposals.

(iv) Government of India should not insist on compensatory afforestation because during 1955-59, 6,55,619 ha. and in this report as per recommendation No.1 above, an area of 92116 ha. totalling to 747734 ha of all Zudpi Jungle has been taken to be forests out of a total of 923913 ha. of land which had the status of Zudpi Jungle.

(v) The area of 89768.39 ha., which has already been diverted to non-forestry purpose (upto1992) needs to be located, surveyed and proposals for its regularisation under the Forest (Conservation) Act, 1980 be sent to Government of India provided these areas cannot be put to forestry use as per principles of discussions and recommendations.

9.05.14 The break-up of total 1,78,525 ha. Zudpi Lands is given in the following Table.

Sr No	District	Total Zudpi Jungle	Zudpi lands suitable for forestry management (to be notified u/s 4)			Zudpi lands not suitable for the forestry management			
			Already notified Zudpi Jungle	Balance to be notified Zudpi Jungle	Total (4+5)	Zudpi Jungle below 3 ha.	Encroa-ched Zudpi Jungle	Zudpi Jungle under non forestry use	Total (7+8+9)
1	2	3	4	5	6	7	8	9	10
1	Nagpur	32610	0	15211	15211	6009	1381	10009	17399
2	Wardha	22621	907	10544	11451	5324	794	5049	11167
3	G'chiroli	15060	1324	6333	7657	1200	5877	326	7403
4	Bhandara Gondia	87409	14079	37499	51578	12648	12719	10465	35832
5	C'pur	20826	0	6219	6219	7049	6736	823	14608
	TOTAL	178526	16310	75806	92116	32230	27507	26672	86409

9.05.15 After a series of deliberations between Central Government and the State of Maharashtra regarding notifying the Zudpi Lands suitable for Forestry Management and diverting 86,409 ha. of Zudpi Lands not fit for Forestry Management, the Government of India vide letter dated 4/3/2014 prescribed a simplified procedure whereby the Government of Maharashtra was given liberty to submit proposals for entire taluka under different categories instead of insisting on individual proposals following are the categories prescribed under the simplified procedure.---

Category	Details
1	Diversion of 32,229 ha. of fragmented Zudpi Jungle for public purpose/public infrastructure in consolidated form using simplified procedure.
2	Encroachments (excluding commercial purposes) prior to 12/12/1996 using simplified procedure
3	Encroachments (excluding commercial purposes) post 12/12/1996 using simplified procedure
4	Non forest use (excluding commercial purposes) prior 12/12/1996 using simplified procedure.
5	Non forest use (excluding commercial purposes) post 12/12/1996 using simplified procedure.
6	Commercial purposes using regular procedure prescribed by Government of India.

9.05.16. Each proposal, excluding the proposal of category 6, was to be prepared category-wise independently for each taluka of the six districts of Nagpur, Bhandara, Gondia, Wardha, Chandrapur, Gadchiroli where Zudpi Jungle lands are located. The procedure was also prescribed in the said letter of the Government of India.

9.05.17. The State Government has notified the entire zudpi lands fit for forestry management as reported by the High Powered Committee.

9.05.18. However, because of practical difficulties in processing the proposals for diversion of fragmented areas of very small zudpi lands, as per the formats prescribed in the Forest (Conservation) Act, 1980 not much progress could have been made in respect of diversion of 86409 ha. Zudpi Lands, not suitable for Forestry Management.

9.05.19. Meanwhile, the above said practical difficulties have been brought to the notice of Central Government in the meeting held in Prime Minister Office on dated 9/4/2018. In the meeting Honorable Chief Minister, Secretary (Forests), Principal Chief Conservator of Forests (HoFF) and Director General of Forests, Government of India were present. The following decisions were taken in the meeting.

In view of the contention of Govt. of Maharashtra, that Zudpi Jungle is not a notified forest and its status remains revenue land, the diversion orders under Forest Conservation Act for such Zudpi land can include the condition 'land may be transferred to other agency department or persons only with the prior approval of the State Government instead of the current condition requiring 'prior approval of the Central Government'.

9.05.20. In continuation to the above meeting in Prime Minister Office, the meeting was held again in New Delhi on 14th May, 2018 under the chairmanship of the Director General, Forests. To suggest measures for further simplifying the procedure for the diversion of 86409 ha Zudpi Jungle unfit for forestry management, a Committee was constituted as per Government of Maharashtra letter dated 6/6/2018 as given below--

Divisional Commissioner, Nagpur	--- Chairperson
Addl. Principal Chief Conservator of Forests &Nodal Officer, Nagpur	--- Co-Chairman
Chief Conservator of Forests (Territorial) Nagpur	--- Member
Collector, Nagpur	--- Member
Deputy Conservator of Forests (Territorial) Nagpur	--- Member
Deputy Commissioner O/o Divisional Commissioner, Nagpur	--- Member Secretary

9.05.21. The said Committee submitted its report on 4/7/2018 recommending further simplification for preparing proposals for diversion of 86409 ha zudpi lands unsuitable for forestry management. It also suggested for filing an Interlocutory Application before Hon' Supreme Court with a prayer to exclude the Zudpi lands unfit for forestry management from the purview of the Forest (Conservation) Act, 1980. The said Report was accepted by the State Government and the Interlocutory Application No. 12465/2019 came to be filed before Supreme Court in the month of January, 2019 with the following prayers---

(a) Issue the directions that the 86409 ha. Zudpi Lands, unfit for Forestry Management does not come under the purview of Forest (Conservation) Act, 1980 and also does not attract the provisions of orders of 12/12/1996 issued by this Hon'ble Court in the present Writ Petition AND in light of the submissions made above, this Hon'ble Court may also be pleased

issue directions that the directions in order dated 13/11/2000 in Writ Petition No.337/1995 are also not applicable in respect of 86409 ha. Zudpi Lands, unfit for Forestry Management in the State of Maharashtra.

(b) Pass such other or further orders as may be deemed fit and proper.

9.05.22. Recommendations of the Central Empowered Committee--Hon'ble Supreme Court vide order dated 8th March, 2019 referred the matter to the Central Empowered Committee (CEC), which after holding meetings with the officials of the State Government on 26.03.2019, 25.07.2019 and 11.09.2019 has submitted its report on 22nd October 2019 with following recommendations to Hon'ble Supreme Court.----

A. permitting the Applicant, Divisional Commissioner, Nagpur to make suitable changes in the revenue records with a view to change the classification / nomenclature of the "Zudpi Jungle" lands to actual land use class/nomenclature in respect of "Zudpi Jungle" lands which have been put to non-forest use prior to 12.2.1992. However the Zudpi Jungle lands which have not been put to non-forest use prior to 12.2.1992 will attract the provisions of the Forest (Conservation) Act, 1980 and the State of Maharashtra therefore will be required to take forest clearance from MoEFCC and make payment of NPV and undertake compensatory afforestation; and

I) Transfer all section 4 notified forest lands to the Forest Department latest by 31.03.2020; and

ii) Complete the forest settlement proceedings in respect of all the Section 4 notified Zudpi Jungle lands latest by December, 2021.

B. The balance extent of Zudpi Jungle land out of 86409 ha identified as unfit for forestry management be considered for approval under FC Act, 1980 by MoEFCC only after ensuring that the possession of entire 15485.74 ha of reserve forest land in Ahmednagar District and 51,032.59 ha of reserve forest land in Sholapur District (total 66,518.33 ha) referred to in para 34 of above is transferred from the Revenue Department to the Forest Department in compliance of this Hon'ble Court order dated 22.9.2006 in IA No. 1483 of 2006.

9.05.23. Final orders of Hon'ble Supreme Court are awaited.

9.06. It is worth mentioning that the Forest Settlement Officer, Nagpur was appointed to carry out settlement in respect of zudpi lands notified u/s 4 of the Indian Forest Act, 1927. However, appreciating the fact that such zudpi lands are scattered in about seven thousand village across six districts of Nagpur Revenue Division, the State Government found that it would be impractical for the Forest Settlement Officer, Nagpur alone, who is otherwise also occupied with the task of completing settlement proceedings in respect of areas other than zudpi lands, to complete such proceedings in a reasonable frame of time. Thus, taking into consideration the administrative exigencies, the State Government vide Revenue and Forests Department Notification No. S-10/2019/CR-627/F-3 dated 21st December, 2019, modified its earlier orders of appointments of the Forest Settlement Officer Nagpur and has appointed the respective Sub-Divisional Officers to function as the Forest Settlement Officers in respect of zudpi lands.

9.07 As per the said Notifications, the details of district-wise zudpi lands in respect of which the Sub-Divisional Officers shall be functioning as the Forest Settlement Officers are tabulated as under—

Sr no.	District	Area (ha)
1	Nagpur	11564.43
2	Wardha	3881.08
3	Bhandara	5736.25
4	Gondia	22700.40
5	Chandrapur	4669.53
6	Gadchiroli	4935.92
	Total	**53487.61**

[B] FOREST VILLAGES

9.08 The Government of Maharashtra in Revenue and Forests Department Resolution No. FLD 4267/IY6 dated 22nd May, 1967 granted tenurial rights to the residents of the forest-villages and in forest-settlements held on temporary lease. However, the Forest Officers were assigned the functions of revenue officers under the Land Revenue Code as follows—

[Annexure 9.02]

	Designation	Revenue Officer whose powers were conferred to Forest officers
1.	Forest Guard	Talathi
2.	Divisional Forest Officer	Additional Collector
3.	Conservator of Forests	Additional Commissioner

Declaration of Forest-Villages/Settlements as Revenue Villages—
The State Government vide letter dated 31st December, 1972, addressed to the then Chief Conservator of Forests, Pune directed as under—

i. The work of giving pattas to Forest Villages should be completed by 31st December, 1973.
ii. The encroachments in forest area limits should be regularized
iii. Even if the area under possession of forest village exceeds the are allotted to him, it should not be treated as an encroachment but should be granted to him as per Survey records prepared by the District Inspector of Land Records.
iv. Steps to train Forest Subordinates in maintenance of Revenue Records should be taken.

The Government of Maharashtra in Revenue and Forests Department Resolution No. FLD 3675/87519/F-6 dated 24th August, 1977 issued detailed guidelines to entrust the administration to the Revenue Department. Considering the historical importance of the subject-matter, the entire GR is reproduced as under—

[Annexure 9.03]

> Forest Villages and in forest settlements were initially established in forest areas in several districts of the States apparently with the object of ensuring adequate and assured supply of labour for various forestry operation. Residents of these villages were given cultivable lands for their maintenance at a concessional rent. They were also granted privileges like nistar, grazing etc. and provided with amenities like schools, dispensaries, roads, tanks, wells, where possible. The forest Department administered these villages and the allottees of lands were not conferred with proprietary or occupancy rights over them. In the absence of occupancy rights these villagers could not avail of facilities such as loans for agricultural development. Consequently, the demand for occupancy rights was constantly made.

In May 1965, Government appointed a Committee under the Chairmanship of the then Deputy Minster (Revenue and Forests) to go into their demands. The Committee suggested, inter alia, eventual discontinuance of the forest villages. This was, however, not accepted by Government. It was ultimately by Government to create a special impartible and inalienable tenure in respect of such villages and in forest settlements and grant it to the recognized holders of the lands therein. It was also decided, inter alia that administration of these villages/ settlements should continue with the Forest Department and that the land holders in these Villages / Settlements should continue to be responsible for provision of labour on forest works and for protection of forests. (vide the Government Resolution mentioned above).

Consequently, lands under cultivation in these villages were surveyed and demarcated and areas under actual cultivation disforested and the villages declared as revenue villages. The cultivators were granted land on permanent basis on inalienable tenure and they thus got the states of occupants Class II under the Maharashtra Land Revenue Code. The Forest Officers were delegated with powers and functions of the Revenue officers for the purpose of administration of these villages.

It was observed subsequently that the Forest Department was not properly equipped to deal adequately with the revenue administration of these villages and to that extent the interest of the local residents suffered. The forest Villages also desired that the revenue administration of these villages should be entrusted to the Revenue Department so that they would not be isolated from the main stream of progress through Five Year Plans and other development schemes.

RESOLUTION :- After considering the present position of the forest villages, Government decided that the revenue administration of the forest villages should be entrusted to the Revenue Department. As such the Forest villages shall hereafter be in charge of the Revenue Department like other revenue villages. The land holders in these villages will however continue to be responsible for provision of labour on forest works and for protection of forests as hitherto. Nor should these orders be construed as justifying deforestation of any forest lands.

2. There are in all about 442 forest villages in Thana, Nasik, Dhule and Jalgaon Districts of Bombay Revenue Division, in Chandrapur, Nagpur, Wardha, Bhandara, Yeotmal, Amravati, Akola and Buldhana Districts of Nagpur Revenue Division. Each of the Villages should be annexed to the nearest convenient saza and brought under the jurisdiction of the concerned Revenue Officers. Except in Amravati, Yeotmal, Dhule, Thane and Jalgaon Districts wherein the number of these villages is comparatively large, no additional staff will be provided for the purpose of administration of these villages. For the aforesaid five Districts, 32 additional temporary posts should be created for this purpose as follows.

Additional Temporary Posts sanctioned

Sr. No.	District	N.T.	C.I.	Talathi	Junior Clerk	Peon	Total
1	Amravati	1	1	15	1	2	20
2	Yeotmal	-	-	3	-	-	3
3	Dhule	-	1	4	-	-	5
4	Thane	-	-	1	-	-	1
5	Jalgaon	-	-	3	-	-	3
	Total	1	2	26	1	2	32

The 32 additional posts an aforesaid should be created with effect from the 1st September,1977 and treated as temporary addition to the respective permanent cadres.

One temporary post of Junior Clerk which exists in North Dhulia Forest Division under the Forest Department continued under the Government Resolution, Revenue and Forests Department No. FLD/1076/124091/F-6, Dated 28th February, 1977 should be abolished with effect from the 15th September, 1977.

3. Administration of the Forest Villages will vest in the Revenue Department with effect from the 1st September, 1977. Accounts and other works for the Revenue year 1976-77 should be finalized soon by the Forest Department and the charge of the villages should be handed over along with relevant records, etc. to the concerted Revenue Officers before 1st September, 1977.

4. The Forest Officers who have been invested with the powers of and assigned the duties and functions of Revenue Officers shall cease to exercise such powers and cease to function as Revenue Officer with effect from the 1st September, 1977.

5. The concerned Conservators and Collectors should ensure time and smooth implementation of this decision of Government.

6. Expenditure on account of creation of the aforesaid 32 temporary posts should be met from the advance obtained from the contingency fund of Rs. 45,600/- (Rupees Forty Five Thousand six hundred only) sanctioned vide Government Memorandum, Finance Department No. CNF-1177/68/BUD-4, Dated 23rd August, 1977 for the period of 1st September 1977 till 30th November, 1977 and for the remaining period i.e. from 1st December 1977 onwards the expenditure should be debited to the budget head "Demand No 2-253 Dist. Administration-C-Other-Estt. (c) (i) Sub Divisional Establishment (c) (ii) Circle Officers and Circle Inspectors and (c) (iii) village officers accordingly and get from the sanctioned budget grants for the year 1977-78 and placed at the disposal of the respective Divisional commissioners.

   Accordingly total amount of Rs. 45,600/- is placed hereby as sanctioned vide Government memorandum Finance Department, referred to above at the disposal of the Commissioners of Bombay and Nagpur Divisions to meet the expenditure of the staff sanctioned above for the period from 1st September, 1977 till 30th November, 1977.

   A Token Supplementary Demand should be presented to the Legislature in the next Session to bring to its notice the above new item. The procedure laid down in Rules 6 and 12 of the Contingency Fund Rules should be carefully followed and expenditure incurred every month out of the Contingency Fund advance sanctioned should be debited to the Contingecy Fund. This expenditure should also be reported regularly to Government in Revenue and Forests Department and Finance Department and to the Accountant General, Maharashtra II, Nagpur from time to time.

   The Divisional Commissioners of Bombay and Nagpur should take prompt steps to fill in the posts sanctioned above immediately and report to Government accordingly.

7. This Government Resolution issues with the concurrence of the Finance Department vide that Department's un-official reference No. 6269 SFD, Dated 8th August-1977.

   By order and in the name of the Governor of Maharashtra.

Sd/-
A .D. Meshram
Deputy Secretary to Government

To,
The Commissioners of all Divisions
The Collectors of al Districts.

9.09 There used to be 521 forest-villages in the State of Maharashtra, out of which 448 villages having area of 62794.5 ha were converted into revenue villages prior to commencement of the Forest (Conservation) Act, 1980 and their administration was handed over to the Revenue Department in 1977.

9.10 Remaining 73 forest-villages having total area of 4073.95 ha in Akrani Taluka of Nandurbar District could not be converted and in the meantime, the Forest (Conservation) Act, 1980 came into force. Efforts were made by the State Government for conversion of these forest-villages into revenue-villages under the said Act. However this could not be materialized.

9.11 With the enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Act, 2006 and specifically provisions contained in section 3(1)(h) therein, the remaining 73 villages of Akrani Taluka were converted into revenue-villages in accordance with the directives issued in this regard by the Ministry of Tribal Affairs vide their letter dated 8th November, 2013.

[Annexure 9.04]

9.12 Eventually, Collector, Nandurbar issued necessary notifications on 15th November 2018, under section 4 of the Maharashtra Land Revenue Code, 1966 to formally declare them as revenue-villages.

[C] EKSALI LANDS

9.13 The relevant Government Resolution dated 22nd March, 1969 is reproduced as under—

[Annexure 9.05]

Forest lands leased on Eksali basis permanent grant of..

GOVERNMENT OF MAHARASHTRA,
Revenue and Forests Department,
Resolution No.FLD/1069/43178-Y
Sachivalay, Bombay-32 (BR) 22nd March, 1969.

Read :- (i) Government . Resolution, Revenue & Forests Department No. FLD/4860/25765, Dated : 3rd September, 1960.
(ii) Government . Resolution, Revenue & Forests Department No. FLD/4863/17494-Y, Dated : 21st July, 1964.
(iii) Government . Resolution, Revenue & Forests Department No. FLD/4867/70039-Y, Dated : 8th July, 1967& 31st January, 1968.
(iv) Government . Resolution, Revenue & Forests Department No. FLD/4267-I-Y, Dated : 22nd May, 1967.
(v) Government . Resolution, Revenue & Forests Department No. LND.1067-A, Dated : 21st May, 1948.
(vi) Government . Resolution, Revenue & Forests Department No. FLD-1068/201750-A, Dated : 14th January, 1969.

RESOLUTION :-

The question regarding the permanent release of Forest lands given on eksali basis was under consideration of Government. After a full examinations of this matter Governments is now pleased to issue the following instructions :-

(i) all forest lands given on eksali basis should now be released permanently for cultivation to the respective eksali lease-holders;
(ii) such of these lands as are on the border of forests should be disforested and transferred to Revenue Department for release to respective eksali lease-holders;
(iii) such of these lands as are in the midst of the forest should also be disforested and released to the respective lease holders. However the control over the lands should

remain with the Forests Department. For this purpose the forest officers should be empowered to exercise the powers of revenue officers on the lines of the orders issued in respect of forest villages and settlements vide Governments Resolution No. FLD-4267/I/Y/, Dated 22nd May 1967;

(iv) in all cases the lands should be given to the existing eksali holders on impartible and inalienable tenure as occupants class-II;

(v) the permanent grant of land to the eksali leases should be to made that the private land held by the leases as owner or tenant or both and the leased Government land to be granted to him would not together exceed one ***economic holding;**

(vi) in order to avoid a recurrence of the problem, on forest lands should hereafter be leased on eksali basis;

(vii) the residents of Forest villages and inforest settlements will continue to be governed by the orders in Government Resolution No. FLD.4267-I-Y, Dated 22nd May, 1967.

2. The extent of Forest lands which will be liable to be released in the various districts will be communicated shortly and only that much area should be permanently released in each district.

By order and in the name of Government of Maharashtra.

sd/-
(M.K. THAKUR)
Under secretary to the Government of Maharashtra
Revenue and Forests Department

* **Economic holding** is defined in the Maharashtra Land Revenue (Disposal of Govt. Lands)

Rules, 1971 as follows----
"Economic holding" means-

i. 6.47 hectares of dry crop or jirayat land or
ii. 3.24 hectares of seasonally irrigated land or paddy or rice land or
iii. 1.62 hectares of garden or perennially irrigated land.

Explanation I-Where total land held by a person consists of two or more of the aforesaid classes of lands, the area of economic holding shall be determined on the basis of 0.4047 hectares ofgarden or perennially irrigated land being equal to 0.8094 seasonally irrigated land or paddy or rice land or 1.62hectares or dry crop or jirayat land.
Explanation II- "irrigated " means irrigated by any irrigation work, whether constructed or maintained by the State Government or not.

[D] DALHI LANDS (RAIGAD DISTRICT)

9.14 Excerpts from the Bombay Forest Manual Vol. II

331. Dalhi cultivation should be restricted as much as possible.- It is most necessary, in the interests both of the public generally and of the inhabitants of the particular villages concerned, that the area of land in which Dalhi is permissible should be restricted within the narrowest possible limits, and that every effort should be made to induce the villagers to take to permanent cultivation in lieu of having resort to a method of growing crops which is rapidly destroying all timber and vegetation and converting the hill sides into masses of bare and barren rock. A continuance of the system under which villagers take plots for Dalhi here, there and wherever they might please, would in a very short time longer render any Dalhi cultivation impracticable, as all vegetation would be irretrievably destroyed.

(R.7344 of 20-10-1882)

332. Dalhi cultivation should be controlled.- It is essential that the Dalhi mode of cultivation should only be carried on under efficient supervision and control and that the injury resulting from it to forests should as far as possible be minimized.
(R 2782 of 28-4-1882)

333. Rules for Dalhi assignments in Kolaba.- The rules for the guidance of occupants of in-forest assignments (Dalhi) and duties of the headman are contained in the Forest Pass Book which has been sanctioned for adoption in the Kolaba Division.
(R.2436 of 15-4-1901, 4497 of 8-7-1903, 6163 of 7-9-1903, 6125 of 19-6-1908, 9654/28 of 20-10-1932 and 1790/33 of 1-2-1940) vide also item (iv) of A. 235 of this volume.

9.15 The relevant Government resolution dated 14th January, 1970 is reproduced as under—
[Annexure 9.06]

Dalhi Lands
Leased for cultivation-
permanent grant of-

GOVERNMENT OF MAHARASHTRA,
Revenue and Forests Department,
Resolution No.FLD.4268/27023-Y
Sachivalay, Bombay-32
Dated 14th January, 1970.

RESOLUTION :-
In Kolaba District Dalhi Lands were given out to Adiwasis for cultivation. The issue of granting Dalhi plots permanently to Adiwasis was under consideration for some time past. The total extent of Dalhi lands in Kolaba Division and Roha Sub-Division is 29,438 Acres 5 Gunthas and 12 As. (11913-1 Hectares) spread over 497 number of plots. After a full examination of this matter Government is now pleased to issue the following instructions :-

(i) All Dalhi forest lands given on eksali basis should now be released permanently for cultivation to the respective plot holders;
(ii) The right to the land should vest with the actual tenants and not to the Headman (Naik) who executes the agreement at present for the Co-cultivator.
(iii) The lands under cultivation should be surveyed and such plots as are unproductive or unfit for permanent cultivation should be resumed by the Forest Department and equivalent alternative land suitable for cultivation should be released to the respective plot holders.
(iv) Such of these lands as are on the border of forests should be disforested and transferred to Revenue Department for release to respective plot holders.
(v) Such of these lands as are in the midst of the forest should also be disforested and released to the respective plot holders. However the control over the lands should remain with the forest department. For this purpose the forest officers should be empowered to exercise the powers of Revenue officers on the lines of the orders issued in respect of forest villages and settlements vide Government Resolution No. FLD.4267/I/Y, dated 22nd May, 1967;
(vi) In all cases such lands should be given to the existing plot holders on impartible and inalienable tenure as occupants +Class II;
(vii) The permanent grant of land to the plot holders should be so made that the private land held by the plot holders as owner or tenant or both and the Government land to be granted to him would not together exceed one *economic holding;
(viii) In order to avoid a recurrence or the problem, no Dalhi forest lands should hereafter be leased.

By order and in the name of Government of Maharashtra.

sd/-
(V.S. KULKARNI)
Under secretary to Government of Maharashtra
Revenue and Forests Department

To,

The Chief Conservator of Forests, Maharashtra State, Poona.
The Commissioner Bombay Division, Bombay
The Chief Conservator of Forests, Thane Circle, Thane
The Collector of Kolaba-Alibag
The Revenue and Forests Department 'A' Brance
The Revenue and Forests Department 'W' Brance
The Divisional Forests Officer, Kolaba-Alibag
The Sub-Divisional Forests Officer, Roha-Sub-Division, roha, District Kolaba
Personal Assistant to Minister (Forests)
Personal Assistant to Deputy Minister (Forests)

* **Economic holding** is defined in the Maharashtra Land Revenue (Disposal of Govt. Lands)

Rules, 1971 as follows----

"Economic holding" means-

i. 6.47 hectares of dry crop or jirayat land or
ii. 3.24 hectares of seasonally irrigated land or paddy or rice land or
iii. 1.62 hectares of garden or perennially irrigated land.

Explanation I-Where total land held by a person consist of two or more of the aforesaid classes of lands, the area of economic holding shall be determined on the basis of 0.4047hectares of garden or perennially irrigated land being equal to 0.8094 seasonally irrigated land or paddy or rice land or 1.62hectares or dry crop or jirayat land.
Explanation II- "irrigated" means irrigated by any irrigation work, whether constructed or maintained by the State Government or not.

9.16 It may be noted that the legal status of Dali Lands is reserved forests within the meaning of the Indian Forest Act, 1927. These lands could not be disforested u/s 27 of the said Act prior to the commencement of the Forest (Conservation) Act, 1980, as per which on and from 25th October, 1980, the prior approval of the Central Government u/s 2(i) of this Act became mandatory for disforestation. Eventually, a proposal to that effect comprising an area of 8036.58 ha. was submitted in 2001 to the Central Government.

9.17 Meanwhile, the leave of Hon'ble Supreme Court also became mandatory for de-reservation of reserved forests in terms of its Order dated 13.11.2000 in WP 337/1995.

9.18 Thus, as advised by the Central Government, an Interlocutory Application No. 103 / 2007 was filed before the Apex Court, which was referred by the Court to the Central Empowered Committee.

9.19 The matter came up for hearing on 3.12.2014, when the Central Empowered Committee raised following queries—

a) Weather in light of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 State of Maharashtra will adopt alternative mode in treating the Eksali and Dali plots?
b) What is the stand/policy decision of the State on the issue (What happens to Forest (Conservation) Act, 1980 applicability)?
c) As this has huge ramification on all such lands given by the state to the private persons appropriate instruction are to be conveyed.

9.20 Eventually, the Central Empowered Committee submitted its Report to Hon'ble Supreme Court on 6th January, 2018.

[E] AGRI-SILVI PLOTS (DHULE DISTRICT)

9.21 These Plots in forest lands were made available for agricultural purposes to the people, @ 1 ha. per family, who were engaged by the Forest Department in the past for carrying out the silvicultural operations. It is for this reason, such plots are called the Agri-Silvi Plots.

9.22 These forest land could also not be disforested prior to the commencement of the Forest (Conservation) Act, 1980.

9.23 As a result, proposal under the Forest (Conservation) Act, 1980 for 1763 ha. forest land were submitted to the Central Government for consideration. The status of such proposals are as under----

Sr. No.	ID No.	Division	Plot Holders	Area (ha)	Status
1	2685	Mewasi	7	7	Proposal submitted vide GoM letter No. FLD-600/CR-400/F-10 dated 14.03.2001. Pending with GoI.
2	2508	West Dhule	98	98	GoI approved vide No. 8-39/2001/FC dated 18.06.2001.
4	1658	North Dhule	1658	1658	GoI approved conditionally vide No. 8-99/2001/FC dated 24.12.2002. However, in view of order dated 13.11.2000 of Hon'ble Supreme Court in WP 337/1995, Interlocutory Application has been filed. It is yet to be decided.
		Total	**1763**	**1763**	

[F] KUMRI CULTIVATION (KOLHAPUR CIRCLE)

9.24. Excerpts from Bombay Forest Manual Vol. II

334. Kumri to be confined to people without other means of livelihood.- Kumri is a destructive form of cultivation, since, being confined to steep hill slopes, it results in the complete erosion of the soil and the failure of the water supply during the hot season. The extension of Kumri cultivation is not approved in principle, but the people who practice it should be provided for until they can find some other means of livelihood near their homes.

(7324/24 of 19-7-1927)

335. Kumri cultivation should be combined with propagation of hirda etc.- (i) The plan of combining Kumri cultivation, where it cannot be avoided, with the propagation of "hirda" or other useful trees meets with the approval of the Bombay Government and the Government of India.
Kumri cutters have no right to trees planted by them.- (ii) Care should be taken that no reason is given to the Kumri cutters to suppose that they have any right in the trees planted by them.

(G.I. 360-F of 28-4-82, vide R. 3354 of 22-5-1882 and 5506 of 15-8-1882).

336. Rules regulating Kumri cultivation.- The following rules are to be observed for regulating the assignment of land for Kumri cultivation in districts in which that mode of cultivation is practiced

(1) The period of fallow should never be less than ten years after cultivation for two.

(2) Personal inspection should annually be made both by the Collector and the Assistant Collector with a view to ascertaining that the prescribed limits of the kumri assignment in each case have not been exceeded.

(3) Kumri assignments should never be allowed within 100 yards of streams running as late as December, and on the upper third of the slopes of hills. This rule is to be attended to as far as possible, but it is not to be rigidly adhered to, as in many cases it will not be possible to obtain land for kumri without breaking through such an order. Government do not consider it advisable to leave the duty of inspection entirely in the hands of subordinates or the officers of the Forest Department. Personal inspection by the Collector need not be insisted upon. It will suffice if the inspection is performed by his Assistants. An Assistant Collector in charge of a taluka can without any material difficulty or inconvenience manage to inspect every season the kumri assignment in a few of the comparatively limited number of villages within his charge in which kumri cultivation is carried on. Forest officers, who are generally on the spot throughout the whole year, should co-operate with the revenue officials in preventing any infringement of rules on the part of the cultivators. The assignments of land for kumri when once made must be regarded as final and at each kumri settlement it should be clearly and distinctly laid down that the settlement is final and that no further land can be granted.

[G] JIWATI LANDS (CHANDRAPUR DISTRICT)

9.25 These lands are primarily comprised in Jiwati Taluka of Chandrapur District. Certain lands were declared as reserved forests by the then Hyderabad Government under section 19 of the Hyderabad Forest Act, 1855F, vide Notification No. 260 dated 25th September, 1953 published in Hyderabad Government Gazette on 8th October, 1953. Some of such lands were put to non-forestry purpose prior to the commencement of the Forest (Conservation) Act, 1980. These are recorded as reserved forests in the respective Working Plans but could not be recorded in the revenue records. Later on, in a Writ Petition NO. 3669/2007 (Shri Ulhas Bomewar vs. State of Maharashtra and others), it was alleged that mining activities were unauthoroizedly continuing in forest lands in and around Jiwati taluka. Hon'ble Bombay High Court directed the authorities in Revenue Dpeartment and Forest Department to jointly prepare a map, clearly showing the forest lands. In compliance to these orders, Map was prepared wherein following details were shown---

Sr. No.	Category of land
1	Undisputed Forest land
2	Undisputed Revenue land
3	Undisputed private land
4	Zudpi Jungle
5	Notified forests but allotted on lease to farmers.

9.26 The last of the above categories of land, comprising of about 33,486 ha has been notified as reserved forests as per the Notification mentioned above, but were recorded as revenue lands on revenue records. The Chief Secretary, in accordance with the directives of Hon'ble High Court case in the above mentioned Writ Petition, confirmed the above said land parcels as forest-lands.

9.27 Accordingly, the State Government, vide letter dated 9th June, 2015 directed the Divisional Commissioner, Nagpur and the Collector, Chandrapur to submit the requisite proposal under the Forest (Conservation) Act, 1980 for de-reservation of 33,128 ha reserved forest area. The

Chief Secretary, in his above mentioned letter reported the matter to the Central Government and has taken a stand that the said lands need to be de-reserved and requested to issue necessary directions to the concerned.

9.28 In this regard, a meeting was held at Delhi on 21st June, 2019 when the authorities in the Ministry of Environment, Forests and Climate Change as well as the Divisional Commissioner Nagpur, Collector Chandrapur and Addl. PCCF & Nodal Officer were present. It was decided that the State Government shall take necessary action to obtain Leave of Hon'ble Supreme Court in terms of its Order dated 13.11.2000 in Writ Petition 337/1995 and then submit proposal under the Forest (Conservation) Act, 1980 to the Central Government for its prior approval. Accordingly, the State Government has directed the Divisional Commissioner to submit the necessary proposal.

[H] LANDS IN BERAR REGION OF MAHARASHTRA

[Source: Berar Land Revenue Code, 1928, CHAPTER III, para 1,2 and Rules under S. 42, regarding classification of land]

9.29 Areas in Melghat, Akola, Buldhana, Yawatmal regions of Amravati Revenue Divisions has come from the erstwhile region of Berar Province. Therefore it is important to understand the land-classification in that region, as certain lands are commonly known as per the land-classification used therein.

9.30 Excerpts from the Berar Land Revenue Code, 1928

The subject of reserved forests is, under the present Code, foreign to our discussion. In the Code differential treatment is meted out to certain areas of Melghat Taluq. To understand reasons for such a treatment, a passing reference to forest cum revenue administration of Melghat is desirable.

Under the Government of H.H. the Nizam and after assumption of management of the Assigned Districts, by the British Government, forest tract of Berar was under the administration of revenue authorities. Some time later importance of forests began to be realized. Melghat was the major block of such an area. The Divisional Forest Officer in early days acted as Assistant to the Deputy Commissioner in forest matters. Sub-Assistant Conservator held the appointment of Tahsildar. If Conservators resented any interference of the revenue authorities, the latter in return were not willing to allow the forest department, a free hand. NO distinction as forest and revenue villages was observed. Land Revenue was assessed on the yoke of oxen and it varied according to the quality of the soil and its other advantage.

Schemes on subjects of reservation of forest areas for timber and Bamboos, and for pasture land, of allowing cultivation, even after deforesting certain areas which might not be suitable for a scheme of conservancy, of settlement of land its tenure with one who broke the soil, paying due attention to the nomadic habits of the aboriginals and such as those and of allotments of village sites for residential purpose proved to be changing experiments.

2. Between the years 1883 and 1886, the Imperial Forest Department surveyed the Melghat area. The classification of reserved State Forest area was as follows—
   - A: Forests for the production of timber and fuel;
   - B: Forests as grass Reserves (Ramnas)
   - C: Forests reserved for pasturage. These were subdivided into
     - C-I: Ordinary pasturage,
     - C-II: Free grazing pasturage; and
     - C-III: Forests, within the Melghat, reserved for pasturage.

One more class was created as D. This was a temporary Class.

The area under it was to be eventually absorbed in any of the foregoing three classes or restored to the ordinary control of revenue authorities. It was thus a fluid class. These areas have, long back, been completely absorbed.

Rules under s. 42, regarding classification of land

(vide Notin. No. 3104-XII Dtd. 1-10.1929)

The classification of unoccupied unalienated land within the boundaries of a village is:---

E: Survey numbers assigned for free grazing, not included in the forest area.
F: Survey numbers assigned for village purposes other than free grazing, such as gaothan,Khalwadi, burial ground, playing fields, assessed grazing fields, land set apart for purposes of nature etc.
G: Unculturable fields not included in any of the foregoing.
H: Assessed fields available for cultivation.
I: Areas such as village sites, tanks, rivers, etc. not included in any survey number.

No land of any of these classes within half a mile of a Railway station shall be given out for cultivation. No such land shall be assigned or diverted from one class to another without previous consultation with the village body (if any) or the local residents.

Note: Classes A to D relate to Forest area.

9.31 However subsequently, the British Government, vide Notification No. 1121 dated 28th November, 1913, in exercise of powers under section 75(d) of the Indian Forest Act, 1878, as amended by Act XV of 1911, and as applied to Berar, declared that State Forests in Berar shall in feature be divided into two classes—A and C-viz:--

Class A shall comprise all forest areas hitherto notified as Class A, Division I; Class A, Division II; and Class B, and such areas as may in future be notified as Class A.

Class C shall comprise all other Reserved Forests.

[Annexure 9.07]

[I] MELGHAT FORESTS

9.32 With the assignment of districts in Berar in the year 1853, the Melghat Forests in the said region came under the administration of the British. The Governor General in Council became the administrative authority for the region, who was also empowered to make regulations, rules and laws as applicable to the Berar region. The British Resident at Hyderabad started looking after the administration of Berar on behalf of the Governor General of India. The region was inhabited by the Korkus and Gawlis who were traditional wood cutters and graziers respectively. The Melghats were wood lands and Jungles which by tradition were considered to be the property of the Governing Power. There was no concept of title over a piece of land. With the exceptions of few recorded rights of Melghat Raja, who used to own some land and used to impose tax on the timber and other forest produce, when transported out of the Melghats, no rights of any kind existed in the Melghats. In absence of due care and management, Melghat forests were subjected to injuries due to unregulated grazing and tree-cutting and fires. This was the situation when the British took over the administration of Melghat forests.

9.33 The conservancy measures were first started by the Revenue Authorities in 1858. By an administrative order of the Resident at Hyderabad in 1886, the first forest Reserve of Bairagarh was created and the area was handed over to a forest officer for management. Prior to this, the rights of the Melghat Rajas were commuted and they were granted jagirs and other benefits in other parts of the Melghat Taluq.

9.34 In 1871, the Berar Forest Rules were published in the notification no. 520, dated 25th October, 1871. As per rule 8 of these Rules, the Resident had powers to declare any Government land in Berar as 'Demarcated Forests'. As a result the Bairgarh Reserve was declared as 'Demarcated State Forests' as was published in Residency orders Notification no. 19 of 23rd October, 1874. The boundaries and area of this reserve were corrected and modified vide Notification no. 191 of 9th March, 1876, no. 14 of 28 th January 1889 and No. 16 of 1st June, 1892.

9.35 Similarly, the bulk of South-West part of the Melghats was first constituted in the name of 'Gugamal Reserve' by an administrative order of the Resident in 1876. In the year 1882, the

'Gugamal Reserve' was declared as 'Demarcated State Forests' under rule 8 of the Berar Forest Rules, 1871, vide Residency Order Notification No. 200 of 1st December, 1882. The area of this reserve was modified vide Notification No. 14, dated 28th January, 1889 and No. 167, dated 1st June, 1892. In the year 1883, 'Chikhaldara Reserve' was constituted as 'Demarcated State Forests' under rule 8 of the Berar Forest Rules, 1871. The area modification was done vide notification No. 213 of 22nd July, 1891.

9.36 In 1886, the Berar Forest Law was passed, but it was brought in force with effect from 15th June, 1892. As per section 3(3)(a) of the said Law, all forests in Berar declared as 'State Forest' under any previous provision were to be declared as 'State Forests' within the meaning of the Berar Forest Law, 1886. Exercising these provisions, all the territories of the Melghat Taluq outside Bairgarh, Guigaal and Chikhaldara State Forest and certain Jagirs and alienated villages were declared as 'Demarcated state Forests' under rule 8 of the Berar Forest Rules, 1871, vide the Residency Orders Notification No. 167 of 1st June, 1892. Consequently, when the Berar Forest Law, 1886 as amended in the year 1891 came into force on 15th June, 1892 after repealing the Berar Forest Rules, 1871, entire Melghat Taluq, except for certain Jagirs and alienated villages attained the legal status of 'State Forests'. In 1892 itself, Kohana and Hattighat Reserves were created partly from newly declared State Forests and partly from transfer of areas from old Reserves. From 1892 to 1911, the Reserves so constituted underwent several modifications due to inter-transfer of lands among such Reserves. Under section 40 (c) of the Berar Forest Law, 1886, rules were framed to classify State Forests as A-Class and C-Class and divisions I, II and III as explained in paragraph 9.31 above. The Melghat Forests were classified according to these provisions under various notifications issued in the Residency Orders in 1892 and afterwards.

9.37 In 1903, the Region of Berar was permanently leased in perpetuity to British Government against payment of annual rent. Thenceforth, the Resident at Hyderabad ceased to have control over Berar and the administration of Berar came under the direct control of British Government in the Central Provinces.

9.38 In 1905, much of the State Forests of Class C-III of the Melghat Taluq were largely depleted and cultivations replaced many of such tracts. The affected areas were those lands outside the old reserves which were declared as 'State Forests' vide Notification no. 167 of first June 1892. As a result, large areas were disforested and brought under revenue Settlement as the Dharni-Bairagarh, Katkumbh and Wastapur-Gaulkhera Rayatwadi tracts in the year 1911. The rest of the State Forests were reclassified and after some additions and subtractions of areas between these forests and already existing reserves, several new reserves of Tapti, Chitri, Bod, Jhapanadeo, Dhulghat, Dhabida, Wan, Rupagarh, Khirpani and Motha were created as Class-A Forests vide Notification No. 612 of 6th July, 1911. In addition, some area of Bairgarh and Gugamal Reserves were transferred to form a new reserve in the name of Chikhli vide Notification No. 614 of 6th July, 1911.

9.39 Vide Notification No. GIFD No. 2197-1-B dated 13th October, 1911, the Governor-General in Council, exercising powers conferred to him by the Indian (Foreign Jurisdiction) Order in Council, 1892, applied to Berar the provisions, so far as they might be applicable, of the Indian Forest Act, 1878, subject to any amendments to which the Act for the time being subject in British India. By the same Notification, it was declared that the Indian Forest Act, 1878 (VII of 1878) shall apply to all lands declared or constituted to be "State Forests" under the Berar Forest Law, 1886 or the Berar Forest Law, 1886, as amended by the Berar Forest Law Amendment Law, 1891, as if such land were reserved forests constituted under the said Act. Vide this Notification, the Berar Forest Law, 1886 and the Berar Forest Law Amendment Law, 1891, were rescinded.

9.40 The Indian Forest Act, 1878 was repealed and re-enacted in the form of the Indian Forest Act, 1927. This new Act was applied to Berar vide, Government of India, Foreign and Political

Department Notification No. 719-I, dated 13th December, 1927. The reserved forests of Melghat, within the meaning of the Indian Forest Act, 1878 were saved as per provisions of section 24 of the General Clauses Act, 1897.

9.41 In 1902, about 800 acres of land was disforested in Chikhaldara Reserve for the establishment of the Chikhaldara Civil Station. Till 1969, the Chikhaldara Civil Stateion was the only area in the demarcated Reserved Forests of the Melghat which was not reserved and which was controlled by the Revenue Authorities.

[J] FORESTS IN-CHARGE OF REVENUE DEPARTMENT

9.42 **Management of Forest with Revenue Department**—Substantial chunk of forests are still in possession of the Revenue Department. The State Government has reiterated its stand from time to time that manageable forest areas under the possession of the Revenue Department must be handed over to the Forest Department for their proper management.

9.43 As per the instructions contained in Government R & FD Circular No. LND.1076/2186/GI, Dt. 14th April 1976 read with Government R & FD Circular No. FLD-1076/110-F-3, Dt. 4th August, 1976, forest lands in-charge of the Revenue Department are to be handed over to the Forest Department. In the recent past also, the State Government has reiterated its earlier directives of 14th April, 1976 and 4th August, 1976 and has directed the Collectors to comply the said directions.

[Annexure 9.08 and 9.09]

[K] MANGROVES [KONKAN REGION]

9.44 Also known as khajan, kharfuti, mangroves play vital role in protecting the coastal eco-system. Hon'ble High Court Bombay in Writ Petition No. 3246/2004 vide order Dated 6/10/2005 issued directions regarding the protection and conservation of mangroves. Accordingly State Government issued Circular no. Misc./10/2005/C.R. 88/J-1, Dt. 21/10/2005 directing as follows.

i. There will be complete ban on destruction of mangroves in the State.
ii. Construction and dumping of wastes in the mangroves will be banned.
iii. Further Construction works around 50 meters from mangroves will be stopped irrespective of ownership.
iv. No authority will have the power to grant developmental activities in mangrove area.
v. The Maharashtra Remote Sensing Agency will prepare the high resolution map.
vi. Commissioner Land Record and Director Land Record will incorporate the information regarding mangrove areas on the respective city / village maps within 6 months of the order.
vii. After the preparation of map and completion of incorporation of the information, the mangroves on government land shall be notified as "protected forest" and those on private area shall be notified as "forest".
viii. Government area so notified as protected forest shall be handed over to Forest Department within 12 weeks from the date of notification.
ix. Mutation in the Revenue records should be done within 12 weeks from the date of notification as protected forest as "forest".
x. Till such handing over of the notified government mangrove areas, the responsibility of its protection will be with concerned Collector.

9.45 **Application of Forest (Conservation) Act, 1980 to Mangroves**

As per the Hon'ble High Court's directives dt. 27/01/2010 in Notice of Motion in PIL 87/2006, all mangroves shall attract the provisions of the Forest (Conservation) Act, 1980.

9.46 Bringing mangroves on Government lands in Reserved Forests regime

(i) The Government of Maharashtra vide Communication dated 25.06.2013 has directed to the Divisional Commissioners of Konkan and Pune Divisions that all Mangrove Forests which have been notified as Protected Forests u/s 29 of IFA, 1927 should be notified as "Reserved Forests".

(ii) The State Government vide Government Resolution dated 25.06.2013 has also taken decision to bring all mangroves on government lands under the reserved-forests regime.

[Annexure 9.10]

9.47 Policy initiatives by the State Government for protection and conservation of Mangroves.

i. Creation of 37 posts for Mangrove Cell Government Resolution no. Misc-2010/C.R.92/F-1, dated 01.11.2011.

ii. Creation of Posts for Mangrove Cell vide Government Resolution no. S-10/2011/C.R.454/F-3, dated 23.02.2012.

iii. Constitution of State Steering Committee for Implementation of Indo-German (GIZ) project on Conservation and Sustainable Management of Existing and Potential Coastal and Marine Protected Areas (CSM-CMPA), vide Government Resolution No. S-10/2014/Part-I/C.R.50/F-3, dated 16.04.2014 regarding.

iv. Approval for Implementation of Indo-German (GIZ) project on "Conservation and Sustainable Management of Existing and Potential Coastal and Marine Protected Areas (CSM-CMPA)" in Maharashtra vide Government Resolution no. S-10/2014/ C.R.50/F-3, dated 02.08.2014.

[L] SHERI LANDS (KOLHAPUR CIRCLE)

9.48 Certain lands in Kolhapur district were under possession of the then Shahuji Maharaj Sansthan, Ichalkaranji Sansthan and Vishalgad Sansthan. These lands were allotted to the people of these Sansthans for bonafide cultivation. After merger of these princely States in India, 11121.03 acre of such lands in 59 villages were notified in 1953 by the then Government of Bombay u/s 29, 4 and 20 of the Indian Forest Act, 1927. These lands are known as 'Sheri Lands'.

9.49 Subsequently, vide letter dated 1st December, 1958 of the State Government, such Sheri Lands were classified into four categories, namely, A, B, C and D, out of which, retaining 59.08 acre lands in category A and 4492.67 acre lands in category B, remaining lands in category C and D were directed to be transferred to the Forest Department. The details of area transferred to the Forest Department is as under—

Sr. No.	Taluka	Category C (A.G.)	Category D (A.G.)	Total area (A.G.)
1	Hatkanagle	386.19	206.17	592.36
2	Radhanagri	3910.59	967.53	4879.32
3	Karwir	2701.79	176.07	2879.06
4	Shahuwadi	831.76	72.05	905.01
5	Panhala	1851.16	1643.57	3495.33
	Total (A.G.)	**9685.09**	**3067.19**	**12752.28**

9.50 The above mentioned area is recorded as forest-lands in the records of Forest Department and has shown as Miscellaneous Area in the Working Plan of Kolhapur Division. However, barring 539.03 ha area in Radhanagri Taluka, remaining area is yet to be handed over by the Revenue Department to the Forest Department.

9.51 The legal status of the said 5161.39 ha land is tabulated as under----

Sr. No.	Taluka	Notified u/s 20 (ha)	Notified u/s 4 (ha)	Notified u/s 29 (ha)	Total (ha)
1	**2**	3	4	**5**	6=3+4+5
1	Karvir	0	404.03	760.61	1164.64
2	Panhala	0	852.35	562.28	1414.63
3	Shahuwadi	0	174.86	190.89	365.75
4	Hathkanangle	5.12	0	234.60	239.72
5	Radhanagri	27.60	1570.82	375.73	1974.15
	Total	**32.72**	**3002.06**	**2124.11**	**5158.89**

——CHAPTER 10——
THE FOREST (CONSERVATION) ACT, 1980

10.01 Important developments prior to the commencement of the Forest (Conservation) Act, 1980

10.01.01 Manageable forest land to be handed over to the Forest Department

The Revenue Department should hand over all forest land in charge of Revenue Department to Forest Department, except in cases, where the forest land has already been assigned for the public purpose.
[GOM, R& FD LND-1076/2186-G-1, dated 14 April 1976]

[Annexure 9.08]

10.01.02 Government waste land comprising pockets in forest areas or considered unsuitable for cultivation should likewise be handed over to the Forest Department for afforestation. Similarly, 'surplus' land considered not suitable for cultivation or comprising of pockets in forest lands should be handed over to the Forest Department if that Department is willing to take it over for afforestation. In both cases, mutation entries be made.
[GOM Circular FLD 1076/110-F-3 dated 4 August, 1976]

[Annexure 9.09]

10.01.03 Diversion of Forest Land for the non-forestry purposes

State Government, after the approval of the Cabinet, was authorized to divert forest land for the non-forestry purposes.
[GOM FLD 1076/78392- F-3, dated 28 May 1976]

[Annexure 10.01]

10.01.04 Forest lands released for a public purpose be returned back to the Forest department if not utilized for that purpose

Whether or not statutory disforestation has been done, forest lands released for a public purpose shall be reverted back to the Forest Department, if the same has not been utilized, within a reasonable period of time, for the purpose for which it was released.
(R & FD Resolution No.FLD.1080/1580/F-3 dated 1 April, 1980)

[Annexure 10.02]

10.02 Dalhi and Eksali lands

10.02.01 Eksali plots to be disforested

All Eksali plots given on annual lease to the cultivators, shall be disforested and handed over to the cultivators as Class-II holders.
[GOM FLD 1069/43178-Y dated 22 March 1969]

[Annexure 9.05]

10.02.02 Dalhi plots to be released for individual cultivator

The Government has taken decision to release Dalhi land in Kolaba Division and Roha Sub Division (now Division) extent 29,438 Acres, 5 Gunthas and 12 Ares to the individual cultivators as a Class-II holder, not exceeding an economic holding.
[GOM English FLD 4268/27923-4 dated 14 January 1970]

[Annexure 9.06]

10.02.03 Dalhi plots to be given on permanent basis

The Government has further taken a decision to release Dalhi plots on permanent basis.

[GOM English FLD 4268/27023-4 dated 20 July 1971]

[Annexure 10.03]

10.03 Regularization of Encroachment on Forest lands

10.03.01 Government to regularize encroachment on Forest Land in charge of Revenue Department subsisting on 15th August,1972

The Government of Maharashtra has taken a decision to regularise the encroachment on the forest land, in charge of Revenue Department upto 2 ha. provided otherwise eligible for grant of Govt. land in accordance with Part III of Maharashtra Land Revenue (Disposal of Government Land) Rules, 1974. This order is not applicable to the forest land in charge of Forest Department.

(GOM LEN 1069/23477-A-II dated 14 August 1972)

[Annexure 10.04]

10.03.02 Government of Maharashtra to regularize encroachment up to 31st March1978

The Government of Maharashtra decided to regularize all subsisting encroachments for cultivation existing on 31st March, 1978, on the forest land, provided the occupant fulfills following conditions—

a. He should belong to the backward class.
b. His annual income does not exceed Rs. 3600/-.
c. He should have been residing within 8 Kms. of the place of encroachment.
d. He is either landless or his total holding does not exceed 2 Ha.

[GOM English LEN-1078/3483- G-I dated 27 December 1978]

[Annexure 10.05]

10.03.03 Modification in the eligibility criteria

The Government of Maharashtra further modified the eligibility criteria of encroachments, by including all encroachments that existed between 1-4-1972 to 31-3-1978, irrespective of period of encroachment and also, whether such encroachment were subsisting on 31-3-1978.

[GOM English FLD-1079/1368-F-3, dated 12 Sept. 1979]

[Annexure 10.06]

10.03.04 Constitution of District and Taluka Level Committees for verification of eligibility—

The State Government, vide Government Resolution No. Misc-2006/CR-98/J-1, dated 23rd April, 2007 appointed Taluka and District Levels as per Central Government Guidelines dated 3rd November, 2005.

[Annexure 10.07]

FOREST (CONSERVATION) ACT, 1980

10.04 Legislative History

With the 42nd Constitutional amendment, subject matters of 'Forests' and 'Protection of wild animals and birds' were omitted from the Entries 19 and 20 in the State List and inserted as Entries 17-A and 17-B respectively in the Concurrent List of the Constitution, bringing them within the ambit of law-making powers of the Parliament also as per Article 254. The Forest (Conservation) Act, 1980 was enacted to prevent deforestation and ecological imbalance. At

first instance, an Ordinance to that effect was promulgated by the President on 25th October, 1980. Later on, it was passed by the Parliament on 27th December, 1980, however the effect was given from the date of the promulgation of Ordinance, i.e. from 25th October, 1980.

> **Statement of Objects and Reasons.**—Deforestation causes ecological imbalance and leads to environmental deterioration. Deforestation had been taking place on a large scale in the country and it had caused widespread concern.
>
> (2) With a view to checking further deforestation, the President promulgated on the 25th October, 1980, the Forest (Conservation) Ordinance, 1980. The Ordinance made the prior approval of the Central Government necessary for de-reservation of reserved forests and for use of forest-land for non-forest purposes. The Ordinance also provided for the constitution of an advisory committee to advise the Central Government with regard to grant of such approval.

10.05 The striking feature of the Forest (Conservation) Act, 1980 is section 2 having non-obstante clause as follows.---

[Annexure 10.08]

> **Section 2. Restriction on the de-reservation of forests or use of forest land for non-forest purpose----**
>
> Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or any other authority shall make, except with the prior approval of the Central Government, any order directing,--
>
> i. That any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved.
> ii. That any forest land or any portion thereof may be used for any non-forest purpose.
> iii. That any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government.
> iv. That any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for re-afforestation.

10.06 It may be appreciated that clause (iii), (iv) in section (2) and sections 3-A and 3-B under the penal clause were inserted later on through amendment in the year 1989. Following the enactment of the National Green Tribunal Act, 2010 (19 of 2010), consequential amendment has also taken place in the Forest (Conservation) Act, 1980, by way of insertion of section 2-A to provide opportunity to any person aggrieved by an order or decision of the State Government or other authority made under section 2 to file an appeal to the National Green Tribunal in accordance with the provisions of the former Act.

10.07 **Meaning of the term 'forest land' occurring in section 2----**

The terms **'forest'** and **'forest land'** occurring in the said Act have not been defined therein. However these terms were subsequently clarified by Hon'ble Supreme Court in the Order dated 12.12.1996 in WP 202/1995 (T.N. Godavarman Thirumulpad v/s the Union of India and others) as follows—

> 'The Forest (Conservation) Act 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of section 2(i) of the Forest Conservation Act. The term "forest land" occurring in Section-2, will not only include "forest" as understood in dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section-2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.'

10.08 In accordance with this Order, the Government of Maharashtra has identified the areas, not recorded as forests in the Government record but falling within the dictionary meaning of forests and have filed affidavit before the Apex Court with necessary details in that regard. Such forests are known as the **identified forests** in the official transactions.

10.09 **Significance of the non-obstante clause in section 2.**

Article 254 of the Constitution takes care of the likely situation, where inconsistencies may arise between the laws made by a State Legislature and Parliament, with regard to any subject enumerated in the Concurrent List. It is reproduced as under.—

> **Article 254. Inconsistency between laws made by Parliament and laws made by the Legislatures of States.—**
>
> (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of repugnancy, be void.
>
> (2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:
>
> Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

10.10 Therefore, section 2 mandates the prior approval of the Central Government for making orders in respect of any of the items mentioned in clause (i) to (iv). For example, the State Government is empowered to declare reserved forest no more reserved under section 27 of the Indian Forest Act, 1927 [Central Act]. However, because of non-obstante clause, of the Forest (Conservation) Act, 1980, no notification under section 27 of the IFA can be issued by the State Government, without seeking prior approval of the Central Government under section 2(i). Similarly, a Collector, legally empowered to exercise powers conferred to him under section 22-A of the Maharashtra Private Forests (Acquisition) Act, 1975 [State Act], cannot exercise such powers without seeking prior approval of the Central Government under section 2 of the Forest (Conservation) Act, 1980. Further vide order dated 13th November, 2000 in the Writ Petition No. 337 of 1995 [Centre for Environment Law (WWF-I) vs. Union of India and Others], Hon'ble Supreme Court has directed that.—

THAT Pending further orders, no dereservation of Forests / Sanctuaries / National Parks shall be affected.

[Annexure 12.11]

10.11 Thus, with this order of Hon'ble Supreme Court, the Leave of the Apex Court also became mandatory, besides prior approval of the Central Government under the Forest (Conservation) Act, 1980 for exercising powers conferred to the State Governments under section 27 of the Indian Forest Act, 1927 and for exercising powers conferred to Collectors under section 22A of the Maharashtra Private Forests (Acquisition) Act, 1975. Likewise, mining activities are regulated under the Mines and Mineral Development Act, 1957 (Central Act) and rules made thereunder. However, no mining lease on forest land can be granted by the concerned authority without obtaining prior approval of the Central Government under section 2(iii) of the Forest (Conservation) Act, 1980.

10.12 Rules were notified in the year 1981 to be known as the Forest (Conservation) Rules, 1981, which were superseded by the Rules notified in the year 2003 as the Forest (Conservation) Rules, 2003. The prior approval of the Central Government, as contemplated in section 2 of the Act is accorded in two stages. The first stage approval is called the in-principle approval with certain terms and conditions. After fulfilment of these conditions by the User Agency and the concerned authorities, the second stage or the formal approval is granted by the Central Government.

10.13 Ever since the Forest (Conservation) Act, 1980 has come into force, the Ministry of Environment and Forests (presently designated as the Ministry of Environment, Forest and Climate Change) in the Central Government has been issuing guidelines for clarification with respect to various issues emerging in implementation of the said Act. The Ministry vide its letter F.No. 5-2/2017-FC dated 28th March, 2019 has issued guidelines in the form of a **Hand Book** in supersession of all previous guidelines. Thereafter the said guidelines have also been amended from time to time. All these said guidelines are available on the official website of the Ministry of Environment, Forest and Climate Change.

10.14 Till the year 2012, the formal approval (Stage II Approval) of the Central Government was considered as the permission to use non-forest land under the Forest (Conservation) Act, 1980. However, Hon'ble National Green Tribunal in their Order dated 7th November, 2012 in the Appeal No. 7/2012 directed as under—

"……. In the aforesaid scenario it can safely be concluded that after receiving a Stage – I and/or Stage – II Clearance, thereby granting a consent to permit use of forest land for non-forest purposes, from the Central Government, it is incumbent upon the State Government to pass a reasoned order transferring and/or allowing the land in question for being used for non forest purpose. It is needless to be said that bereft of such order no forest lands can be put to use for non-forest purpose. Further, all activities done without such orders would be ab initio void. An appeal can be filed against the said order of the State Governement under Section 2(A) of FC Act and/or under Section 16(e) of the NGT Act. In the event such an Appeal is filed it would be open for the person aggrieved, to assail the order/Clearances granted by the Central Government under Section 2 of the Act which forms an integral part and sole basis of the order passed by the State Government.

We are surprised to find that most of the State Governments do not pass separate orders in the light of the basic requirement of Section 2 of the FC Act as explained above thereby creating an embargo and depriving a person aggrieved from filing an Appeal. Section 2 of the FC Act, mandates that as and when the State Government decides to permit use of the Forest land for non forest purpose, it has to pass order to that effect. The said order along with the conditions imposed by the Central Government according Stage – I and Stage – II Clearance is mandatorily required to be displayed in the website. A copy of the order should also be sent to the MoEF forthwith. After receiving the copy of the order MoEF is also required to upload the same in its website so as to make the entire transactions transparent and bring it to public domain or Government portal and to enable any person aggrieved by the order passed under the provision of Section 2 of the FC Act, to approach this Tribunal in consonance with Section 2(A) for FC Act or Section 16 (e) of the NGT Act.

Apart from the said action the State Government should also insist that the Project Proponent should publish the entire forest clearances granted in verbatim along with the conditions and safe-guards imposed by the Central Government in Stage – I Forest Clearance in two widely circulated daily newspapers one in vernacular language and the other in English language so as to make people aware of the permission granted to the Project Proponent for use of forest land for non-forest purposes. The cause of action for filing an Appeal would commence only from the date when such publication is made in the newspapers, as well as from the date when the forest clearance and permission to use the Forest land for non-forest purpose is displayed in the website of the concerned State Government or the MoEF, as the case may be. The copies of the Forest Clearance should also be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt. …."

10.15 In pursuance to the above said Order of Hon'ble National Green Tribunal, the Government of Maharashtra in Revenue and Forests Department vide Circular No. FLD-2014/CR-22/F-10 dated 21.02.2014 has issued directives to all concerned. Thus, the Work order is given only after the issuance of formal permission by the State Government.

10.16 **The Mines and Minerals (Development and Regulation) Act, 1957 [MMDR Act] and correlation with the Forest (Conservation) Act, 1980—**

Mining operations are regulated by the MMDR Act. Few definitions under this Act are relevant and are reproduced as under---

Section 3(a) "leased area" means the area specified in the mining lease within which mining operations can be undertaken and includes the non-mineralized area required and approved for the activities falling under the definition of mine as referred to in clause (i).

Section 3(i) the expressions, "mine" and "owner", have the meaning assigned to them in the Mines Act, 1952 (35 of 1952).

Section 3(aa) "minerals" includes all minerals except mineral oils.

Section 3 (e) "minor minerals" means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be minor mineral.

Section 3 (ea) "notified minerals" means any mineral specified in the Fourth Schedule.

Section 3 (c) "mining lease" means a lease granted for the purpose of undertaking mining operations, and includes a sub-lease granted for such purpose.

Section 3 (ga) "prospecting licence-cum-mining lease" means a two stage concession granted for the purpose of undertaking prospecting operations followed by mining operations.

Section 3 (hb) "reconnaissance permit" means a permit granted for the purpose o f undertaking reconnaissance operations.

Section 3(d) "mining operations" means any operations undertaken for the purpose of winning any mineral.

Section 3(h) "prospecting operations" means any operations undertaken for the purpose of exploring, locating or proving mineral deposit.

Section 3(ha) "reconnaissance operations" means any operations undertaken for preliminary prospecting of a mineral through regional, aerial, geophysical or geochemical surveys and geological mapping, but does not include pitting, trenching, drilling (except drilling of boreholes or a grid specified from time to time by the Central Government) or sub-surface excavation.

Section 3(f) "prescribed" means prescribed by rules made under this Act.

10.17 It may be noted that although both the Forest (Conservation) Act, 1980 and the MMDR Act are Central Acts, however because of non-obstante Clause occurring in the former Act, its provisions are overriding and as a natural consequence, no mining lease can be issued by any Authority in respect of forest land under the MMDR Act without obtaining prior approval of the Central Government. Thus, if forest-lands (including identified forests and forest lands under the private ownership) are involved in mining, then the concerned authorities must ensure the compliance of the provisions contained in the Forest (Conservation) Act, 1980 without fail.

10.18 **Regulations of mining activities around the National Parks and Sanctuaries.—** As per orders passed by Hon'ble Supreme Court in Writ Petition 435/2012 (Goa Foundation vs. Union of India and others), the mining is prohibited up to one km. distance from the boundaries of National Parks and Sanctuaries.

10.19 The Central Government vide Notification dated 1st October, 2003 has authorized the Chief Conservator of Forests, Regional Office of the MoEF to file complaint in the Court in terms of Rule 9 of the Forest (Conservation) Rules, 2003.

[Annexure 10.09]

10.20 **Note for the Reader---**Since, the guidelines under the Forest (Conservation) Act, 1980 keep on amending from time to time, the Reader is advised to visit the official website of the Ministry of Environment, Forests and Climate Change for updates.

—CHAPTER 11—
THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGINITION OF FOREST RIGHTS) ACT, 2006

11.01 **The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.**

It was enacted by the Parliament on 29th December, 2006 to recognize and vest forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land. It has been brought into force on 31st December, 2007. The Preamble to the Act states that ----

[Annexure 11.01]

……the forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling scheduled tribes and other traditional forest dwellers, who are integral to the very survival and sustainability of the forest ecosystem.

11.02 The Act was brought into force on 31st December, 2007. Thereafter, Hon'ble Governor has carried out amendments from time to time, exercise of powers conferred under Paragraph 5(1) of the Fifth Schedule of the Constitution.

[Annexure 11.02, 11.03]

11.03 The rule-making power vests with the Central Government under section 14 of the Act, which has notified the Rules in the Official Gazette on 1st January, 2008. The rules were further amended in the year 2012. The State Government has amended the Maharashtra Forest Rules, 2014 in the year 2019 to make provisions for recording of forest-rights in Government records. As per the amendment carried out in the Rules in 2012, following sub-clause (d) in sub-rule (1) of rule 2 was substituted—

[Annexure 11.04]

2(1) (d) "disposal of minor forest produce" under clause (c) of sub-section (1) of section 3 shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federation for livelihood;

Explanation: (1) The transit permit regime in relation to transportation of minor forest produce shall be modified and given by the Committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorized by the Gram Sabha,

(2) This procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of minor forest produce.

(3) The collection of minor forest produce shall be free of all royalties or fees or any other charges.

Accordingly the State Government vide Resolution dated 30th July, 2013 and Corrigendum dated 30th August, 2014 has issued appropriate instructions along with the proforma for the Transit Permit.

[Annexure 6.04]

11.04 As per section 12, the Ministry of Central Government dealing with Tribal Affairs or any officer or authority authorized by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act. At State level, the Tribal Research and Training Institute, Pune has been designated as the Nodal Agency vide Order dated 13th April, 2018, by the Tribal Development Department of Government of Maharashtra.

[Annexure 11.05]

11.05 **Section 13. Act not in derogation of any other law.**

Save as otherwise provided in this Act and the Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996), the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

11.06 Section 3(2) provides for diversion of forest land for certain facilities managed by the Government, listed therein to the extent of 1 ha. of forest land, involving felling of trees not exceeding seventy-five trees per hectare, subject to the condition that the same is recommended by Gram Sabha. The Ministry of Tribal Affairs has issued procedural guidelines vide letter dated 18th May, 2009.

[Annexure 11.06]

11.07 It is worth mentioning that this Act only confers the title of forest-rights to the forest-right holder, without affecting the ownership of forest land over which such forest-rights are conferred. This has been clarified by the Ministry of Tribal Affairs in Central Government, vide letter dated 4th November, 2011. The State Government has issued Circular dated 2nd January, 2012 reproducing the communication from the MoTA as under.—

[Annexure 11.07A, 11.07B]

> The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 only seeks to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers who have been residing in such forests for generations but whose rights could not be recorded. The Act does not confer ownership rights on forest land to the forest dwellers after recognition and vesting of their forest rights.

11.08 The Ministry of Tribal Affairs, vide letter dated 5th March, 2015 has clarified that the Act is applicable in Municipal / Urban areas also.

.

11.09 Central Government and State Government have issued guidelines from time to time for implementation of the Act.

[Annexure 11.08 to 11.16]

11.10 **Note for the Reader----**The implementation of the Act is still going on. It is therefore advisable that the Reader must refer to the Official Websites of the Ministry of Tribal Affairs and that of the Government of Maharashtra for latest updates.

——CHAPTER 12——
THE WILD LIFE (PROTECTION) ACT, 1972

12.01 Ancient History

Hon'ble Supreme Court, in a landmark judgment, traced the historical background of the Act right upto the Emperor Ashoka. It noted that towards the end of his reign, King Ashoka in the third century BC issued a decree that has a particular contemporary ring in the matter of preservation of wildlife and environment. He had written:

> Twenty-six years after my coronation, I declare that the following animals are not to be killed, parrots, Mynas the aruna, ruddy geese, wild geese, cranes, bats, queen ants, terrapins, boneless fish, rhinoceroses.....and all quadrupeds which are not useful or edible.....Forests must not be burned."

12.02. In the last century, a great German materialist philosopher warned mankind: "Let us not, however, flatter ourselves over much on account of our human victory over nature. For each such victory nature takes revenge on us. Each victory, it is true, in the first place brings about the results we expected but in the second and third places it is quite different, unforeseen effects which only too often cancel the first. Ecologists are of the opinion that most important ecological and social problem is the widespread disappearance all over the world of certain species of living organisms. Ecologist forecast the extinction of animal and plant species on a scale that is incompatibly greater than their extinction over the course of millions of years. It is said that over half the species which became extinct over the last 2000 years did so after 1900. The International Association for the Protection of Nature and Natural Resources calculates that now, on average, hourly basis one sub species is lost every year. It is said that approximately 1000 bird and animal species are facing extinction at present, it is for this that the environmental questions have become urgent and they have to be properly understood and squarely meant by man. Nature and history are two components of the environment in which we live, move and prove ourselves."

12.03 In the words of Pythagoras

"For so long as Man continues to be the ruthless destroyer of lower living being he will never know health or peace. For so long as men massacre animals, they will kill each other. Indeed they who sow the seeds of Murder and pain cannot reap joy and love".

12.04. Legislative History

The first attempt to introduce a special legislation with respect to animals in recent history, was made by the British Government by way of enacting **The Wild Birds and Animals Protection Act, 1912.** Protection to the animals and birds specified in the Schedule appended to this Act were provided certain degree of protection. The Schedule specified following birds and animals—

> Antelope, Ass, Deer gazelle, Bison, Buffalo, Bustard, Duck, Egret, Florican, Goat, Hare, Heron, Jungle fowl, King-fisher, Oxe, Painted snipe, Partridge, Peafowl, Pheasant, Pigeon, Quail, Rhinoceros, Roll er, Sand-grouse, Ship, Spurfowl, Wood-cock.

12.05. However, its application was restricted to the territories included in British India only. Even after commencement of the Constitution, it was not applicable in Part B States (erstwhile Princely States). Penalty of a fine up to fifty rupees and in case of previous conviction under this Act, fine up to hundred rupees and imprisonment up to one month was provided. Apart from this, confiscation of birds, animals their meat or body part was also provided. The provisions of this Act were not applicable while killing or catching birds and animals in the following cases---

a) Self defence
b) Defending other person
c) Killing or capturing wild animals
d) Protection of property

12.06. The Bombay Wild Animals and Wild Birds Protection Act, 1951.

It was enacted by the then Government of Bombay to make adequate provisions for the protection of wild animals and birds in the State of Bombay. After the commencement of the States Reorganization Act, 1956, it was adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956. Certain territories of erstwhile Central Province in British India and the Princely States of Hyderabad were transferred to the State of Bombay in the year 1956 in accordance with the arrangements in the States Reorganization Act, 1956. Further, with the Bombay Reorganization Act, 1960, certain territories were transferred from the State of Bombay to the newly formed Gujarat State and the residuary area was constituted as Maharashtra under that Act. Thus, consequential amendments were made in the extent Clause. The same is reproduced as under.—

> **Section 1(3).**—It shall come into force in the pre-Reorganization State of Bombay on such date as the State Government may, by notification in the Official Gazette, appoint; and in the remaining part of the State of Maharashtra, it shall come into force on the commencement of the Bombay Wild Animals and Wild Birds Protection (Extension and Amendment) Act, 1960.

12.07. In the year 1961, sub-section (2) of section 1 was amended and it was extended to the whole of the State of Maharashtra.

12.08. The said Act classified wild animals and wild birds into four Schedules. Schedule I specified the vermins. The Act also classified the animals as "Big Game", which were specified in Schedule III and IV, and "Game" which were specified in Schedule II, III and IV.

12.09. The said Act designated the Chief Conservator of Forests, Maharashtra State, as the Wild Life Preservation Officer for the State of Maharashtra. It also provided for the appointment of the Game Wardens, either honorary or stipendiary and such other officers and servants as may be necessary, to be subordinate to the Wild Life Preservation Officer. The Act enabled the Wild Life Preservation Officer to delegate any of his powers and duties under any of the provisions of this Act, by order in writing, to any officer of the State Government, with the approval of the State Government, subject to such conditions, if any, as might be specified in that order.

12.10. The Act also provided for the constitution of the State Wild Life Advisory Board, consisting of Minister for Forests as ex-officio Chairman, the Deputy Minister of Forests as ex-officio Vice-Chairman and thirteen members nominated by the State Government. The Wild Life Preservation Officer was designated as the Secretary of the Board.

12.11. Consequence of the enactment of the Bombay Wild Animals and Wild Birds Protection Act, 1951

Following legislations to the extent mentioned below and subject to the savings mentioned as proviso below section 55, came to be repealed -----

a) The Wild Birds and Animals Protection Act, 1912, in its application to the pre-Reorganization State of Bombay.
b) The Central Provinces and Berar Game Act, 1935.
c) The Wild Birds and Animals Protection, Act 1912, in its application to the Vidarbha area of the State of Maharashtra and
d) The Game Regulations 1354 Fasli.

12.12 The Wild Life (Protection) Act, 1972

It is interesting to note that till 1976, the subject –matter of **'protection of wild animals and birds'** happened to be enumerated in the State List in the Constitution and the Parliament had no power to make legislation in that regard, except when situations described in Article 249 or 250 were fulfilled. For better appreciation, these Articles are reproduced as under—

> **Article 249.—Power of Parliament to legislate with respect to a matter in the State List in the national interest.—**
>
> (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds

of the members present and voting that it is necessary or expedient in national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

(2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein.

Provided that, if and so often as resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

Article 250.—Power of Parliament to legislate with respect to a matter in the State List if a Proclamation of Emergency is in operation.—

(1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

(2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

12.13 It may therefore be appreciated that Parliament can make law with respect to any of the matters enumerated in the State List only under exceptional circumstances and even if such law is so made, it cannot continue to operate in perpetuity. However provisions contained in Article 252 are as under.---

Article 252. Power of Parliament to legislate for two or more States by consent and adoption of such legislation by any other State.---

(1) If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in Article 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State.

(2) Any Act so passed by Parliament may be amended or repealed by an Act of Parliament passed or adopted in like manner but shall not, as respects any State to which it applies, be amended or repealed by an Act of the Legislature of that State.

12.14 Stating the expediency for making a legislation to provide for the protection of wild animals and birds, the Wild Life (Protection) Act, 1972 in its Preamble also expressed the restrictions imposed by Articles 249 and 250 of the Constitution on the legislating powers of Parliament with respect to a matter enumerated in the State List in the following words.----

.....And WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except provided in articles 249 and 250 of the Constitution;

12.15 However, all the Houses of the Legislatures of the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Manipur, Punjab, Rajasthan, Uttar Pradesh and West Bengal passed resolutions in terms of clause (1) of article 252 facilitating Parliament to make law on the above stated subject. Accordingly, the Wild Life (Protection) Act, 1972 (53 of 1972) was enacted on 9th September, 1972 and by virtue of section 1(3), it was extended in the first instance to the whole of the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Manipur, Punjab, Rajasthan, Uttar Pradesh and West Bengal and to all the Union territories. Provision was also made in the same sub-section for its extension to such other State as may adopt this Act by resolutions passed in that behalf in accordance with clause (1) of Article 252 of the Constitution. The Statement of Objects and Reasons are reproduced as under—

Statement of Objects and Reasons.—

The rapid decline of India's wild animals and birds, one of the richest and most varied in the world, has been a cause of grave concern. Some wild animals and birds have already become extinct in this country and others are in the danger of being so. Areas which were once teeming with wild life have become devoid of it and even in Sanctuaries and National Parks the protection afforded to wild life needs to be improved. The Wild Birds and Animals Protection Act, 1912 (8 of 1912), has become completely outmoded. The existing State laws are not only out-dated but provide punishments which are not commensurate with the offence and financial benefits which accrue from poaching and trade in wild life produce. Further such laws mainly relate to control of hunting and do not emphasis the other factors which are also prime reasons for the decline of India's wild life, namely, taxidermy and trade in wild life and products derived therefrom.

2. Having considered the relevant local provisions existing in the States, the Government came to the conclusion that these are neither adequate nor satisfactory. There is therefore, an urgent need for introducing a comprehensive legislation, which would provide for the protection of wild animals and birds and for all matters connected there with, or ancillary and incidental thereto.

3. Legislation in respect of the aforesaid subject-matters relatable to entry 20 of the State list in the Seventh Schedule to the Constitution, namely, protection of wild animals and birds and Parliament has no power to make a law in this regard applicable to the State (apart from the provisions of article 249 and 250 of the Constitution) unless the Legislatures of two or more States pass a resolution in pursuance of article 252 of the Constitution empowering Parliament to pass the necessary legislation on the subject. The Legislatures of the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Manipur, Punjab, Rajasthan, Uttar Pradesh and West Bengal have passed such resolutions.

4. The Bill seeks to –

   (a) constitute a Wild Life Advisory Board for each State;
   (b) regulate hunting of wild animals and birds;
   (c) lay down the procedure for declaring areas as Sanctuaries, National Parks, etc.;
   (d) regulate possession, acquisition or transfer of, or trade in wild animals, animal articles and trophies and taxidermy thereof;
   (e) provide penalties for contravention of the Act.

12.16 Consequences of enactment of the Wild Life (Protection) Act, 1972

Subject to the savings specified in section 66 and proviso below that section, as from the commencement of this Act, every other Act relating to any matter contained in this Act and in force in a State to the extent to which that Act or any provision contained therein corresponds, or repugnant, to this Act or any provision contained in this Act, stood repealed.

12.17 Applicability to the State of Maharashtra

Sub-section (3) of Section 1 of the Wild Life (Protection) Act, 1972 provides that it shall come into force in a State or Union Territory to which it extends on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act or for different States or Union Territories. Accordingly it came into force in the State of Maharashtra with effect from **1st June, 1973**. Thereafter it has been amended by the Parliament from time to time i.e. in the years 1982, 1986, 1991, 1993, 2003 and 2006.

12.18 Rules under the Wild Life (Protection) Act, 1972

The rule-making powers have been conferred by the Act both to the Central and State Governments under section 63 and 64 respectively. Accordingly, the Central Government has made rules in respect of various subjects listed under section 63. Some of these rules are listed as under—

i. The Wild Life (Stock Declaration) Central Rules, 1973.
ii. The Wild Life (Protection) Licensing (Additional Matters for Consideration) Rules, 1983.
iii. The Wild Life (Protection) Rules, 1995

iv. The Wild Life (Specified Plants - Conditions for Possession by Licensee) Rules, 1995.
v. The National Board for Wild Life Rules, 2003
vi. The National Tiger Conservation Authority (Qualifications and Experience of Experts or Professional Members) Rules, 2006
vii. The Tiger Conservation Authority Fund (Regulation) Guidelines, 2007
viii. The National Tiger Conservation Authority (Recruitment and Condition of Service of officers and other employees) Rules, 2012
[These Rules are available on the official website of the MoEFCC]

12.19 So far as the State of Maharashtra is concerned, the Rules under this Act were notified for the first time in the year 1975 and thereafter consolidated and notified in the year 2014 as the Maharashtra Wild Life (Protection) Rules, 2014.

Developments post-enactment of the Wild Life (Protection) Act, 1972

12.20 **Appointment of authorities and delegation of powers**
Just as the Indian Forest Act, 1927 has provisions for appointment of forest-officers by the State Government or by any officer empowered by the State Government to carry out all or any of the purposes of the said Act, or to do anything required by this Act or any rule made under the said Act, section 4 of the Wild Life (Protection) Act, 1972 enables the State Government for appointment of the Chief Wild Life Warden, Wild Life Wardens, Honorary Wild Life Wardens and such other officers and employees as may be necessary. Accordingly, Government of Maharashtra has duly appointed the Chief Wild Life Warden and Wild Life Wardens. The State Government also makes appointment of Honorary Wild Life Wardens from time to time. **[Annexure 12.01, 12.02]**

12.21 **Delegation of Powers and Duties of Chief Wild Life Warden**
The State Government vide Government letter No.WLP-0613/CR-199/F-1, dated 22nd July, 2013 has accorded previous approval to the Chief Wild Life Warden to delegate his powers to the Wild Life Wardens and other Officers. Accordingly, the Chief Wild Life Warden, vide his Order dated 26th July, 2013, has delegated his powers and duties under this act to the Wild Life Wardens and Honorary Wild Life Wardens.

[Annexure 12.03, 12.04]

12.22 The Chief Wild Life Warden has also delegated powers u/s 39(3) vide his Order dated 24th July, 2015 in respect of Nilgai and wild pig to the Range Forest Officers.

[Annexure 12.05]

12.23 **Other Statutory Authorities under the Wild Life (Protection) Act, 1972**
CHAPTERS IV-A, IV-B and IV-C provide for the constitution of the Central Zoo Authority, National Tiger Conservation Authority and the Tiger and Other Endangered Species Crime Control Bureau respectively. These Statutory Authorities are governed by different sets of rules made by the Central Government.

12.24 **Establishment of Tiger Cells in the State**
The State Government has constituted Three-Tier Tiger Cell functioning at the State level, Revenue Division level and District level to have effective measures for the protection and conservation of forests and wildlife.

12.25 **Financial Assistance and Compensation due to loss from the Wild Animals**
As a mitigation measure in respect of human-wildlife conflict, the State Government has taken policy-decisions from time to time for payment of financial assistance in case of loss of human life, injury to humans as well as compensation for loss of or injury to cattle, damage to property by elephants and compensation for crop-damage due to wild animals. Such policy-decisions are available in the form of Government Resolutions available on the Official Website of the Government of Maharashtra.

12.26 The State of Maharashtra has 62 protected areas in the form of National Parks, Sanctuaries and Conservation Reserves at present. There are 6 Tiger Reserves in the State.

[Annexure 12.07]

12.27 Voluntary Relocation of villages in Sanctuaries and National Parks

Maharashtra is the pioneer State to have taken effective measures in the direction of voluntary relocation of villages located in National Parks and Sanctuaries. Till June, 2020, out of 110 villages to be relocated on free will of the villagers, about 66 villages in different National Parks and Sanctuaries have been relocated.

12.28 Monitoring of Tigers M-STrIPES (Monitoring System for Tigers - Intensive Protection and Ecological Status)

This is a software-based monitoring system launched in 2010, across all tiger reserves in India by the National Tiger Conservation Authority (NTCA), a statutory body constituted under Chapter IV-B of the Wild Life (Protection) Act, 1972. The objective of the system is to strengthen patrolling and surveillance of the forests and wildlife across tiger reserves. Forest guards in tiger reserves are equipped with Personal Digital Assistants (PDAs) and GPS devices to capture data relating to wildlife sightings (direct and indirect), crimes related to wildlife and ecological observations while patrolling. The software system maps the routes patrolled by forest guards, and the resulting data is thereafter analyzed in a Geographic Information System (GIS). The data generated spatially in the form of maps is useful for the management to decide the protection strategies, density of different wildlife and for habitat interventions.

12.29 Cyber Cell Melghat

The State Government in Home Department vide Notification No. CDR-0615/CR 15/SPL-09 dated 02 July, 2015 identified Nodal Officers from Forest Department who were empowered to collect cyber data. Subsequently, in a workshop of Field Directors held at Mahabaleshwar in 2018, the Chief Wild Life Warden, assigned the task to the Melghat Cyber Cell alone, instead of maintaining such Cells at multiple locations. Controlled by the Field Director, Melghat Tiger Reserve, the Wildlife Crime cell, Melghat comprises of a team of 10 forest guards equipped with special infrastructure and dedicated servers, computers, laptops and high speed internet. Cyber data of different kind such as SDR, CDR, LTL and CAF is collected from various mobile service providers. Such data is used for the following two purposes—

i. For the investigation of forest and wildlife offences, and
ii. For the prosecution of such offence-cases in the court of law.

Cyber data is provided by the Cyber Cell to any investigation officer of Maharashtra Forest Department on a formal request from the respective Division Office. The cyber data is also simplified and analyzed with the help of specialized software to expedite the investigation. Records of Cyber data drawn are maintained and submitted on a quarterly basis to senior officials. Cyber data of accused is also maintained and preserved for future references.

12.30 Establishment of a DNA Laboratory

For precise and expeditious identification of wild animal causing loss of human life in human-wild animal conflict, the State Government vide Government Resolution WLP-0918/CR-348/F-1 dated 20th March, 2019 has established a DNA laboratory at Sanjay Gandhi National Park.

12.31 Disposal of seized Wildlife skins and articles

Government of Maharashtra vide Resolution No. PAC-1094/C.R.305/F-1 dated 18th July 1995 and 5th August 1995 issued instructions for disposal of seized Wildlife skins and articles after completion of the trial in the court of law.

[Annexure 12.08]

12.32 **Advisories by the Central and State Government and instructions issued by the Chief Wild Life Warden for wildlife protection outside Protected Areas Standing Order No. 1 (Amendment 2015):** The Standing order No.001 has been issued by the Chief Wild Life Warden for wildlife protection outside the protected areas. The Chief Wild Life Warden has also issued guidelines vide letter dated 8th January, 2018 laying down the formats for submission of the proposal to seek his permission for hunting wild animals u/s 11 (1)(a).

[Annexure 12.17, 12.18]

Apart from this, the Central Government and State Government also issue advisories and guidelines from time to time.

[Annexure 12.06]

12.33 **Guidelines for Scientific Research in Protected Areas**

The Chief Wild Life Warden has issued Guidelines from time to time for carrying out research in Protected Areas.

12.34 **Orders passed by Hon'ble Supreme Court from time to time**

Hon'ble Supreme Court has passed Orders from time to time regulating various activities in National Parks and Sanctuaries. [Orders Dated 14.02.2000, 13.11.2000, 25.11.2005 and 14.09.2007]

[Annexure 12.09 to 12.12]

12.35 **Recognition of Zoo Rules**

The Central Government vide Notification dated 11th November, 2009 has notified Rules related to Zoos in supersession of the Recognition of Zoo Rules, 1992, which were notified earlier. The Central Zoo Authority created under the Wild Life (Protection) Act, 1972 is the Apex Body at the National level for regulating the zoos in the country. Barring few exceptions, the zoos are under the administrative control of the Local Urban Bodies in the State of Maharashtra. However, to implement the directives of the Central Zoo Authority, the State Government has constituted the Zoo Authority of Maharashtra vide Government Resolution No. WLP-0515/CR-150/F-1 dated 30th December, 2015. The List of Zoos in the State is provided in this Manual.

[Annexure 12.13]

12.36 **Guidelines for care and management of captive elephants**

The Guidelines issued by the MoEF dated 8th January 2008 and the Order dated 8th December, 2014 and instructions dated 9th December 2014 issued by the Chief Wild Life Warden may be referred.

[Annexure 12.14 to 12.16]

12.37 **Guidelines for taking up non-forestry activities in wildlife habitats**

The Guidelines issued by the Wildlife Division of the MoEF vide F. No. 6-10/2011 WL dated 19th December 2012 and subsequent guidelines issued to that effect by the Ministry are available on its official website.

12.38 **Appreciation of difference in the terms 'Protected Area', 'National Park', 'Sanctuary', 'Conservation Reserve' and 'Community Reserve' used in the Wild Life (Protection) Act, 1972.**

The distinction among these terms are tabulated for clear understanding.

[Annexure 12.07]

Sanctuary	National Park	Conservation Reserve	Community Reserve
1. 'Protected Area' means a National Park, a sanctuary, a conservation reserve or a community reserve notified under section 18, 35, 36-A and 36-C of the Act.			
2. Area, whether owned or not, by the Government can be declared as a Sanctuary.	2. Area, whether owned or not, by the Government can be declared as a National Park. A Sanctuary may also be declared as a National Park.	2. Area owned by the Government only can be declared as a Conservation Reserve	2. A private or community land, not comprised within a National Park, sanctuary or a conservation reserve, and if an individual or the community has volunteered to conserve wild life and its habitat, may be declared as a Community Reserve.
3. Area comprised in RF can be directly declared by the State Government. [sec. 26-A (1)(b)]	3. Area comprised in RF cannot be declared without completing the inquiry contemplated u/s 35 of the Wild Life (Protection) Act, 1972.	–	–
4. Area comprised in territorial waters can be directly declared by the State Government with the prior concurrence of the Central Government. The limits of the area of the territorial waters to be determined in consultation with the Chief Naval Hydrographer after taking adequate measures to protect the occupational interests of the local fishermen. [sec. 26-A (1)(b)]	4. The provisions in respect of territorial waters are same as in case of declaration of sanctuary. [sec. 35 (1)]	–	–

Sanctuary	National Park	Conservation Reserve	Community Reserve
5. In case of areas not comprised in reserved forests and the territorial waters, an intention to declare the same needs to be notified. After, conducting the inquiry and disposing off all the claims, the sanctuary is notified.	5. In case of areas not comprised in the territorial waters, an intention to declare the same needs to be notified. After, conducting the inquiry and disposing off all the claims, the National Park is notified.	–	–
6. The Chief Wild Life Warden may, regulate, control or prohibit, in keeping with the interests of wild life, the grazing or movement of livestock. [sec. 33(d)]	6. No grazing of any livestock shall be permitted in a National Park and no livestock shall be allowed to enter therein except where such livestock is used as a vehicle by a person authorized to enter such National Park. [sec. 35(7)]. All rights in respect of lands proposed to be included in the Park need to be vested in the State Government before it is notified so. [sec. 35(4)(b)]	– –	–

12.39 Establishment of the Special Tiger Protection Force (STPF)

The State of Maharashtra has established the Special Tiger Protection Force (STPF) in four of the Tiger Reserves, namely, Tadoba-Andhari, Pench, Nawegaon-Nagzira and Melghat Tiger Reserve. Each STPF comprises of 1 Assistant Conservator of Forests, 3 Range Forest Officers, 81 Forest-Guards and 27 forest-watchers. Special Training has been imparted to the personnel in STPFs. All STPFs have delivered excellent results in respect of protection of tigers and wildlife habitat in and around the tiger reserves.

12.40 Rapid Rescue Teams (RRTs)

To effectively handle the human-wild animal conflict, the field functionaries have raised their own Rapid Rescue Teams at Circle and Division Levels. These Rapid Rescue Teams comprise of specially trained personnel and are equipped with requisite equipments to handle emergency situations.

12.41 The National Tiger Conservation Authority (NTCA)

is a statutory body as per Chapter IVB (section 38K to 38X) of Wildlife Protection Act 1972. The NTCA had issued advisories, standard operating procedures (SOP) and guidelines on different issues related to management of Tiger Reserves and related to management of Tiger as a species. The list of such advisories, SOP and guidelines is given below with the link to reach the website of NTCA, where these advisories and guidelines are available.

Sr. No.	Advisory / Guidelines / SOP	Link to the website
1	Phasing out of tourism (Night Stay) from Core Areas of Tiger Reserve, 11th October, 2019	https://projecttiger.nic.in/content/252_1_guidelines-and-advisories.aspx
2	Orders issued under section 11(1)(a) and 12 (a) (b) (c) (d) of the Wildlife (Protection) Act, 1972. 12th September 2019	
3	Guidelines for Reward to front line staff for extra ordinary performance in field 16th August, 2019.	
4	Habitat interventions in core/critical tiger habitats of tiger reserves 2nd April, 2019.	
5	Advisory for Filming/ Tourism in monsoon season in Tiger Reserves 17th January 2019	
6	Submission of proposals for notifying Eco sensitive Zones of Tiger Reserves, 23rd April 2018.	
7	Translocation Protocols. (Undated)	
8	Tiger Reserve Level MEE for Field Directors of All Tiger range states, 18th November, 2019	
9	Compliance of the statutory provisions in context of Infrastructure Development Project dated 28.11.2018 & clarification dated 30.12.2019	
10	TCP Guideline (Technical Document : NTCA/01/07)	
11	TCP Supplementary Guidance dated 02.04.2014	
12	Advisory for Retirement of Captive Elephants in Tiger Reserves dated 12.12.2019	
13	Advisory to emergent situation of tiger and sympatric species mortality due to electrocution dated 20.12.2017.	
14	Calculation of Tourism Carrying Capacity (18 seated vehicle deemed 3 Gypsies and 12 seated vehicle deemed 2 Gypsies) dated 07.09.2015	
15	Advisory for voluntary village rehabilitation (Changing status of forest land cleared under FC Act 1980 for rehabilitation from Forest land to Revenue land) dated 11.02.2019.	
16	Guideline for Tourism Activities in Tiger Reserve (Maintaining distance of 500 meter between 2 tourist vehicles) dated 12.02.2020.	

Sr. No.	Advisory / Guidelines / SOP	Link to the website
17	The National Tiger Conservation Authority Normative standard for tourism activities/ guidelines for Project Tiger vide notification dated 15.10.2012	https://projecttigr.nic.in/WriteReadData/UserFiles/file/Subordinate%20legislation/19.pdf
18	Amendment to Normative standard for tourism activities/ guidelines in Tiger Reserve i.e. Provision of ration allowance vide notification dated 06.06.2014	https://projecttiger.nic.in/WriteReadData/UserFiles/file/Subordinate%20legislation/23.pdf
19	Standard Operating Procedure for dealing with Tiger death dated 17.12.2012	https://projecttiger.nic.in/WriteReadData/PublicationFile/Combined%20PDF%20Cover-Text%20Pages.(1).pdf
20	Standard Operating Procedure for disposing the Tiger/Leopard carcass/body parts dated 18.03.2013	
21	Standard Operating Procedure to deal with emergency arising due to straying of Tigers in human dominated landscapes dated 30.01.2013	
22	Standard Operating Procedure to deal with Tiger depredation on livestock. (Undated)	
23	Standard Operating Procedure to deal with orphaned/ abandoned tiger cubs and old/ injured tigers in the wild (Undated)	
24	Standard Operating Procedure for active management towards rehabilitation of Tigers from source areas at the landscape level (Undated)	
25	Standard Operating Procedure on Interstate coordination for Interstate Tiger Reserves. (Undated)	
26	Guidelines to establish Tiger Safari in buffer and fringe areas of Tiger Reserves, November 2019	
27	Compendium of Guidelines, Advisories & Orders Volume II January 2020	https://projecttiger.nic.in/WriteReadData/PublicationFile/Compendium%20of%20Guidelines%20Advisories%20and%20Orders(1)(1).pdf
28	Compendium of Guidelines/ Advisories/ Gazette Notification. Updated up to 31st March, 2010	https://projecttiger.nic.in/WriteReadData/PublicationFile/Compendium(3).pdf

12.42 WILDLIFE CRIME CONTROL BUREAU (WCCB)

It is a statutory body constituted under Chapter IV-C of the Wild Life (Protection) Act 1972. The WCCB has issued various advisories for the field functionaries on different issues relating to wildlife crimes. The list of such advisories with the link to access the same is given below;

Sr. No.	Advisory	Link to the website
1	Advisory on intimation of wildlife offences detected, specimens/articles seized and person detained to Wildlife Crime Control Bureau (WCCB)and State Chief Wildlife Wardens dated 12/6/2015	http://wccb.gov.in/Content/AdvisoriesissuedbyWCCB.aspx
2	Advisory on investigation of the proceeds of wildlife crimes under PMLA dated 30.03.2015	
3	Advisory on display of wild animal articles, trophies etc. on social media dated 30.12.2014	
4	Advisory on establishment of Wildlife Crime Control Units in States/UTs dated 14.11.2014	
5	Investigation of offences under the Wild Life (Protection) Act, 1972, by Police officers dated 10.10.2014	
6	Guidelines in respect of booking of animals and birds (wild or otherwise)by Indian Railways dated 22.04.2014	
7	Intimation of arrest and conviction of wildlife criminals to the concerned police stations dated 02.09.2013	
8	Illegal use of wild animals in laboratories/ museums of schools/ colleges dated 26.09.2012	
9	Stop monetary valuation of wildlife articles dated 09.09.2012	
10	Profiles of wildlife criminals dated 25.05.2010	
11	Display of wildlife items in commercial premises dated 28.08.2009	
12	Ballistic evidence in wildlife offences dated 23.07.2008	

12.43 Directives issued by Other Authorities-

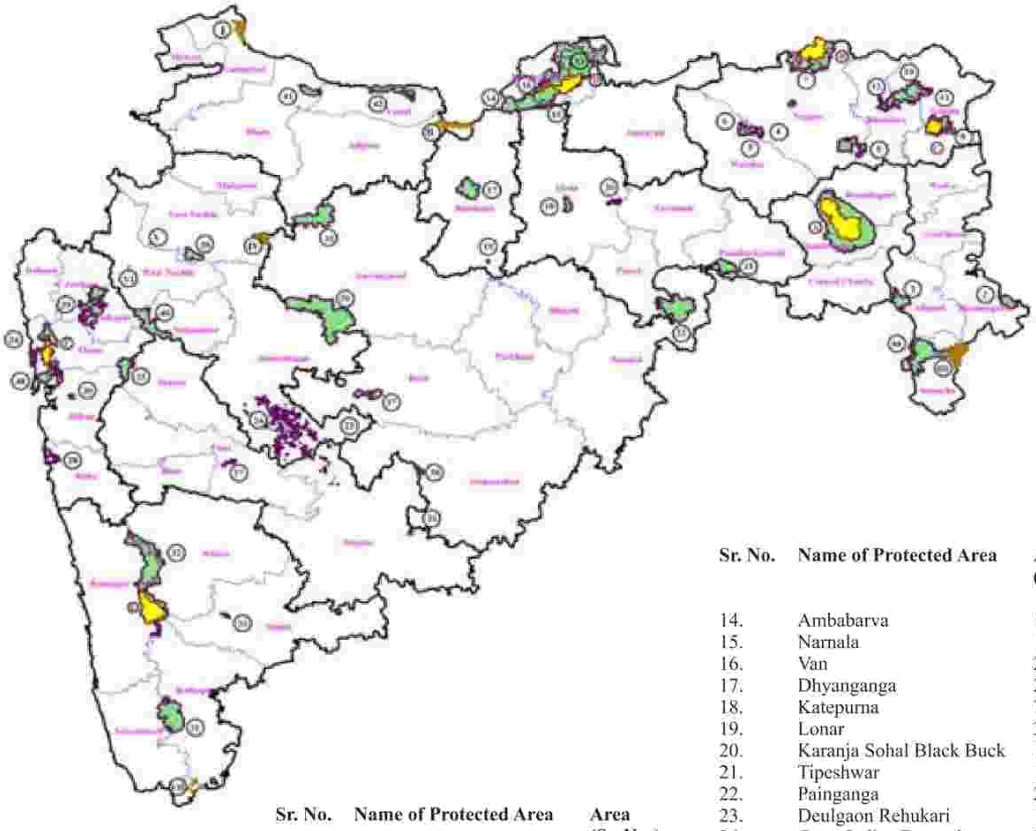
Some of the directives issued by the other Authorities are listed below--

Sr. No.	Directive	Authority	Link to the website
1	Use of animals in election process Circular dated 19/9/2012	Election commission of India	http://wccb.gov.in/Content/AdvisoriesbyOtherAgencies.aspx
2	Advisory on depiction of animals/wildlife in television programmes Circular dated 19/7/2012	Broadcasting contents complaints council	

12.44 Note for the Reader

The Reader is advised to refer to the official websites of the Ministry of Environment, Forest and Climate Change, and other statutory authorities stated above, for the latest guidelines in respect of relevant subject matters.

MAP OF NATIONAL PARKS, WILDLIFE SANCTUARIES AND CONSERVATION RESERVES IN MAHARASHTRA (AS ON 30.06.2020)



Sr. No.	Name of Protected Area	Area (Sq.Km)
	National Parks	
A.	Tadoba	116.55
B.	Pench	257.26
C.	Navegaon	129.55
D.	Gugamal	361.28
E.	Chandoli	317.67
F.	Sanjay Gandhi	86.96
	Sanctuaries	
1.	Andhari	509.27
2.	Bhamragadh	104.38
3.	Chaprala	134.78
4.	Bor	61.1
5.	New Bor	60.7
6.	New Bor Extended	16.32
7.	Mansingdeo	182.58
8.	Umred-Karhandla	189.29
9.	Navegaon	122.76
10.	Nagzira	152.81
11.	New Nagzira	151.33
12.	Koka	100.138
13.	Melghat	788.75
14.	Ambabarva	127.11
15.	Narnala	12.35
16.	Van	211
17.	Dhyanganga	205.21
18.	Katepurna	73.69
19.	Lonar	3.83
20.	Karanja Sohal Black Buck	18.32
21.	Tipeshwar	116.55
22.	Painganga	257.26
23.	Deulgaon Rehukari	129.55
24.	Great Indian Bustard	361.28
25.	Bhimashankar	317.67
26.	New GIB (Gangewadi)	86.96
27.	Mayureshwar Supe	5.145
28.	Phansad	69.79
29.	Tansa	304.81
30.	Karnala Bird	12.155
31.	Radhanagari	351.16
32.	Koyna	335.3
33.	Sagareshwar	10.87
34.	Tungareshwar	85.7
35.	Goutala Autramghat	260.61
36.	Jaikwadi Bird	341.05
	Conservation Reserves	
I.	Toranmal	93.42
II.	Muktai Bhavani	122.74
III.	Kolamarka	180.72
IV.	Mamdapur	54.46
V.	Borgad	3.49
VI.	Anjaneri	5.69
VII.	Tillari	29.53
	Total Area	**9395.311**

——CHAPTER 13——
THE COMPENSATORY AFFORESTATION FUND ACT, 2016

13.01 Legislative History

The Forest (Conservation) Act, 1980 contemplates for the prior approval of the Central Government for the use of forest land for non-forestry purposes. The Central Government, in the guidelines issued from time to time, has clarified about various aspects regarding the implementation of the Forest (Conservation) Act, 1980. As per these guidelines, the Compensatory Afforestation (CA) is one of the most important requirements for the prior approval of the Central Government for diversion of forest land for non-forestry purposes. In fact the purpose of the Compensatory Afforestation is to **compensate the loss of 'land-by-land' and loss of 'trees-by-trees'**. The guidelines further stipulate that any proposal submitted by the State Government seeking prior approval of the Central Government must have a comprehensive scheme for Compensatory Afforestation, duly approved by the Competent Authority of the concerned State.

13.02 The in-principle approval stipulates certain conditions, including the provisions for non-forest land for Compensatory Afforestation in lieu of the forest land being diverted, deposition of cost of Compensatory Afforestation and Net Present Value by the User Agency, mutation of the CA land in favour of the Forest Department, notification u/s4 of the Indian Forest Act, 1927 of such Compensatory Afforestation land and certain other conditions as may be deemed fit by the Central Government. Once the conditions laid down in the in-principle approval are fulfilled by the User Agency and the State Government, the Central Government accords formal approval. Based on such formal approval by the Central Government, the State Government, which is the owner of the forest land issues the orders for use of forest land for non forestry purposes. Such order from the State Government is also called the order for diversion of forest land.

13.03 Earlier, the cost towards Compensatory Afforestation etc. was deposited by the User Agency in the form of Demand Draft in favour of the concerned Divisional Forest Officer, who in turn used to deposit the same in the 'Forest Deposit'. Such amount was thereafter utilized by drawing from the **Forest Deposit** as and when required to fulfil the Stage-I conditions. Hon'ble Supreme Court, while deciding an Interlocutory Application No.566 in Writ Petition 202/1995, vide its order dated 29/10/2002, on the basis of a report submitted by the Central Empowered Committee (CEC), directed for the constitution of a '**Compensatory Afforestation Fund'(hereafter referred as 'CAF')** and directed that the User Agency shall deposit the Compensatory Afforestation cost and also deposit into the said fund, the net present value of the forest land diverted for non-forest purposes.

13.04 Hon'ble Supreme Court further observed that the funds would not be part of the General Revenue of the Union of the States or part of the Consolidated Funds of the India. The directions given by the Hon'ble Supreme Court are summarized as under---

(i) Government of India, in consultation with CEC should frame the rules regarding constitution of a body and management of the Compensatory Afforestation Fund.

(ii) Compensatory Afforestation Funds that had not yet been realized as well as the unspent funds already realized by the States should be transferred to the said body within six months of its constitution by the respective States and the user agencies.

(iii) For getting permission for diverting forest land for non forest purposes, under Forest (Conservation) Act, 1980, the user agency should also pay into the said fund the Net Present Value of the forest land so diverted.

(iv) Site specific plans for artificial regeneration, assisted natural regeneration, protection of forests and other related activities should be prepared and implemented in a time bound manner.

(v) The funds received from the user agency in cases where forest land diverted fell within Protected Areas should be used exclusively for undertaking protection and conservation activities in protected areas of the respective States/Union Territories.

(vi) An independent system of concurrent monitoring and evaluation should be evolved and implemented through the Compensatory Afforestation Fund to ensure effective and proper utilization of funds.

(vii) As per the above said directives of the Hon'ble Supreme Court, the MoEF vide Notification dated 23/04/2004, constituted the Compensatory Afforestation Fund Management and Planning Authority as an authority under sub-Section (3) of Section 3 of the Environment (Protection) Act, 1986 to manage the Compensatory Afforestation Funds. This notification provided for the composition of CAMPA at the Central level, at the State level and for the powers and functions of various bodies of CAMPA and State CAMPA, the constitution of the CAF and the management of CAF and the mechanism for monitoring and evaluation.

13.05 Based on the directives given by the Hon'ble Supreme Court vide its order dated 26/09/2005, certain amendments were carried out in the above mentioned notification dated 23/04/2004 by way of subsequent notification issued by the MoEF on 13/03/2007. This notification envisaged that CAMPA should have corporate accounting based on double entry system and auditing of its accounts should be conducted by the Comptroller and Auditor General of India.

13.06 After taking a note of the fact that comprehensive rules, procedure and composition of a Body for management of the Compensatory Afforestation Funds has not been finalized by the MoEF with the concurrence of Central Empowered Committee (CEC) and that the CAMPA had not become operational, Hon'ble Supreme Court directed vide order dated 05/05/2006 for the constitution of an ad-hoc body comprising of the Director General of Forests and Special Secretary, MoEF as Chairman, Inspector General of Forests, a representative of the Comptroller and Auditor General and a nominee of the Chairman of the Central Empowered Committee till CAMPA becomes operational to oversee the collection and utilization of CAF.

13.07 Accordingly, Ad-hoc CAMPA came into operation and the funds, in terms of the said Order, which were lying with the State Governments, were transferred to the Bank Accounts of the Ad-hoc CAMPA in the year 2006. Subsequent to the constitution of the Ad-hoc CAMPA, the CAF was opened in the Scheduled Banks for each State and Union Territories and the States were directed to deposit all compensatory levies in the State specific CAF bank account and to transfer all unspent funds deposited with the Government to the CAF account in the future.

13.08 Hon'ble Supreme Court vide its order dated 16th September, 2006 clarified that the cases which had been granted in-principle clearance before Supreme Court order dated 20th October, 2002 and final clearance after that date would also have to pay the NPV. Vide order dated 28th March 2008, Hon'ble Supreme Court fixed the rates of NPV, for a period of three years, subject to revision after every three years. Accordingly, the MoEF vide letter dated 05/02/2009 prescribed the rates of NPV and laid down detailed guidelines in respect of NPV. Such NPVs are still in force.

13.09 On 13th August, 2009 National CAMPA Advisory Council was constituted. The MoEF&CC issued detailed guidelines in respect of State CAMPA on 10th July, 2009.

13.10 Hon'ble Supreme Court, on 10/07/2009 in Interlocutory Application No.2143 of Writ Petition 202/1995 observed as under.-

Substantial amount of funds have been received by the Ad-hoc CAMPA and sudden release and utilization of this large sum all at one time may not be appropriate and may lead to its improper use without any effective control on expenditure.

13.11 With the above observations, Hon'ble Supreme Court permitted the Ad-Hoc CAMPA to release a sum of Rs 1000 crore per year for the next five years in proportion of 10% of the principle amount pertaining to the respective State/UT. Accordingly, funds limit to Rs 1000 crore per annum were released to various States during the period from 2009 to 2014.

13.12 Further, Hon'ble Supreme Court vide order dated 12/03/2014 in Writ Petition 202/1995 permitted the Ad-hoc CAMPA to release annual amounts equal to 10% of the principal amount lying to the credit of each State/Union Territory, out of the interest receivable by it with effect from the financial year 2014-15 onwards.

13.13 Before the enactment of Compensatory Afforestation Fund Act, 2016, the State CAMPA was functioning with a mandate to promote:

(a) conservation, protection, regeneration and management of existing natural forests;
(b) conservation, protection and management of wildlife and its habitat within and outside protected areas including the consolidation of the protected areas;
(c) compensatory afforestation; and
(d) environmental services, research, training and capacity building.

It was to function through a three-tier, committee hierarchy:

i. Governing Body, headed by Hon'ble Chief Minister, mandated to lay down the broad policy framework for functioning of State level CAMPA and review its working from time to time.
ii. Steering Committee, headed by the Chief Secretary, mandated to lay down and approve rules and procedures for the functioning of the body and its Executive Committee. Its responsibilities included monitoring the utilization of State CAMPA fund, approving the Annual Plan of Operation (APO), the annual reports and audited accounts of the State CAMPA.
iii. Executive Committee, headed by the Principal Chief Conservator of Forests of the State mandated to prepare the APO of the State for the various activities, submit it to the Steering Committee before end of December for each financial year, supervise the works being implemented out of funds released from the State CAMPA. It was also responsible for ensuring proper auditing of both receipt and expenditure of funds

13.14 Enactment of Compensatory Afforestation Fund Act, 2016.

The Central Government introduced the Compensatory Afforestation Fund Bill 2008 in the Parliament. The Bill was passed in Lok Sabha but could not come up for voting in Rajya Sabha and lapsed with the dissolution of Lok Sabha in May 2009. The Compensatory Afforestation Fund Act, 2016 was eventually enacted by the Parliament in the year 2016. This was followed by the notification of Compensatory Afforestation Fund Rules, 2018 and the Compensatory Afforestation Fund (Accounting Procedure) Rules, 2018. The Acts and Rules have come into force with effect from 30th September, 2018.

13.15 On 29th August, 2019, the Central Government transferred the funds to the States, which were lying with the Ad-hoc CAMPA after adjusting the amounts previously distributed as mentioned in para 1.6. The amount (as on 7th February, 2019) transferred to the State of Maharashtra is tabulated as under.—

Sr. No.	Detail	Amount (Rs. crore)
1	Compensatory Afforestation	1011.46
2	Catchment Area Treatment Plan	163.22
3	Integrated Wildlife Management Plan	34.12
4	Net Present Value	2002.32
5	Interest	441.67
6	Others	191.46
	Total	**3844.25**

13.16 The said amount has been deposited in the interest-bearing and non-lapsable Public Account of the State as per the provisions contained in the Compensatory Afforestation Fund Act, 2016.

13.17 The Act provides for the National Authority and the State Authority for management of Compensatory Levies received from the User Agencies in lieu of forest lands diverted under the Forest (Conservation) Act, 1980. The State Authority comprises of the Governing Body under the chairmanship of Hon'ble Chief Minister, the Steering Committee under the chairmanship of the Chief Secretary and the Executive Committee under the Chairmanship of the PCCF (HoFF). The powers, functions and duties assigned to these Authorities are given in the Act itself. The procedural part is covered under the Rules.

13.18 The activities that can be taken up under the Net Present Value (NPV) component under the CAMPA Funds are listed in Rule 5 and those under the Interest component are prescribed in rule 6 of the Compensatory Afforestation Fund Rules, 2018.

13.19 The Annual Plan of Operations are discussed and scrutinized at the levels of the Executive Committee and the Steering Committee of the State Government. Thereafter it is recommended to the National Authority for the approval. The funds can only utilized as per the Annual Plan of Operations duly approved by the Executive Committee of the National Authority.

13.20 The Compensatory Afforestation Fund Act, 2016, the Compensatory Afforestation Rules, 2018 and the Compensatory Afforestation (Accounting Procedure) Rules, 2018 are available on the official website of the MoEFCC.

——CHAPTER 14——
THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996 [PESA]

14.01 Introduction

The **PESA** aims at extension of provisions related to Panchayats in PART IX of the Constitution to the Scheduled Areas. PART X deals with the Scheduled and Tribal Areas. The provisions for administration and control of such areas are described in Fifth and Sixth Schedule respectively. As per Article 243, the provisions of the Fifth Schedule apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram. The provisions of the Sixth Schedule apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. Thus, the Fifth Schedule is relevant to the State of Maharashtra.

[Annexure 14.01]

14.02 What is Scheduled Area?

The President is empowered to declare the Scheduled areas by way of issuing Order under paragraph 6(2) of the Fifth Schedule. Accordingly, the President of India, in exercise of said powers, has issued Order dated 2nd December, 1985.

[Annexure 14.02]

14.03 Paragraph 5 of the Fifth Schedule empowers the Governor with powers to amend Acts of Parliament or of the Legislature of a State in their application to the Scheduled Areas. The relevant portion is reproduced as under.---

> **Paragraph 5(1).--** Notwithstanding anything contained in this Constitution, the Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect.

14.04 Using these powers, the Governor of Maharashtra has carried out amendments from time to time in various Central Acts, including the Indian Forest Act, 1927, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 as well as other Acts.

14.05 Part IX of the Constitution

Part IX of the Constitution lays down the provisions in respect of Panchayats. The underlying purpose of Part IX is to create democratic decentralization for ensuring that traditionally marginalized groups should progressively gain foothold in local self-government. The relevant provisions contained in Article 243 in Part IX of the Constitution are reproduced as under.—

i. **"district"** means a district in a State.
ii. **"Gram Sabha"** means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at village level.
iii. **"Intermediate level"** means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purpose of this Part.
iv. **"Panchayat"** means an institution (by whatever name called) of self-government constituted under Article 243-B, for the rural areas.

v. **"Panchayat area"** means the territorial area of a Panchayat.

vi. **"population"** means the population as ascertained at the last preceding census of which the relevant figures have been published.

vii. **"village"** means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

14.06 **Article 243-A. Gram Sabha.**

A Gram Sabha may exercise such powers and perform such functions at village level as the Legislature of a State may, by law, provide.

Article 243-B. Constitution of Panchayats.—

(1) There shall be constituted in every State, Panchayat at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

14.07 As per section 3 of the PESA, PART IX of the Constitution has been extended to the Scheduled Areas as under.----

Section 3.—The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

Section 4 enlists the exceptions and modifications to part IX of the Constitution. The relevant provisions from the point of view of forest administration are reproduced as under.—

Section 4(m)(ii).—While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at appropriate level and the Gram Sabha are endowed specifically with the ownership of minor forest produce.

14.08 Section 5 of the PESA reads as under—

Continuance of existing laws on panchayats:

Section 5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provisions of any law relating to Pacnchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in case of a State having Legislative Council, by each House of the Legislature of that State.

14.09 The effect to the above provision of the PESA was given by way of promulgation of an Ordinance by the Governor of Maharashtra on 10th December, 1997, whereby the ownership of minor Forest Produce found in the Government lands in scheduled areas, excluding the National Parks and Sanctuaries, was vested in Panchayat within whose jurisdiction such area falls. This was followed by the enactment of the **Maharashtra Transfer of Ownership of Minor Forest Produce in Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997** (hereinafter referred to as 'the Transfer of Ownership Act'). The term **'minor forest produce'** is neither defined in Part IX of the Constitution nor in the PESA. Therefore it was defined in the Transfer of Ownership Act as the forest produce specified in the Schedule appended to the Chapter II of that Act. While passing of the said Act, thirty- three forest-produces were specified in the said Schedule.

[Annexure 14.03]

14.10 Amendment in Transfer of Ownership Act by the Governor

However, the said Act was amended by the Governor in the year 2014 with retrospective effect [Sub-section (2) of section 1 provided that it shall be deemed to have come into force on the 10th December, 1997], exercising powers conferred to him under Paragraph 5 (1) of the Fifth Schedule of the Constitution. The phrase '…**shall vest in the *Panchayat'*** occurring in section 4(1) and 5(1) of the principal Act was substituted by the phrase, '…**shall vest in the Panchayats and Gram Sabhas'.** Through this Amendment, the Schedule in the principal Act was deleted and the definition of the term 'minor forest produce' was brought at par with that in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which is reproduced as under.---

[Annexure 14.04]

> **Section 3(a).—"minor forest produce"** includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, hone, wax, lac, tendu or Kendu leaves, medicinal plants and herbs, roots, tubers and the like.

14.11 Apart from this, a proviso was inserted below sub-section (1) of section 5 as under.

Provided that while finalizing such management plan or the Rules, the suggestions made by the Panchayats and Gram Sabha about traditional sustainability and conservation practices and equitable management of such minor forest produce shall be suitably incorporated.

14.12 Further, the words, 'State Government' in section 4(3) were substituted by the words, 'Rural Development Department of the State Government'.

14.13 The State Government has notified the Maharashtra Village Panchayats (Extension to Scheduled Areas) Rules, 2014, vide Notification dated 4th March, 2014, under various provisions of the Maharashtra Village Panchayats Act (III of 1959)

[Annexure 14.05]

14.14 In accordance with these provisions, the Central Government and State Government have issued directives from time to time, for disposal of tendu, bamboo and other minor forest produce in Scheduled Areas.

——CHAPTER 15——
THE MAHARASHTRA FOREST PRODUCE (REGULATION OF TRADE) ACT, 1969

15.01 This Act was originally enacted under the title of The Maharashtra **Minor** Forest Produce (Regulation of Trade) Act, 1969. It was enacted to make provision for regulating in the public interest, the trade of certain forest produce by creation of a State monopoly in such trade in the State of Maharashtra. It received the assent of the President on 24th December, 1969. The term 'minor forest produce' was defined in section 2 (e) of the said Act. However, after the enactment of the Maharashtra Transfer of Ownership of Minor Forest Produce Act, 1997 following the PESA, an amendment was carried out by Mah. 45 of 1997, whereby the word 'minor' was deleted. As a consequence, the term 'minor forest produce' was redefined as 'Forest produce' by newly substituted sub-section (e) of section 2, as forest-produce specified in the Schedule appended to the said Act. Originally, only Tendu leaves were specified in the Schedule appended to this Act. Later on in the year 1971, Bahunia racemosa (Apta leaves) was also added in the Schedule. Rules are in place in the form of the Maharashtra Minor Forest Produce (Regulation of Trade in Tendu Leaves) Rules, 1969.

[Annexure 15.01]

15.02 The Act was subsequently modified through the Maharashtra Transfer of Ownership of Minor Forest Produce in Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 (For details, please refer Chapter 14 of this Volume).

15.03 Thereafter, in the year 2014, the above mentioned Maharashtra Transfer of Ownership of Minor Forest Produce in Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 was amended by the Governor as per powers conferred under paragraph 5(1) of the Fifth Schedule of the Constitution, whereby the term 'minor forest produce' appearing in the said Act was amended to bring it at par with that in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. As a consequence, tendu and apta leaves also came within the ambit of 'minor forest produce' in Scheduled Areas. Thus, the Maharashtra Forest Produce (Regulation of Trade) Act, 1969 remained no more applicable in the Scheduled Areas and tendu and apta leaves in Scheduled Areas came under the ownership of Panchayats and Gram Sabhas as per the provisions contained in the Maharashtra Transfer of Ownership of Minor Forest Produce in Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 and PESA Rules notified on 4th March, 2014 under the Maharashtra Village Panchayat Act (III of 1959).

[Annexure 15.02]

15.04 The Maharashtra Transfer of Ownership of Minor Forest Produce in Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 was further amended by the Governor vide Notification dated 9th January, 2015 to insert Proviso below section 4(1) of the said Act as under----

[Annexure 15.03]

> Provided that, it shall be lawful for the Forest Department, upon a requisition made by the resolution of the Panchayat and the Gram Sabha concenred in this regard, to purchase, transport and dispose of Tendu and Apta Leaves on their behalf and thereupon the provisions of the Maharashtra Forest (Regulation of Trade) Act, 1969 and the rules made thereunder and the guidelines issued in this regard from time to time shall, mutatis mutandis apply.

15.05 In accordance with the said amendment, the State Government in Rural Development Department has issued procedural guidelines from time to time for collection, sale and management of Tendu, Apta and Bamboo.

15.06 The State Government vide Government Resolution No. MFP- 2104/CR-67/F-1 dated 28th February, 2006 has formulated the policy of collection of Tendu and distribution of incentives. The Procedures in this regard have been prescribed in Government Resolution of even no. dated 1st November, 2007.

15.07 It is also worth mentioning that Hon'ble Governor has amended the Indian Forest Act 1927 in its application to the State of Maharashtra vide Notification dated 30th October, 2014 by inserting a new CHAPTER III-A, making specific provisions for minor forest produce in Scheduled Areas. The relevant provisions are reproduced as under---

CHAPTER III-A
OF MINOR FOREST PRODUCE IN SCHEDULED AREAS

Section 28A

(1) Notwithstanding anything contained in this Act, the transit permits, in relation to transportation of minor forest produce in the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution of India shall be modified and given by the Panchayat at appropriate level and the Gram Sabha or a committee thereof.

(2) All decisions for the collection and sale of minor forest produce in the Scheduled Areas, and the sharing of all sale proceeds shall be taken by at Panchayats at the appropriate level and the concerned Gram Sabha.

Explanations.—For the purpose of Chapter IIIA,--

(i) "minor forest produce" in Scheduled Areas shall have the same meaning as assigned to it in the Maharashtra Transfer of Ownership of Minor Forest Produce in Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997.

(ii) "Gram Sabha" shall have the same meaning as assigned to it in Chapter IIIA of the Maharashtra Village Panchayats Act.

15.08 The State Government has issued guidelines from time to time for implementation of above mentioned statutory provisions in Scheduled Areas.

——CHAPTER 16——
THE BIOLOGICAL DIVERSITY ACT, 2002

16.01 Legislative History.
Part XI of the Constitution deals with the relations between the Union and the States. Chapter I of this Part contains provisions with respect to Legislative Relations. The subject matters of governance are categorized into the Union List, the Concurrent List and the State List in the Seventh Schedule. Whereas powers for making legislations by the Union and States under different circumstances are derived from Article 245 to 252, it is the Article 253 which contains the provisions for giving effect to international agreements. This Article is reproduced as under.—

> **Article 253. Legislation for giving effect to international agreements.**—Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or body.

16.02 The Biological Diversity Act, 2002 (No. 18 of 2003).--- This was enacted by Parliament on 5th February, 2003 to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto. The essence of provisions contained Article 253 of the Constitution may be perceived in the Preamble of this Act, which is reproduced as under.---

> WHEREAS India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;
> AND WHEREAS India is a party to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June, 1992;
> AND WHEREAS the said Convention came into force on 29th December, 1993;
> AND WHEREAS the said Convention reaffirms the sovereign rights of the States over their biological resources;
> AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilization of genetic resources;
> AND WHEREAS it is considered necessary to provide for conservation, sustainable utilization and equitable sharing of the benefits arising out of utilization of genetic resources and also to give effect to the said Convention.

16.03 Rules.—Sections 62 and 63 confer rule-making powers to the Central and State Government respectively. Accordingly, both the Governments have notified the Rules in the respective subject matters. The Government of Maharashtra has notified the Maharashtra Biological Diversity Rules, 2008 on 10th December, 2008. The State Government has also constituted the Maharashtra State Bio-diversity Board, having headquarters at Nagpur.

16.04 Authorization to forest-officers for filing complaint under the Act.
Section 61 imposes bar on Courts from taking cognizance of any offence under this Act except on a complaint made by—

(a) The Central Government or any authority or office authorized in this behalf by that Government; or
(b) Any benefit claimer who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.

Accordingly, the Central Government, vide Notification dated 7th January, 2009 has authorized Forest Officer not below the rank of Range Officers to file complaint in their respective jurisdictions.

[Annexure 16.01]

——CHAPTER 17——
OTHER SPECIAL ACTS

17.01 **Maharashtra Felling of Trees (Regulation) Act, 1964.**
Its Objective is to make better provision for regulating the felling of certain trees in the State of Maharashtra for the purpose of the preservation thereof. It received the assent of Governor on 4th September, 1964. It extends to whole of the State of Maharashtra by excluding urban areas. The Rules were first notified in the year 1964 and subsequently modified in the year 2005.
[Annexure 17.01 to 17.03]

17.02 It may be noted that the term 'tree' for the sake of this Act has been defined in section 2(f) as any tree specified in the Schedule appended to this Act. The State Government may by notification in the Official Gazette, add to or modify the Schedule, after considering necessity for the protection of any variety of trees. Till date, the Schedule comprises of 25 species of trees. Entry 16 to the Schedule consists of Mangroves, which are mentioned in the Explanation below the said Entries form 17 to 23 are in respect of Scheduling district only.
[Annexure 17.04, 17.05]

17.03 Originally, this Act empowered the Revenue Officers for granting the permission for felling of trees. However, in the year 1989, the State Legislature amended the Act by inserting new sub section *(ff)* in section 2 as follows----
2*(ff)* 'Tree Officer' means a 'Forest Officer' not below the rank of a Range Forest Officer.

Accordingly, the State Government has designated the Range Forest Officers to function as the Tree Officer under the Act, vide Notification dated 29th November, 1989.

17.04 Powers for granting permission for felling of trees other than those specified in the Schedule appended to the said Act are governed by the provisions contained in the Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Regulation of Right to Trees etc.) Rules, 1967. The State Government has amended these rules vide Notification dated 1st August, 2017 to substitute the word **'Collector'** by the words **'Tree Officer'**, which shall mean the Forest Officer not below the rank of a **'Range Forest Officer'** as defined under clause (ff) of section 2 of the Maharashtra Felling of Trees (Regulation) Act, 1964 (Mah.XXIV of 1964), and the forest officer means a Forest Officer as defined in the Indian Forests Act, 1927 (16 of 1927), in its application to the State of Maharashtra.
[Annexure 17.08]

17.05 Thus, with this amendment, read with the Notification dated 29th November, 1989 issued under the Maharashtra Felling of Trees (Regulation) Act, 1964, as mentioned above, Range Forest Officers became empowered to grant permissions for felling of trees, other than those specified in the Schedule appended to the said Act.
[Annexure 17.06]

17.06 **Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975**
This Act provides the regulating mechanism for felling of trees in urban areas, which are defined therein. In this Act also, the 'Tree Officer' has been designated for implementing the regulating mechanism. However, the said Tree Officer should not be confused with those prescribed in the Maharashtra Felling of Trees (Regulation) Act, 1964 as that Act operates outside the urban areas. The said Act was further amended through the Mumbai Municipal Corporation and the Maharashtra (Urban Areas) Protection and Preservation of Trees (Amendment) Act, 2012, notified in the Official Gazette on 21st April, 2012.
[Annexure 17.07]

17.07 Regulations on felling of trees in Eco-Sensitive Zone

Eco-sensitive zones have been notified by the Central Government under the provisions contained in the Environment Protection Act, 1986 and rules made thereunder (Para 17.15). Besides this, as per orders passed by Hon'ble Supreme Court in Writ Petitions 460/2004 and 435/2012 (Goa Foundation vs. Union of India and others), Eco-Sensitive Zones have been notified around National Parks and Sanctuaries. The Central Government in Ministry of Environment, Forests and Climate Change, vide Letter F.No.11- 63/2012-FC (Pt.) dated 29/09/2016 has issued following directives for regulating felling of trees in Eco-Sensitive Zones of Protected Areas.----

There shall be no felling of trees on the forest, non-forest land or government or revenue or private lands falling within the Eco-Sensitive Zone of protected areas without prior permission of the competent authority duly notified by the State Government.

In case there is no Competent Authority notified by the State Government in such interim period, the Principal Chief Conservator of Forests in-charge of the territorial forests shall be the Competent Authority for this purpose and will grant permission for tree felling on the recommendation of the Divisional Forest Officer in whose jurisdiction the ESZ fall who will recommend in accordance with the existing provisions of Central or State Act and rules made thereunder by the State Government for protection of trees in the state.

17.08 Accordingly, the State Government, vide Circular dated 6th June, 2019 has issued guidelines. Paragraphs 2.0, 3.0 and 5.0 of the Circular are reproduced a under.---

[Annexure 17.09]

2.0 The felling of trees in the Eco-Sensitive Zone can be broadly categorized as follows----

Felling of trees in forest areas- Such tree-felling is regulated by the prescriptions of Working Plan/Working Schemes, duly approved by the Competent Authority in the Central Government.

Felling of trees in urban limits- This is regulated under the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975, wherein the authorities for according permission for tree-felling have been duly designated.

Felling of trees in areas outside urban limits (Scheduled Trees)- It is regulated under the Maharashtra Felling of Trees (Regulation) Act, 1964, wherein the Tree-officer is duly notified by the State Government for granting permission for felling of trees listed in the Schedule under the said Act.

Felling of trees in areas outside urban limits (Non-Scheduled Trees)- It is regulated by the provisions of Maharashtra Land Revenue Code, 1966 wherein the authorities have been duly notified by the State Government for granting of tree felling permissions.

Felling of trees in coastal areas- It is regulated by CRZ Regulations.

Apart from above, presently the prior permission of Hon'ble Bombay High Court is also mandatory in case of cutting of mangrove species.

17.09 Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Act, 1969

This Act was enacted to regulate the disposal of trees standing in the holdings of persons belonging to Scheduled Tribes in the State of Maharashtra. It received the assent of the President on 17th April, 1969 and deemed to have come into force on 3rd March, 1969.

[Annexure 17.10]

17.10 Empowering the Officers to perform functions as Collector and Forest-Officer under the Act

The Range Forest Officers have been authorized to function as the forest-officers u/s 6(3) and 6(4) of the said Act. Sub-section (4) of section 6 was deleted in the year 1997. Similarly, vide Government Order dated 22nd July, 1982 the Divisional Forest Officers and Sub-Divisional Forest Officers of independent Sub-Divisions have been authorized to function as Collectors as per section 2 (c). The procedures for implementation of the Act are laid down in the Government Circular No. TRS 1081/120163-F-3 dated 22nd July, 1982.

[Annexure 17.11, 17.12]

17.11 Maharashtra Supply of Forest-Produce By Government (Revision of Agreements) Act, 1982

It was enacted to take powers to revise certain agreements to get fair price for forest-produce supplied by Government to purchasers for long term periods (exceeding twelve months) and for certain other matters. It received the assent of the President on 23rd March, 1983. Maharashtra Supply of Forest-Produce Government (Revision of Agreements) Rules, 1983 were notified on 15th June, 1983.

[Annexure 17.13]

17.12 Maharashtra Forest Development (Tax on Sale of Forest-Produce By Government or Forest Development Corporation) (Continuance) Act, 1983.

It was enacted to levy and collect forest development tax on sales of forest-produce by or on behalf of the State Government or the Forest Development Corporation. It received the assent of Governor on 15th April, 1983 and deemed to have come into force on 7th December, 1982. It is no more in force, following the enactment of the General Services Tax Act, 2017 enacted by the Parliament.

17.13 The Environment (Protection) Act, 1986

This Act was passed as a measure to implement the decision taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972 to which India was a party. The conference passed the Stockholm Declaration. Its objective was to provide for the protection and improvement of environment and for matters connected therewith. The term 'Environment' has been defined as under.---

> **Section 2(a).**—"environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property.

17.14 Penal Provisions and treatment of offence under the Environment (Protection) Act, 1986

Section 15 lays down the provisions for Penalties for contravention of the Act and rules, orders and direction. However, section 24 stipulates regarding the effect of other laws. It is reproduced as under.---

Section 24 (1).—Subject to the provisions of sub-section (2), the provisions of this Act and the rules or orders made therein shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

17.15 Eco-Sensitive Zones.

Section 3 of the Environment (Protection) Act, 1986 has provisions related to power of the Central Government to take measures to protect and improve environment. Using powers under this section, the Central Government has notified Mahabaleshwar-Panchgani region and Matheran in Satara and Raigad districts respectively. Thereafter, as per orders of Hon'ble Supreme Court in Writ Petitions 460/2004 and 435/2012 (Goa Foundation vs. Union of India and others), Eco-Sensitive Zones around National Parks and Sanctuaries have been notified by the Central Government as per powers conferred under the rules made in accordance with the said Act.

17.16 Coastal Regulation Zones.

Also known as the CRZ, the Coastal Regulation Zones have been notified by the Central Government under section 3(1) read with section 3(2)(v) of the Environment (Protection) Act, 1986. The latest such Notification has been issued by the Central Government on 18th January, 2019. The official website of the Ministry of Environment, Forest and Climate Change may be referred for update information.

17.17 Wetlands

The Central Government, in Ministry of Environment, Forests and Climate Change, in exercise of powers conferred by section 25, read with sub-section (1) and clause (v) of sub-section (2) and sub-section (3) and 23 of the Environment (Protection) Act, 1986 has notified the Wetlands (Conservation and management) Rules,2017 in supersession of similar rules notified in the year 2010. In these rules, the terms 'wetland' and 'wetland complexes' have been defined as follows---

"wetland" means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes.

"wetlands complexes" means two or more ecologically and hydrologically contiguous wetlands and may include their connecting channels/ducts.

17.18 Applicability of Wetland rules

As per rule 3, these Rules shall apply to the following wetlands or wetlands complexes, namely—

(a) Wetlands categorized as 'wetlands of international importance' under the Ramsar Convention;

(b) Wetlands as notified by the Central Government, State Government and Union Territory Administration.

Provided that these rules shall not apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts, and the Coastal Regulation Zone Notification, 2011 as amended from time to time.

17.19 Environmental Clearance in proposals under the Forest (Conservation) Act, 1980

The Ministry of Environment and Forests has notified the thresholds for different kinds of activities, where Environmental Clearance also becomes mandatory apart from the clearance under the Forest (Conservation) Act, 1980. Notifications issued in this regard are available on the official website of the MoEFCC.

17.20 The National Green Tribunal Act, 2010

Provisions related to Tribunals are dealt in PART XIV-A of the Constitution, inserted through the forty second Amendment. Tribunals have been classified into two categories as per Articles 323-A and 323-B. Relevant extracts of Article 323-B is reproduced as under—

Article 323-B Tribunals for other matters.

(1) The appropriate Legislature, may, by Law, provide for the adjudication or trial by tribunals of any disputes, complaints or offence with respect to all or any of the matters specified in clause

(2) with respect to which such Legislature has power to make laws.

Clause (2) specifies the subject-matters, in respect of which such Tribunals can be set up.

17.20.01 The Statement of Objects and Reasons are reproduced to appreciate the Legislative History of the National Green Tribunal Act, 2010.

Statement of Objects and Reasons.

1. The rapid expansion in industrial, infrastructure and transportation sectors and increasing urbanization in recent years have given rise to new pressures on our natural resources and environment. There is a commensurate increase in environment related litigation pending in various Courts and other authorities. The risk to human health and environment arising out of hazardous activities has also become a matter of concern.
2. India is a party to decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the

protection and improvement of the human environment. The United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, has also called upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy, and to develop National Laws regarding liability and compensation for the victims of pollution and other environmental damage.

3. The right to healthy environment has been constructed as part of the right to life under article 21 of the Constitution in the judicial pronouncement in India.

4. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environment Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of jurisdiction.

5. Taking into account the large number of environmental cases pending in higher Courts and the involvement of multi disciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the need for constitution of specialized environmental Courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental Courts having both original and appellate jurisdiction relating to environmental laws.

6. In view of the foregoing paragraphs, a need has been felt to establish a specialized tribunal to handle the multi disciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right related to environment.

7. Accordingly, it has been decided to introduce the National Green Tribunal Bill, 2009 which inter alia provide:---

   (a) for establishment of the National Green Tribunal which shall consist of Chairperson and such member of Judicial and Expert Members as the Central Government may identify;

   (b) that a person who is or has been a Judge of the Supreme Court or a Chief Justice of a High Court shall be eligible for appointment as the Chairperson or Judicial Member of the Tribunal;

   (c) that a person who is or has been a Judge of a High Court shall also be eligible for appointment as a Judicial Member;

   (d) that a person who is either an expert in physical sciences or life sciences or engineering, or who has administrative experience in dealing with environmental matters shall be qualified for appointment as an Expert Member;

   (e) that the Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in the Schedule I to the Bill and to grant relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in Schedule I to the Bill and to hear appeals under certain enactments specified in the Schedule III to the Bill;

   (f) the repeal of the 'National Environment Tribunal, Act 1995' and the 'National Environment Appellate Authority Act, 1997.

8. Bill seeks to achieve aforesaid objectives.

17.20.02 The Bill received the assent of the President on 2nd June, 2010 and the Act came into force on 18th October, 2010.

17.20.03 **Original Jurisdiction**—Section 14 confers on the Tribunal, the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the following enactments specified in Schedule I----

i. The Water (Prevention and Control of Pollution) Act, 1974;
ii. The Water (Prevention and Control of Pollution) Cess Act, 1977;
iii. The Forest (Conservation) Act, 1980;
iv. The Air (Prevention and Control of Pollution) Act, 1981;
v. The Environment (Protection) Act, 1986;
vi. The Public Liability Insurance Act, 1991;
vii. The Biological Diversity Act, 2002.

The Act further provides a time-limit of six months within which the applications for adjudication of dispute under this section shall be entertained by the Tribunal. It also empowers the Tribunal to allow such applications to be filed within a further period not exceeding sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period.

17.20.04 **Appellate Jurisdiction**—Section 16 confers upon the Tribunal the appellate jurisdiction against certain orders or decisions or directions under the Acts mentioned in the preceding paragraph. It further provides a time-limit of thirty days within which the appeal may be filed before the Tribunal. It also empowers the Tribunal to allow such appeals to be filed within a further period not exceeding sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period.

17.20.05 **Appeal against the award, decision or order of the Tribunal---**Section 22 provides as under---

> **Section 22 Appeal to Supreme Court.**—Any person aggrieved by any award, decision or order of the tribunal, may file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision or order of Tribunal, to him, or any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):
> Provided that the Supreme Court may, entertain any appeal under this Act, after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

17.20.06 **Penalty**

17.20.06.01 Section 26 deals in penalty provisions and provides for penalty for failure to comply with orders of the Tribunal. It provides that whoever, fails to comply with any order or award or decision of the Tribunal, shall be punishable with imprisonment for a term which may extent to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

It further provides that in case a company, fails to comply with any order or award or decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five

crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

It also provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under the Act shall be deemed to be non-cognizable within the meaning of the said Code.

17.20.06.02 Section 27 provides that where any offence under the Act is committed by a company, every person, who at the time of the offence was committed, was directly in charge of, and was responsible to the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. It further provides that if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence, he shall not be liable to any punishment. It also provides that if any offence has been committed by company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

17.20.06.03 Section 28 contains provisions relating to offences by the Government Departments. It provides that where any Department of the Government fails to comply with any order or award or decision of the Tribunal, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under the Act and punished accordingly. It further provides that if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence, he shall not be liable to any punishment. It also provides that if any offence has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

17.20.06.04 **Bar of jurisdiction**—Section 29 provides that, no civil Court shall have jurisdiction to entertain nay appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction. It also provides that no civil Court shall have jurisdiction to settle or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or

environment which may be adjudicated upon by the Tribunal and no injunction in respect of any action taken or to be taken by or before the Tribunal shall be granted by civil Courts.

17.20.06.05 **Cognizance of offences**—Section 30 provides that the Court shall not take cognizance of any offence under the Act except on a complaint made by the Central Government or any authority or officer authorized in this behalf by that Government; or any person who has authority or officer authorized in this behalf by that Government; or any person who has given notice of not less than sixty days in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid. It further provides that any Court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall not try any offence punishable under the Act.

17.20.06.06 **Act to have overriding effect**—Section 33 stipulates that the provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

17.20.06.07 **Repeal and savings**—Section 38 provides for repeal of the National Environment Tribunal Act, 1995 and the National Environment Appellate Authority Act, 1997. It further provides that notwithstanding such repeal, anything done or an action taken under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act.

17.21 **The Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989—** This is an Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

17.21.01 Definitions

Section 2.

(a) **"Atrocity"** means an offence punishable under section 3;

(b) **"Code"** means the Code of Criminal Procedure, 1973 (2 of 1974);

(c) **"Scheduled Castes and Scheduled Tribes"** shall have the meanings assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution:

(d) **"Special Court"** means a Court of Session specified as a Special Court in section 14;

(e) **"Special Public Prosecutor"** means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;

(f) words and expressions used but not defined in this Act and de-fined in the Code or the Indian Penal Code (45 of 1860) shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.

(2) Any reference in this Act to any enactment or any provision thereof shall in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

17.21.02 Offences and Penalty—Chapter II describes the offences and penalty for such offences. Some of the provisions are reproduced as under----

Ssection 3

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;

(ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste, or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;

(iii) forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;

(iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

(v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;

(vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;

(viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe.

(ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;

(xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;

(xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or a Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

(xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;

(xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;

(ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence; or

(vii) being a public servant, commits any offence under this section,

shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

Section 4. Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed of duties. by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

Section 5. Whoever, having already been convicted of an offence under this Chapter for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

Section 8. In a prosecution for an offence under this Chapter, if it is proved that - .

(a) the accused rendered any financial assistance to a person accused of, or reasonably suspected of committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object.

17.21.03 Applicability of section 438 of the Code of Criminal Procedure, 1973 (Anticipatory Bail)

Section 18 of the Act overrides section 438 of the Code of Criminal Procedure, 1973.

Section 18. Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

17.21.04 Hon'ble Supreme Court Judgment in Dr. Subhash Kahinath Mahajan vs. The State of Maharashtra and Anr., (2018) 6 SCC 454

"83. Our conclusions are as follows:

(i) Proceedings in the present case are clear abuse of process of court and are quashed.

(ii) There is no absolute bar against grant of anticipatory bail in cases under the Atrocities Act if no prima facie case is made out or when on judicial scrutiny the complaint is found to be prima facie mala fide.

(iii) In view of acknowledged abuse of law of arrest in cases under the Atrocities Act, arrest of a public servant can only be after approval of the SSP, which may be granted in appropriate cases if considered necessary for reasons recorded. Such reasons must be scrutinized by the Magistrate for permitting further detention.

(iv) To avoid false implication of innocent, a preliminary enquiry may be conducted by the DSP concerned to find out whether the allegations make out a case under the Atrocities Act and that the allegations are not frivolous or motivated.

(v) Any violation of directions (iii) to (v) will be actionable by way of disciplinary action as well as contempt.

17.21.05 Amendment in the Act

Following the above said judgment of Hon'ble Supreme Court, Parliament, in the year 2018, amended the Act by inserting section 18-A, which is reproduced as under---

Section 18-A (i) For the purpose of this Act,----

(a) preliminary enquiry shall be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed an offence under this Act has been made, and no procedure other than that provided under this Act or the Code shall apply.

(ii) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.

17.21.06 Following the said amendment, the Union of India filed a Review Petition No. 228 of 2018, which was allowed and the directives (iii) to (v) in paragraph 83 of the judgement in Dr. Subhash Kashinath Mahajan were withdrawn by the Apex Court, vide order dated 1st October, 2019. Para 66 of the said Order is reproduced as under—

> 66. We do not doubt that directions encroach upon the field reserved for the legislature and against the concept of protective discrimination in favour of downtrodden classes under Article 15(4) of the Constitution and also impermissible within the parameters laid down by this Court for exercise of powers under Article 142 of Constitution of India. Resultantly, we are of the considered opinion that direction No. (iii) and (iv) issued by this Court deserve to be and hereby recalled and consequently we hold that direction No. (v), also vanishes. The review petitions are allowed to the extent mentioned above.

17.21.07 The Matter was again referred to the Apex Court through Writ Petition (Civil) No. 1015 of 2018 (Prithviraj Chavhan vs. Union of India). The Apex Court in paragraph 10 to 12 of its judgement dated 10th February, 2020 in the said Writ Petition, has directed as follows-----

> 10. Concerning the applicability of provisions of section 438 Cr.PC, it shall not apply to the cases under Act of 1989. However, if the complaint does not make out a prima facie case for applicability of the provisions of the act of 1989, the bar created by section 18 and 18A(i) shall not apply. We have clarified this aspect while deciding the review petitions.
>
> 11, The court can, in exceptional cases, exercise power under section 482 Cr.PC for quashing the cases to prevent misuse of provisions on settled parameters, as already observed while deciding the review petitions. The legal position is clear, and no argument to the contrary has been raised.
>
> 12. The challenge to the provisions has been rendered academic. In view of the aforesaid clarifications, we dispose of the petitions.

17.21.08 **Section 20**. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

17.21.09 The procedure part is covered under the Rules notified by the Central Government.

17.22 The Contempt of Courts Act, 1971—

This is an Act to define and limit the powers of certain courts in punishing contempts of courts and to regulate their procedure in relation thereto. The relevant definitions are reproduced as under—

Section 2 (a) contempt of court means civil contempt or criminal contempt.

Section 2 (b) civil contempt means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court.

Section 2 (c) criminal contempt means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which—

i. scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court; or

ii. prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or

iii. interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

17.23 Section 12. Punishment for contempt of court.--

(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

Explanation–

(1) An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide.

(2) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.

(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.

(4) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of each such person: Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.

(5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer.

Explanation– For the purpose of sub-sections (4) and (5)—

(a) 'company' means anybody, corporate and includes a firm or other association of individuals; and

(b) 'director', in relation to a firm, means a partner in the firm.

17.24 Section 13 Contempts not punishable in certain cases.--

Notwithstanding anything contained in any law for the time being in force,—

(a) no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice;

(b) the court may permit, in any proceeding for contempt of court, justification by truth as a valid defence if it is satisfied that it is in public interest and the request for invoking the said defence is bona fide.

17.25 Section 16 Contempt by judge, magistrate or other person acting judicially.

(1) Subject to the provisions of any law for the time being in force, a judge, magistrate or other person acting judicially shall also be liable for contempt of his own court or of any other court in the same manner as any other individual is liable and the provisions of this Act shall, so far as may be, apply accordingly.

(2) Nothing in this section shall apply to any observations or remarks made by a judge, magistrate or other person acting judicially, regarding a subordinate court in an appeal or revision pending before such judge, magistrate or other person against the order or judgment of the subordinate court.

17.26 Some Important Technical Terms used by the Forest Survey of India in its Annual Reports

The Forest Survey of India, Dehradun publishes the State of Forest Report periodically, giving the status of forests in the Country. For removal of doubts, clear understanding of such terms is essential. Some of such terms are reproduced as under--

Biodiversity	The variety of life found on earth (plants, animals, fungi and micro-organisms) as well as the communities that they form and habitats in which they live
Biomass	Forest biomass is organic matter expressed as oven-dry tonnes per unit area: it can be referred to as biomass density when expressed as mass per unit area. Approximately 50% of dry forest biomass is carbon.
Canopy	The cover of branches and foliage formed by crowns of trees.
Canopy cover	The percentage of ground covered by a vertical projection of outermost perimeter of natural spread of foliage of plants.
Canopy Density	Percent area of land covered by canopy of trees. It is expressed as a decimal coefficient, taking closed canopy as unity.
Carbon Sequestration	It is the long term process of storage of carbon in plants, soil, geologic formations and the ocean.
Crown Area	It is the area of horizontal projection of a tree crown on the ground.
Open Forest	Lands with forest cover having a canopy density between 10 to 40 percent.
Moderately Dense Forest	All lands with forest cover having a canopy density between 40 to 70 percent.
Dense Forest	All lands with a forest cover having a canopy density of 40 percent and above.
Very Dense Forest	Lands with forest cover having a canopy density of 70 percent and above.
Forest Area	The area recorded as a forest in the Government records. It is also referred to as "Recorded Forest Area".
Recorded Forest Area	Forest Area recorded as forests in Government records.

Forest Blank	A patch within a forest which bears few or no trees.
Forest Cover	All lands, more than one hectare in area, with a tree canopy density of more than 10 percent irrespective of ownership and legal status. Such lands may not necessarily be a recorded forest area. It also includes orchards, bamboo and palm.
Tree Cover	It comprises of tree patches of size less than 1 ha occurring outside the recorded forest area. Tree cover includes trees in all formations including scattered trees.
Trees Outside Forests (TOF)	TOF refers to all trees growing outside recorded forest areas irrespective of patch size.
Green Wash	The extent of wooded areas generally shown in light green colour on the Survey of India toposheets.
Mangroves	Salt tolerant evergreen forest ecosystem found mainly in tropical and sub-tropical coastal and/or inter-tidal regions.
Mangrove Cover	Area covered under mangrove vegetation as interpreted from remote sensing data. It is included in the forest cover.
Non-Timber Forest Products (NTFPs)	It is defined as product or service other than timber that is produced in forests. NTFPs are useful materials of commodities obtained from forests without harvesting logging of trees.

[Source- India State of Forest Report 2019: Volume 1. Website : www.fsi.nic.in]

—CHAPTER 18—
GRAZING IN FORESTS

18.01 The Cattle Tress Pass Act, 1871

Statement of Objects and Reasons

The primary object of this Bill is to consolidate the law relating to cattle trespass, which is now scattered through three Acts, III of 1857, V of 1860 and XII of 1861. The opportunity has been taken to improve the arrangement and the working of the law; to provide that damages awarded for illegal seizures may be recovered as if they were fines; and (with reference to the case of Reg. v. Lingana bin Giubana, 4 Bombay High Court rep. C.C. 14) to declare expressly that a person who, through neglect, permits a public road to be damaged by allowing his pigs to trespass thereon, is liable to be fined. The cases of Reg. v. Mir Saheb Kassamia, 1 Bombay High Court Rep. 100; Reg v. Mathur Purshottam, 4 ib, C.P. 13; and Reg. v. Ganga Kom Mhasu, 5163 C.C. 13 have also been considered.

The Cattle Trespass Bill received the assent on 13th January, 1871 AND CAME ON THE Statue Book as THE CATTLE-TRESPASS ACT, 1871 (1 of 1871).

18.02 Grazing Policy for the Maharashtra State

In order to remove the disparity in regard to the procedure of cattle grazing in the forests in the various regions of the state, a uniform Grazing Policy was evolved as per Government Resolution, Revenue & Forests Department, No. MFP-1365/132211-Y, dated 6th December 1968. Grazing Units have been prescribed as under—

[Annexure 18.01]

Buffalo	2 cattle unit
Sheep	1 cattle unit
Cow and Bullock	1 cattle unit
Buffalo-Calf under three years of age	1 cattle unit
Cow-calf	½ Cattle Unit

18.03 Grazing Rules

Grazing Rules applicable to entire Maharashtra State have been prescribed by Government resolution No. MFP-1371/237035-Z, dated 3rd November 1973, annexing the Grazing Policy dated 6th December 1968 as mentioned above.

[Annexure 18.02]

18.04 Grazing incidence—

As per the said Grazing Rules, the number of cattle-units which can be accommodated in 2.5 acre (1 ha.) area is called the 'grazing incidence' of that forest. The grazing incidences have been prescribed as follows—

Category of Forests	Details	Grazing Incidence
Protected Forests (Not to be confused with the protected forests mentioned in section 29 of the Indian Forest Act, 1927)	These categories will include steep and precipitous forests, (especially those in the catchment areas of important river valley projects) and also the denuded lands which are in dire need of soil conservation and afforestation. Grazing should be altogether prohibited in these forests save in exceptional cases.	Not to exceed one cattle unit for 10 acres.

Category of Forests	Details	Grazing Incidence
Tree Forests	This category will include forests where production of timber is the main object of the management.	1 cattle unit for 3 acres.
Minor Forests	This category will comprise forests in which production of firewood on a sustained basis is the prime object of management.	1 cattle unit for 1.5 to 2 acres
Pasture lands	This category will include openly stocked forests or lands that have ceased to yield even small timber but which are conveniently situated for providing grazing to the adjoining cattle population.	1 cattle unit per acre.

18.05 Priorities for grazing

Government has laid down the priorities for admitting cattle in over grazed units, where demand for grazing is heavy vide its resolution No.MFP-1369/63695-Z, dated 2nd August 1971. Following preferences have been fixed vide the said Resolution—

[Annexure 18.03]

1. Plough cattle and milch cattle of cultivators subject to maximum of 4 cattle units.
2. Additional plough cattle and milch cattle, if any, of cultivators subject to maximum of 4 cattle units.
3. Milch cattle of non-cultivators subject to the maximum of 4 cattle units.
4. Remaining essential cattle including milch cattle of cultivators.
5. Milch cattle of non-cultivators and non-essential cattle of cultivators.
6. Non-milch cattle of non-cultivators.
7. Cattle from non-listed villages.

Essential Cattle

A Milch cattle—All cattle actually yielding milk will be considered as milch cattle.

B Agricultural cattle-Will include up to 4 cattle units per "plough" (Agriculturist having upto 20 acres cultivable land is considered to have one "plough").

18.06 Instructions regarding grazing in the forests by kathewadi cattle

Government has instructed to consider grazing requirements of kathewadi cattle, if the kathewadi people came and settled before 1971 and subject to availability of carrying capacity as per the grazing settlement report. Voters list of 1971 is to be considered to determine whether the kathewadis were settled before 1971 or otherwise.

(GR.No. 1632/CR-253, dated 26th June 1984)

18.07 Regulation of Sheep Grazing

As per Grazing Policy of 6th December, 1968 following provision exists—

Grazing in forests by goats should be prohibited altogether. For sheep-grazing, specified area should be set apart and separate incidence and rate of fees fixed after obtaining Government approval.

Government Resolution No. MFP-1365/132211-Z, dated 22nd December 1971 lays down that each sheep should be considered as 1 unit and Rs.1/- per annum should be charged for each sheep grazing, in areas specifically set apart for the purpose.

[Annexure 18.04]

18.08 Grazing fee for sheep grazing

Government has exempted collection of grazing fees for sheep grazing. However, taking of grazing license is necessary for sheep grazing.

(G.R.No.MFP-2195/CR 102/F-1, dated 11th September 1995)

[Annexure 18.05]

18.09 **Grazing settlement for sheep**

The State Government vide Government Resolutions dated 23rd December, 2003 and 21st March, 2005 appointed officers of rank of the Assistant Conservator of Forests for suggesting measures to regulate sheep grazing in forests. After receiving Reports from them, the State Government issued Government Resolution No MFP-2103/CR-135/F-1, dated 6/5/2008 allowing sheep grazing in 21 Forest Divisions and not allowing the same in remaining divisions. In 21 divisions, where the sheep grazing was allowed, a condition was stipulated that it will be allowed during September to May only.

[Annexure 18.06]

21 Divisions where sheep grazing was allowed	27 Divisions where sheep grazing was not allowed
Buldhana, Wardha, Bhandara, Nagpur, Gondia, Aurangabad, Nanded, West Dhule, North Dhule, Sironcha, Alapalli, Central Chanda, Gadchiroli, Wadsa, Chandrapur, Sawantwadi, Satara, Kolhapur, Akola, Sangli and Pusad.	Amravati, East Melghat, West Melghat, Osmanabad, Beed, Parbhani, Ahmednagar, East Nashik, West Nashik, Slapur, Bhor, Pune, Junnar, Thane, Jawhar, Shahapur, Roha, Alibag,Dahanu, Mewasi, Yawal, Jalgaon, Bjamragad, Brahmapuri, Chiplun, Yawatmal, Pandharkawda.

18.10 The State Government appointed another Committee vide Government Resolution No. MFP-2103/CR-135/F-1 dated 2nd September, 2015 under the chairmanship of the PCCF (Production and Management), including one senior member of the Legislative Assembly and representatives of the shepherd communities to examine the issues related to sheep grazing. The Committee submitted its Report to the Government on 28th March, 2016. Based on the said Report and the technical inputs from the PCCF, the State Government issued Government Resolution on 2nd January, 2017 to allow sheep grazing in Buldhana and Jalgaon Divisons during June to September on experimental basis for two years, subject to certain conditions.

[Annexure 18.07]

18.11 Eventually, the PCCF (HoFF), vide his Report No. Desk-16/R-3/CR-45/G-1178/2018-19 dated 18th December, 2018 submitted to the state Government, has opined that it would not be in the interest of forests if sheep grazing is allowed during June to September.

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10	4.05	4.18	Amendment by the Parliament in the Indian Forest Act, 1927 [deletion of the word 'bamboo' from the definition of the term 'tree' in section 2(7)]	Notification	05.01.2018	327
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13	4.08	4.24	The Maharashtra Forest Rules, 2014	Rules	2014	361
14	4.09	4.25	The Indian Forests (Maharashtra) (Regulation of assignment, management and cancellation of village forests) Rules, 2014	Rules	2014	418
15	4.10	4.27	Notification dated 3rd April, 1997 empowering Magistrates for summary trial u/s 67	Notification	03.04.1997	426
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17	4.12	4.27	Notification dated 22nd July, 2015 delegating Statutory Powers under the Indian Forest Act, 1927	Notification	22.07.2015	435
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23	4.18	4.29	Notification No. SWM 4502/CR-200/F-6 Dated 08.07.1982 amending rules under the Indian Forest Act, 1927	Notification	08.07.1982	453
24	4.19	4.29	Regarding Saw mills Rules	Letter	03-02-1986	459
25	4.20	4.29	Notifications No. SWM 1096/CF-123(1), (II) and (III)/F-6 dated 06.11.1998 amending rules under the Indian Forest Act, 1927	Notification	06.11.1998	461
26	4.21	4.29	Notification No. SWM 1093/cr 331/F-6 Dated 03.11.2003 amending rules under the Indian Forest Act, 1927	Notification	03.11.2003	464
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28	4.23	4.29	Nilgiri Tres (Eucalyptus species) or parts thereof	Notification	05.03.1990	466
29	4.24	4.29	Babhul (Acacia nilotica), Subabhul (Leucaena leucocephala), Prosopis (Prosopis juliflora) trees or parts thereof	Notification	21.06.1990	467
30	4.25	4.29	Ashok (Polyalthia lngifolia), Drumstick (Moringa Oleifera), Shindi (Phoenix Sylverstris), Orange (Citrusaurantium), Chiku (Achras Zapota), Bhendi (Thespesia populnea), Acacia (Acacia mangium) and Poplar (Populus) trees and parts thereof	Notification	23.10.1997	468

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32	4.27	4.29	Lac	Notification	17.11.2012	470
33	4.28	4.29	Casuarina equisetifolia	Notification	09.04.2013	471
34	4.29	4.29	All species other than Dendrocalamus strictus and Bambusa bambos	Notification	24.06.2013	472
35	4.30	4.29	Rubber wood in non-forest land	Notification	04.06.2015	473
36	4.31	4.29	Mahua floweres	Notification	30.03.2017	475
37	4.32	4.29	All species of bamboos in non-forest lands	Notification	11.04.2017	477
38	4.33	4.29	Silver Oak (Grevillea robusta), Malbar Neem (Melia dubia), Indian Willow (Salix alba), Sweet lime (Citrus limetta), Guava (Psideum guajava), Maharukh (Ailanthus excelsa) on non-forest lands	Notification	01.02.2018	479
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46	6.03	AO 12	Standing Order dated 12th May, 2001 of the PCCF (HoFF) in respect of protection from forest-fire	Order	12.05.2001	505
47	6.04	AO 21	Form of transit permit to be used for transport of minor forest produce in exercise of community forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006	GR	30.07.2013	513
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81	8.27	8.36	Maharashtra Private Forests (Acquisition) Act, 1975. Implementation of–	Circular	20.03.1982	659
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95	9.09	9.43	Government directives to hand over forest lands from Revenue Department to Forest Department	Circular	04.08.1976	704
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102	10.06	10.03.03	Regularisation of Encroachments of made on forest lands during 1.4.1972 to 31.3.1978 for cultivation.	GR	12.09.1979	734
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109	11.04	11.03	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.	Rules	01.01.2008	770
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118	11.13	11.09	GOM Tribal development department Resolution no. FRA-2014/C.R.66/Ka-14, dated 24.06.2015 regarding Establishment of CFRMC under rule 4(1)(d).	GR	24.06.2015	818
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124	12.03	12.21	Prior approval of Government to the Chief Wild Life Warden for delegating his powers to other officers	Letter	22.07.2013	839
125	12.04	12.21	Delegation of Powers by the Chief Wild Life Warden	Order	26.07.2013	840
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153	17.04	17.02	Inclusion of 8 tree-species in the Schedule	Notification	04.10.1999	987
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157	17.08	17.04	Maharashtra Land Revenue (Regulation of Rights to Trees etc.) Rules, 1967	Notification	01.08.2017	1003
158	17.09	17.08	Notification dated 01.08.2017 Guidelines for felling of trees in Eco-Sensitive Zones	Circular	06.06.2019	1006
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167	18.05	18.08	Fee for sheep grazing	GR	11.09.1995	1058
168	18.06	18.09	Approval to Report related to Sheep Grazing	GR	06.05.2008	1059
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ANNEXURE 1.01

ADAPTATION OF LAWS ORDERS

PART II

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE

PART II.—ADAPTATION OF LAWS ORDERS

[1]ADAPTATION OF LAWS ORDER 1950

C.O. 4

Whereas by clause (2) of article 372 of the Constitution of India (hereinafter referred to as "the Constitution") the President is empowered by Order to make such adaptations and modifications of any law in force in the territory of India, whether by way of repeal or amendment as may be necessary or expedient for the purpose of bringing the provisions of such law into accord with the provisions of the Constitution, and to provide that the law shall, as from such date as may be specified in the Order, have effect subject to the adaptations and modifications so made;

Now, therefore, in exercise of the powers conferred by the Constitution and of all other powers enabling him in that behalf, the President is pleased to make the following Order, namely:—

1. (1) This Order may be called the Adaptation of Laws Order, 1950.

(2) It shall come into force on the 26th day of January, 1950.

2. (1) In this Order—

(*a*) "appointed day" means the 26th day of January, 1950;

(*b*) "existing Central law" means any law in force in the territory of India immediately before the appointed day, but does not include—

(i) an existing Provincial law;

(ii) an existing State law; or

(iii) an Act of Parliament of the United Kingdom or any Order in Council, rule or other instrument made under such an Act;

(*c*) "existing Provincial law" means—

(i) any Provincial Act or any Ordinance or Regulation made by the Governor of a Province under the Government of India Act, 1935; or

(ii) any rule, bye-law, regulation, order, notification or other instrument made under any such Provincial Act, Ordinance or Regulation;

which, immediately before the appointed day, was a law in force in any Province or part thereof, and includes, with respect to a merged territory, any law in force in such territory immediately before the appointed day which was made for that territory or any part thereof by the Legislature or other competent authority of the corresponding Indian State or under the Extra-Provincial Jurisdiction Act, 1947;

(*d*) "existing State law" means an Act, Ordinance or other legislative enactment by whatever name called which immediately before the appointed day was a law in force in an Indian State corresponding to the whole or any part of a Part B State, and was passed by the Legislature or other competent authority of such an Indian State or was made under

[1]Published with the Ministry of Law, Notification No. C. O. 4, dated the 26th January, 1950, Gazette of India, Extraordinary, Part II, Section 3(i), page 449. Subsequently amended by C.O. 17, C.O. 25, C.O. 29 and C.O. 42 *infra*

(C.O. 4.)

the Extra-Provincial Jurisdiction Act, 1947, and includes any rule, order, bye-law or other instrument so in force which was made under any such Act, Ordinance or legislative enactment;

(e) "existing law" means an existing Central law, existing Provincial law or existing State law.

(2) The General Clauses Act, 1897, applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

Part I—Adaptation of [1][*existing Central or Provincial laws*]

3. As from the appointed day, the [1][existing Central or Provincial laws] mentioned in the Schedules to this Order shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to the adaptations and modifications directed by those Schedules or, if it is so directed, shall stand repealed.

4. (1) Whenever an expression mentioned in column 1 of the Table hereunder printed occurs (otherwise than in a title or preamble or in a citation or description of an enactment) in an [1][existing Central or Provincial law] whether an Act, Ordinance or Regulation mentioned in the Schedules to this Order or not, then, unless that expression is by this Order expressly directed to be otherwise adapted or modified, or to stand unmodified, or to be omitted, there shall be substituted therefor the expression set opposite to it in column 2 of the said Table, and there shall also be made in any sentence in which the expression occurs such consequential amendments as the rules of grammar may require.

TABLE

1	2
East Punjab	Punjab
[2][The United Provinces] United Provinces	Uttar Pradesh
The Central Provinces and Berar	Madhya Pradesh
Ajmer-Merwara	Ajmer
Governor General	President
Crown Her Majesty His Majesty	Government
Governor's Province	Part A State
Governors' Provinces	Part A States
Chief Commissioner's Province	Part C State
Chief Commissioners' Provinces	Part C States
Indian State Acceding State	Part B State
Indian States Acceding States	Part B States
All the Provinces of India	The whole of India except Part B States

[1]Subs. by the Adaptation of Laws (Third Amendment) Order, 1951 (C. O. 29, dated 4-1-1951), *infra*, for "existing Central, Madras or Bombay Law".

[2]Subs. by C. O. 29, *infra*, for "The United Provinces".

Province (except where it occurs in any expression mentioned above)	State
Provincial	State
Provinces (except where it occurs in any expression mentioned above)	States

(2) A direction in the Schedules to this Order that a specified [1][existing Central or Provincial law] or section or portion of such law shall stand unmodified shall be construed merely as a direction that it is not to be modified or adapted in accordance with the provisions of this paragraph.

5. Where this Order requires that in any specified [1][existing Central or Provincial law], or in any section or other portion of such law, certain words shall be substituted for certain other words, or that certain words shall be omitted, that substitution or omission, as the case may be, shall, except where it is otherwise expressly provided, be made wherever the words referred to occur in that law or, as the case may be, in that section or portion.

6. (1) The following provisions shall have effect where any [1][existing Central or Provincial law] which under this Order is to be adapted or modified has before the appointed day been amended either generally or in relation to any particular area, by the insertion or omission of words, or the substitution of words for other words—

(*a*) effect shall first be given in the amending law to any adaptation or modification required by paragraphs three and five of this Order to be made therein;

(*b*) the original law shall then be amended, either generally or, as the case may be, in its application to the particular area, so as to give effect to the directions contained in the amending law or, where any adaptation or modification has fallen to be made under clause (*a*), in that law as so adapted or modified; and

(*c*) all adaptations or modifications required by this Order to be made in the original law shall then be made in that law as so amended, except so far as in the case of any particular area they may be inapplicable.

(2) In this paragraph, references to the amendment of a law by the insertion or omission of words or the substitution of words do not include references to an amendment which is effected merely by directing that certain words shall be construed in a particular manner.

7. Any reference in any existing Central law to the House of the People shall, until that House is constituted and summoned to meet for the first session under the provisions of the Constitution, be construed as a reference to the provisional Parliament functioning under article 379 of the Constitution.

8. Notwithstanding any amendment made by this Order in the extent clause of an [1][existing Central or Provincial law], that law shall not be deemed to have been extended to any area to which it did not extend immediately before the appointed day; and a reference in that law to any State or class

[1]Subs. by the Adaptation of Laws (Third Amendment) Order, 1951 (C.O. 29, dated 4-4-1951) *infra*, for "existing Central, Madras or Bombay Law".

of States shall not, unless the context otherwise requires be deemed to include a reference to any part of that State or class of States to which that law did not extend immediately before the appointed day.

9. In the application of any existing Central law to the territory which, immediately before the appointed day, was comprised in the Chief Commissioner's Province of Panth Piploda, references by whatever form of words to Part C States shall, and references by whatever form of words to Part B States shall not, be construed as references to such territory, and references to State Government shall be construed as references to the Government of Madhya Bharat.

10. In any [1][existing Central or Provincial law] references by whatever form of words to Part A States shall not, and references by whatever form of words to Part B States shall, include references to the territories, being part of the State of Assam, which, immediately before the appointed day, were known as the Khasi States.

[2]* * * * * *

[2][*Part II*]—*Adaptation of existing State laws*

[2][11]. As from the appointed day, all existing State laws shall, until repealed or altered or amended by a competent Legislature or other competent authority, be subject to the adaptations directed in this Order.

[2][12]. In any existing State law, any reference by whatever form of words to British subjects or subjects of an Indian State shall be construed as a reference to citizens of India, Commonwealth citizens as defined in section 1 of the British Nationality Act, 1948, or any class of such citizens as the subject or context may require.

[2][13]. In any existing State law, any reference by whatever form of words to the Government of the Indian State for or for any part of which such law is made shall be construed as a reference to the Government of the Part B State to the whole or part of which such Indian State corresponds.

[2][14]. In any existing State law, references to British India or to the Provinces generally shall be construed as references to the whole of the territories for the time being comprised within Part A States and Part C States and references to a Province shall be construed as references to a Part A State or a Part C State.

[2][*Part III*]—*Supplementary*

[2][15]. Save as is otherwise provided by this Order, all powers which under any law in force in India or any part thereof were, immediately before the appointed day, vested in or exercisable by any person or authority shall continue to be so vested or exercisable until other provision is made by some Legislature or authority empowered to regulate the matter in question.

[2][16]. Subject to the provisions of this Order, any reference by whatever form of words in any existing law to any authority competent at the date of the passing of that law to exercise any powers or authorities, or to discharge

[1]Subs. by the Adaptation of Laws (Third Amendment) Order, 1951 (C.O. 29, dated 4-4-1951), *infra*, for "existing Central, Madras or Bombay Law".

[2]The original Part II was omitted, Parts III and IV were renumbered as Parts II and III and paragraphs 18 to 28 were respectively renumbered as paragraphs 11 to 21 by the Adaptation of Laws (Third Amendment) Order, 1951 (C.O. 29, dated 4-4-1951).

any functions, in any part of India shall, where a corresponding new authority has been constituted by or under the Constitution, have effect until duty repealed or amended as if it were a reference to that new authority.

[1][17]. The provisions of this Order which adapt or modify any law so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, bye-law, rule or regulation duly made or issued, or anything duly done, before the appointed day; and any such notification, order, commitment, attachment, bye-law, rule, regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances as if it had been made, issued or done after the commencement of this Order by the competent authority and under and in accordance with the provisions then applicable to such a case.

[1][18]. In any existing law, any reference by name or description to any territory shall, unless the contrary intention appears or unless it has been, or is by this Order, otherwise expressly provided, be construed as a reference to the territory which bore that name or answered to that description at the date when the enactment containing that name or description came into operation.

[1][19]. Where any rule, order or other instrument was in force under any provision of the Government of India Act, 1935, or under any Act amending or supplementing that Act, immediately before the appointed day, and such provision is re-enacted with or without modifications in the Constitution, the said rule, order or instrument shall, so far as applicable, remain in force with the necessary modifications as from the appointed day as if it were a rule, order or instrument of the appropriate kind duly made by the appropriate authority under the said provision of the Constitution, and may be varied or revoked accordingly.

[2][20]. Nothing in this Order shall affect the previous operation of, or anything duly done or suffered under, any existing law, or any right, privilege, obligation or liability already acquired, accrued or incurred under any such law, or any penalty, forfeiture or punishment incurred in respect of any offence already committed against any such law.

[1][21]. Any Court, Tribunal or authority required or empowered to enforce any law in force in the territory of India immediately before the appointed day shall, notwithstanding that this Order makes no provision or insufficient provision for the adaptation of the law for the purpose of bringing it into accord with the provisions of the Constitution, construe the law with all such adaptations as are necessary for the said purpose.

* * * * * *

FIRST SCHEDULE

CENTRAL ACTS

THE SECRETARIES TO GOVERNMENT ACT, 1834
(11 of 1834)

This Act shall stand repealed.

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[1]The original Part II was omitted, Parts III and IV were renumbered as Parts II and III and paragraphs 18 to 28 were respectively renumbered as paragraphs 11 to 21 by the Adaptation of Laws (Third Amendment) Order, 1951 (C.O. 29, dated 4-4-1951), *infra*.

[2]Proviso omitted by the Adaptation of Laws (Amendment) Order, 1950 (C. O. 17, dated 5-6-1950), *infra* (w.e.f. 26-1-1950).

ANNEXURE 1.02

GOVERNMENT OF MAHARASHTRA
LAW AND JUDICIARY DEPARTMENT

The Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960

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THE MAHARASHTRA ADAPTATION OF LAWS (STATE AND CONCURRENT SUBJECTS) ORDER, 1960

G. N., L. and J. D., No. 13104/B, dated 1st May 1960.

Amended by G. N., L. and J. D., No. 23465/B, dated 26th September 1960.

Amended by G. N., L. and J. D., No. 56/E, dated 2nd January 1961.

Amended by G. N., L. and J. D., No. 8475/B, dated 13th April 1961.

Amended by G. N., L. and J. D., No. 8542/B, dated 15th April 1961.

Amended by G. N, U.D. and P. H. D., No. MCO. 1060/21374/Unification, dated 24th April 1961.

Amended by G. N., L. and J. D., No. 9419/B, dated 27th April 1961.

Whereas by section 88 of the Bombay Reorganisation Act, 1960 (hereinafter referred to as " the Act") the appropriate Government is empowered, by order to make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, for the purpose of faciliating the application of any law in relation to the State of Maharashtra so that every such law shall have effect subject to the adaptations and modifications so made ;

Now, therefore, in exercise of the powers conferred by the Act and all other powers enabling it in that behalf, the Government of Maharashtra hereby orders as follows :—

1. (1) This Order may be called the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

(2) It shall come into force on the 1st day of May 1960.

2. (1) In this Order—

(*a*) " appointed day " means the 1st day of May 1960 ;

(*b*) " existing State law " means any law in force, immediately before the appointed day, in the whole or any part of the territories now comprised in the State of Maharashtra, but does not include any law relating to a matter enumerated in the Union List;

(*c*) " law " has the same meaning as in clause (*d*) of section 2 of the Act.

(2) The General Clauses Act, 1897, applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

3. As from the appointed day, the existing State laws mentioned in the Schedule to this Order shall, until altered, repealed or amended by a competent Legislature or other competent authority, have effect subject to the adaptation and modifications directed by the Schedule or, if it is so directed, shall stand repealed.

4. (1) Whenever an expression mentioned in column (1) of the table hereunder printed occurs (otherwise than in a title or preamble or in a citation or description of an enactment) in an existing State Law, whether an Act, Ordinance or Regulation mentioned in the Schedule to this Order or not, then, in the application of that law to the State of Maharashtra or as the case may be, to any part thereof, unless that expression is by this Order expressly directed to be otherwise adapted or modified, or to stand unmodified, or to be omitted, there shall be substituted therefor the expression set opposite to it in column (2) of the said table, and there shall also be made in any sentence in which the expression occurs such consequential amendments as the rules of grammar may requir :—

	(1)	(2)
(1)	Bombay State or State of Bombay . .	State of Maharashtra.
(2)	Pre-Reorganisation State or Bombay, excluding the transferred territories. . .	Bombay area of the State of Maharashtra.
(3)	Governor of Bombay	Governor of Maharashtra.
(4)	Government of Bombay	Government of Maharashtra.
(5)	High Court of Bombay	High Court of Maharashtra.

(2) A direction in the Schedule to this Order that a specified existing State law, or section or portion of such law shall stand unmodified shall be construed merely as a direction that it is not to be modified or adapted in accordance with the provisions of this paragraph.

5. Where this Order requires that in any specified existing State law, or in any section or other portion of such law certain words shall be substituted for certain other words, or that certain words shall be omitted, that substitution or omission, as the case may be, shall, except where it is otherwise expressly provided, be made wherever the words referred to occur in that law or, as the case may be, in that section or portion.

6. (1) The following provisions shall have effect where an existing State law which under this Order is to be adapted or modified has before the appointed day been amended either generally or in relation to any particular area, by the insertion or omission of words, or the substitution of words for other words—

(*a*) effect shall first be given in the amending law to any adaptation or modification required by paragraphs 3,4 and 5 of this Order to be made therein;

(*b*) the original law shall then be amended, either generally or, as the case may be, in its application to the particular area, so as to give effect to the directions contained in the amending law, or where any adaptation or modification has fallen to be made under clause (*a*), in that law as so adapted or modified; and

(c) all adaptations and modifications required by this Order to be made in the original law shall then be made in that law as so amended, except so far as in the case of any particular area they may be inapplicable.

(2) In this paragraph, references to the amendment of a law by the insertion or omission of words or the substitution of words do not include references to an amendment which is effected merely by directing that certain words shall be construed in a particular manner.

7. Any reference in any existing State law to the Legislature of the State (or any House or Houses thereof) shall be construed as a reference to the Legislature of the State of Maharashtra or to the corresponding House or Houses thereof.

8. Notwithstanding any adaptation made by this Order, where the extent or application of an existing State law in force immediately before the appointed day, refers, by reason only of such adaptation, to the State of Maharashtra, such reference shall not be deemed to include a reference to any part of that State to which that law did not extend or apply immediately before the appointed day.

9. (1) If on the appointed day, any body, authority or person entitled by or under any existing State law to exercise any rights, powers or jurisdiction or to perform any duties or to discharge any functions or to hold any property, is not or cannot be duly constituted or appointed by reason of the alteration of territories by the Bombay Reorganisation Act, 1960, then, save as expressly provided by or under the Act or any adaptation made in such law all such rights, powers and jurisdiction shall be exercisable, all such duties shall be performed and all such functions shall be discharged by, and all such property shall vest in, the State Government.

(2) Nothing in sub-paragraph (1) shall be deemed to prevent the State Government from duly constituting or appointing under such law after the appointed day, any body, authority or person to exercise or perform or discharge all or any of such rights, powers, jurisdiction, duties or functions or vesting therein all or any part of the property aforesaid.

10. The provisions of this Order which adapt or modify any law so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable shall not render invalid any notification, order, licence, permission, award, commitment, attachment, bye-law, rule or regulation duly made or issued, or anything duly done, before the appointed day; and any such notification, order, licence, permission, award, commitment, attachment, bye-law, rule, regulation or thing may be revoked, varied or undone in like manner, to the like extent and in the like circumstances as if it had been made, issued or done after the commencement of this Order by the comptent authority and under and in accordance with the provision then applicable to such a case.

11. Nothing in this Order shall affect the previous operation of, or anything duly done or suffered under, any existing State law or any right, privilege, obligation, or liability already acquired, accrued or incurred under any such law or any penalty, forfeiture or punishment incurred in respect of any offence already committed against any such law.

SCHEDULE

(See paragraph 3.)

BOMBAY LAWS

THE BOMBAY REGULATION XXIX OF 1827.

New section 6.—After section 5, insert—

Exclusion of application to certain territories now in Gujrat.

"6. Nothing in this Regulation shall as from the 1st day of May 1960 apply in relation to territories described in Appendix A which are by section 3 of the Bombay Re-organisation Act, 1960, comprised in the State of Gujrat.".

THE BOMBAY CIVIL COURTS ACT,1869.
(XIV OF 1869).

Section 1.—In sub-section (2), for "State of Bombay" substitute "State of Maharashtra".

THE BOMBAY REVENUE JURISDICTION ACT, 1876.
(X OF 1876).

Section 1.—For " State of Bombay" substitute " State of Maharashtra".

Section 4.—In clause (*ii)* of the proviso,—

(*a*) for " Saurashtra, Hyderabad, Madhya Pradesh or Kutch" substitute "Hyderabad or Madhya Pradesh" ;

(*b*) for " State of Bombay" substitute " State of Maharashtra ".

THE MARKETS AND FAIRS ACT, 1862.
(BOM. IV OF 1862).

Section 8.—For " State of Bombay " substitute " State of Maharashtra".

THE GAS COMPANIES ACT, 1863.
(BOM. V OF 1863).

Section 1 .—For " State of Bombay" substitute " State of Maharashtra".

Section 27.—For " State of Bombay" substitute " State of Maharashtra".

ANNEXURE 3.01

THE GENERAL CLAUSES ACT, 1897

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THE GENERAL CLAUSES ACT, 1897

INTRODUCTION

The General Clauses Act, 1897 is a consolidating Act. It consolidated the General Clauses Act, 1868 and the General Clauses Act, 1887. Before the enactment of the General Clauses Act, 1868, provisions of the Interpretation Act, 1850 were followed. The provisions of that Act and certain additions were framed together and thus emerged the General Clauses Act, 1868. The object of the General Clauses Act, 1868 was to shorten the language used in the Acts of the Governor-General of India in Council. It contained only 8 sections. A supplementary General Clauses Act was enacted as the General Clauses Act, 1887 which contained 10 sections. The additions enacted in this Act were based on the personal experience of Sir Courteney Ilbert who drafted this Act. In 1987, the General Clauses Act of 1868 and 1887 were consolidated and a new Bill was introduced in the Council of the Governor-General on 4th February, 1897. While introducing the Bill in the Council the then Law Member pointed out that the new Bill was not intended to change the existing law. Its object was simply to shorten the language of future statutory enactments and as far as possible, to provide for uniformity of expression where there was identity of subject-matter. It was convenient that the General Clauses Acts of 1868 and 1887, which were already on the statute book, should be consolidated to have Legislative Dictionary and rules for the Construction of Acts in one and the same enactment.

ACT 10 OF 1897

The General Clauses Bill was referred to the Select Committee and the Select Committee submitted its report on 4th March, 1987. Based on the report of the Select Committee the Bill was passed by the Council of the Governor-General and it came on the statute book as the General Clauses Act, 1897 (10 of 1897).

LIST OF AMENDING ACTS AND ADAPTATION ORDERS

1. The Amending Act, 1903 (1 of 1903)
2. Act 10 of 1914
3. Act 17 of 1914
4. Act 24 of 1917
5. Act 18 of 1919
6. Act 31 of 1920
7. Act 11 of 1923
8. Act 18 of 1928
9. Act 19 of 1936
10. The Adaptation of Indian Laws Order, 1937
11. The Indian (Adaptation of Existing Indian Laws) Order, 1947
12. The Adaptation of Laws Order, 1950
13. The Adaptation of Laws (Amendment) Order, 1950
14. The Adaptation of Laws (No.1) Order, 1956

THE GENERAL CLAUSES ACT, 1897

(10 OF 1897)[1]

An Act to consolidate and extend the General Clauses Act, 1868 and 1887.

[*11th March, 1897*]

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 (1 of 1868) and 1887 (1 of 1887), it is hereby enacted as follows:—

PRELIMINARY

1. Short title.—(1) This Act may be called the General Clauses Act, 1897; [2][* * *]

[2][***]

2. Repeal.—*[Repealed by the Repealing and Amending Act, 1903 (1 of 1903), Sec. 4 and Schedule III].*

GENERAL DEFINITIONS

[3][**3. Definitions.**—In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

(1) "abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code (45 of 1860);

(2) "act", used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions;

(3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(4) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland;

(5) "British India" shall mean, as respects the period before the commencement of Part III of Government of India Act, 1935, all territories and places within His Majesty's

---

1. For Statement of Objection and Reasons, *see* Gazette of India, 1897, Pt. V, p. 38; for Report of the Select Committee, *see* Gazette of India, Pt. V, p.77, and for Proceedings in Council *see* Gazette of India, Pt.VI, pp. 35, 40, 56 and 76.

   This Act has been declared to be in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation (3 of 1872) sec. 3; in Panth Piploda by the Panth Piploda Laws Regulation, 1929 (1 of 1929), sec. 2; in Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), sec. 3 and Sch; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), sec. 3 and Sch.

   The Act has been partially extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and to the new Provinces and Merged States by the Merged States (Laws) Act, 1949 (59 of 1949).

   The Act has been extended to—

   Goa, Daman and Diu with modifications, by Regulation 12 of 1962, sec.3 and Sch.;

   Dadra and Nagar Haveli by Regulation 6 of 1963, sec.2 and Sch.I;

   Pondicherry by Regulation 7 of 1963, sec.3 and Sch.I; and

   Laccadive, Minicoy and Amindivi Islands by Regulation 8 of 1965, sec.3 and Sch.

   It has been amended in Assam by the Assam Commissioners' Powers Distribution Act, 1939 (Assam Act 1 of 1939).

2. The word "and" in sub-section (1) and sub-section (2) rep. by Act 10 of 1914 sec. 3 and Sch. II.

3. Subs. by the A.O. 1950, for the former Section.

dominions which were for the time being governed by His Majesty through the Governor General of India or through any Governor or Officer subordinate to the Governor General of India, and as respects any period after that date and before the date of establishment of the Dominion of India means all territories for the time being comprised within the Governors' Provinces and the Chief Commissioners' Provinces, except that a reference to British India in an Indian law passed or made before the commencement of Part III of the Government of India Act, 1935, shall not include a reference to Berar;

(6) "British possession" shall mean any part of Her Majesty's dominions exclusive of the United Kingdom, and where parts of those dominions are under both a Central and a Local Legislature, all parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one British possession;

(7) "Central Act" shall means an Act of Parliament and shall include—

(a) an Act of the Dominion Legislature or of the Indian Legislature passed before the commencement of the Constitution, and

(b) an Act made before such commencement by the Governor General in Council or the Governor General, acting in a legislative capacity;

COMMENTS

The date of commencement of the Constitution is 26th January, 1950.

(8) "Central Government" shall,—

(a) in relation to anything done before the commencement of the Constitution, mean the Governor General or the Governor General in Council, as the case may be; and shall include,—

(i) in relation to functions entrusted under sub-section (1) of Section 124 of the Government of India Act, 1935, to the Government of a Province, the Privnicial Government acting within the scope of the authority given to it under that sub-section; and

(ii) in relation to the administration of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of the authority given to him under sub-section (3) of section 94 of the said Act; and

(b) in relation to anything done or to be done after the commencement of the Constitution, mean the President; and shall include,—

(i) in relation to functions entrusted under clause (1) of article 258 of the Constitution, to the Government of a State, the State Government acting within the scope of the authority given to it under that clause; [1][* * *]

(ii) in relation to the administration of a Part C State [2][before the commencement of the Constitution (Seventh Amendment) Act, 1956], the Chief Commissioner or the Lieutenant-Governor or the Government of a neighbouring State or other authority acting within the scope of the authority given to him or it under article 239 or article 243 of the Constitution, as the case may be; [2][and

1. The word "and" omitted by the Adaptation of Laws (No. 1) Order, 1956.
2. Ins. by the Adaptation of Laws Order (No. 1) Order, 1956.

(iii) in relation to the administration of a Union territory, the administrator thereof acting within the scope of the authority given to him under article 239 of the Constitution];

COMMENTS

The date of commencement of the Constitution (Seventh Amendment) Act, 1956 is 1st January, 1956.

(9) "Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs;

(10) "Chief Controlling Revenue Authority" or "Chief Revenue Authority" shall mean—

(a) in a State where there is a Board of Revenue, that Board;

(b) in a State where there is a Revenue Commissioner, that Commissioner;

(c) in Punjab, the Financial Commissioner; and

(d) elsewhere, such authority as, in relation to matters enumerated in List I in the Seventh Schedule to the Constitution, the Central Government, and in relation to other matters, the State Government, may by notification in the Official Gazette, appoint;

(11) "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and elsewhere the chief officer-in-charge of the revenue-administration of a district;

(12) "Colony"—

(a) in any Central Act passed after the commencement of Part III of the Government of India Act, 1935, shall mean any part of His Majesty's dominions exclusive of the British Islands, the Dominions of India and Pakistan (and before the establishment of those Dominions, British India), any Dominions as defined in the Statute of Westminister, 1931, any Province or State forming part of any of the said Dominions, and British Burma; and

(b) in any Central Act passed before the commencement of Part III of the said Act, mean any part of His Majesty's dominions exclusive of the British Islands and of British India;

and in either case where parts of those dominions are under both a Central and Local Legislature, all parts under the Central Legislature shall, for the purposes of this definition, be deemed to be one colony.

COMMENTS

(i) The date of commencement of Part III of the Government of India Act, 1935 is 1st April, 1937.

(ii) The date of establishment of the Dominions of India and Pakistan is 15th August, 1947.

(iii) Section 1 of the Statute of Westminister, 1931 (22 and 23 Geo V.C.4) defines a Dominion as under:

"In this Act the expression Dominion means any of the following dominions, that is to say, the Dominions of Canada, the commonwealth of Australia, the Dominion of Newzealand, the Union of South Africa, the Irishfree State and Newfoundland."

(13) "commencement" used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force;

(14) "Commissioner" shall mean the chief officer-in-charge of the revenue administration of a division;

(15) "Constitution" shall mean the Constitution of India;

(16) "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;

(17) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

(18) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means which is intended to be used, or which may be used, for the purpose or recording that matter;

(19) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid;

(20) "father", in the case of any one whose personal law permits adoption, shall include an adoptive father;

(21) "financial year" shall mean the year commencing on the first day of April;

(22) a thing shall be deemed to be done in "good faith" where it is in fact done honesty, whether it is done negligently or not;

(23) "Government" or "the Government" shall include both the Central Government and any State Government;

(24) "Government securities" shall mean securities of the Central Government or of any State Government, but in any Act or Regulation made before the commencement of the Constitution shall not include securities of the Government of any Part B State;

(25) "High Court", used with reference to civil proceedings, shall mean the highest Civil Court of appeal (not including the Supreme Court) in the part of India in which the Act or Regulation containing the expression operates;

(26) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;

(27) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

(28) "India" shall mean,—

(a) as respects any period before the establishment of the Dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler, and the tribal areas;

(b) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion; and

(c) as respect any period after the commencement of the Constitution, all territories for the time being comprised in the territory of India;

(29) "Indian law" shall mean any Act, Ordinance, Regulation, rule, [1][order, bye-law or other instrument] which before the commencement of the Constitution had the force of law in any Province of India or part thereof, or thereafter has the force of law in any Part A State or Part C State or Part thereof, but does not include any Act of Parliament of the United Kingdom or any Order in Council, rule or other instrument made under such Act;

(30) "Indian State" shall mean any territory which the Central Government recognised as such a State before the commencement of the Constitution, whether described as a State, an Estate, a Jagir or otherwise;

(31) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

(32) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force;

(33) "master", used with reference to a ship, shall mean, any person (except a pilot or harbour-master) having for the time being control or charge of the ship;

(34) "merged territories" shall mean the territories which by virtue of an order made under section 290A of the Government of India Act, 1935, were immediately before the commencement of the Constitution being administered as if they formed part of a Governor's Province or as if they were a Chief Commissioner's Province;

(35) "month" shall mean a month reckoned according to the British calendar;

(36) "movable property" shall mean property of every description, except immovable property;

(37) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(38) "Offence" shall mean any act or omission made punishable by any law for the time being in force;

(39) "official Gazette" or "Gazette" shall mean the Gazette of India or the official Gazette of a State;

(40) "Part" shall mean a part of the Act or Regulation in which the word occurs;

(41) "Part A State" shall mean a State for the time being specified in Part A of the First Schedule to the Constitution, [2][as in force before the Constitution (Seventh Amendment) Act, 1956,] "Part B State" shall mean a State for the time being specified in Part B of that Schedule and "Part C State" shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provisions of article 243 of the Constitution;

COMMENTS

Immediately before 1st November, 1956, the following were Part A, Part B and Part C States:—

1. Subs. by the Adaptation of Laws (Amendment) Order, 1950, for "order or bye-law".
2. Ins. by the Adaptation of Laws (No. 1) Order, 1956.

Part A States—Andhra, Assam, Bihar, Bombay, Madhya Pradesh, Madras, Orissa, Punjab, Uttar Pradesh, and West Bengal.

Part B States—Hyderabad, Jammu and Kashmir, Madhya Bharat, Mysore, Pepsu, Rajasthan, Saurashtra and Travancore-Cochin.

Part C States—Ajmer, Bhopal, Coorg, Delhi, Himachal Pradesh, Kutch, Manipur, Tripura and Vindhya Pradesh.

(42) "person" shall include any company or association or body of individuals, whether incorporated or not;

(43) "Political Agent" shall mean,—

(a) in relation to any territory outside India, the Principal Officer, by whatever name called, representing the Central Government in such territory; and

(b) in relation to any territory within India to which the Act or Regulation containing the expression does not extend, any officer appointed by the Central Government to exercise all or any of the powers of a Political Agent under that Act or Regulation;

(44) "Presidency-town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Calcutta, Madras or Bombay, as the case may be;

(45) "Province" shall mean a Presidency, a Governor's Province, a Lieutenant Governor's Province or a Chief Commissioner's Province;

(46) "Provincial Act" shall mean an Act made by the Governor in Council, Lieutenant Governor in Council or Chief Commissioner in Council of a Province under any of the Indian Councils Acts or the Government of India Act, 1915, or an Act made by the Local Legislature or the Governor of a Province under the Government of India Act, or an Act made by the Provincial Legislature or Governor of a Province or the Coorg Legislative Council under the Government of India Act, 1935;

(47) "Provincial Government" shall mean, as respects anything done before the commencement of the Constitution, the authority or person authorised at the relevant date to administer executive government in the Province in question;

(48) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code;

(49) "registered", used with reference to a document, shall mean registered in [1][India] under the law for the time being in force for the registration of documents;

(50) "Regulation" shall mean a Regulation made by the President [2][under article 240 of the Constitution and shall include a Regulation made by the President under article 243 thereof and] a Regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935;

(51) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a Regulation made as a rule under any enactment;

(52) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs;

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1. Subs. by the Adaptation of Laws (No. 1) Order, 1956 for "a Part A State or a Part C State".
2. Subs. by the Adaptation of Laws (No. 1) Order, 1956, for "under article 243 of the Constitution, and shall include".

(53) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled District Act, 1874;

(54) "section" shall mean a section of the Act or Regulation in which the word occurs;

(55) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars;

(56) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions;

(57) "son", in the case of any one whose personal law permits adoption, shall include an adopted son;

[1][(58) "State"—

(a) as respects any period before the commencement of the Constitution (Seventh) Amendment) Act, 1956, shall mean a Part A State, a Part B State or a Part C State; and

(b) as respects any period after such commencement, shall mean a State specified in the First Schedule to the Constitution and shall include a Union territory;]

(59) "State Act" shall mean an Act passed by the Legislature of a State established or continued by the Constitution;

(60) "State Government",—

(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province, in a Part B State, the authority or person authorised at the relevant date to exercise executive government in the corresponding Acceding State, and in a Part C State, the Central Government; [2][* * *]

(b) as respects anything done [3][after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956], shall mean, in a Part A State, the Governor, in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;

[4][(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union territory, the Central Government;

and shall, in relation to functions entrusted under article 258A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that article];

(61) "sub-section" shall mean a sub-section of the section in which the word occurs;

(62) "swear", with its grammatical variations and cognate expressions, shall

1. Subs. by the Adaptation of Laws (No. 1) Order, 1956 for the former clause (58).
2. The word "and" omitted by the Adaptation of Laws (No. 1) Order, 1956.
3. Subs. by the Adaptation of Laws (No. 1) Order, 1956, for "or to be done after the commencement of the Constitution".
4. Ins. by the Adaptation of Laws (No. 1) Order, 1956.

include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

[1][(62A) "Union territory" shall mean any Union territory specified in the First Schedule to the Constitution and shall include any other territory comprised within the territory of India but not specified in that Schedule;]

(63) "vessel" shall include any ship or boat or any other description of vessel used in navigation;

(64) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property;

(65) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and

(66) "year" shall mean a year reckoned according to the British calendar.]

COMMENTS

The *definition of* vessel in clause (63) of section 3 is wide enough to include a ship which is mechanically propelled. Barge is a heavy vessel and is a boat; *Pandurouga Timbo Industries* v. *Union of India;* AIR 1992 SC 1194.

4. **Application of foregoing definitions to previous enactments.**—(1) The definitions in section 3 of the following words and expressions, that it to say, "affidavit", "barrister", [2][* * *] "District Judge", "father", [2][***], [3][***], [2][***] "immovable property", "imprisonment", [2][***] "Magistrate", "month", "movable property", "oath", "person", "section", "son", "swear", "will", and "year" apply also, unless there is anything repugnant in the subject or context, to all [4][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

(2) The definitions in the said section of the following words and expressions, that is to say, "abet", "Chapter", "commencement", "financial year", "local authority", "master", "offence", "part", "public nuisance", "registered", "schedule", "ship", "sign", "sub-section" and "writing" apply also, unless there is anything repugnant in the subject or context, to all [4][Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

[5][4A. **Application of certain definitions to Indian Laws.**—(1) The definitions in section 3 of the expressions "British India", "Central Act", "Central Government", "Chief Controlling Revenue Authority", "Chief Revenue Authority", "Constitution", "Gazette", "Government", "Government securities", "High Court", "India", "Indian law", "Indian State", "merged territories", "Official Gazette", "Part A State", "Part B State", "Part C State", Provincial Government", "State" and "State Government" shall apply, unless there is anything repugnant in the subject or context, to all Indian laws.

1. Ins. by the Adaptation of Laws (No. 1) Order, 1956.
2. The words "British India", "Government of India", "High Court", and "Local Government" rep. by the A.O. 1937.
3. The words "Her Majesty" or "the Queen" rep. by Act 18 of 1919, sec. 3 and Sch.II.
4. Subs. by the A.O. 1937, for "Acts of the Governor General in Council".
5. Subs. by the A.O. 1950, for the former section which was ins. by the A.O. 1937.

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(2) In any Indian law, references, by whatever form of words, to revenues of the Central Government or to any State Government shall, on and from the first day of April, 1950, be construed as references to the Consolidated Fund of India or the Consolidated Fund of the State, as the case may be.]

GENERAL RULES OF CONSTRUCTION

5. Coming into operation of enactments.—[1][(1) Where any Central Act is not expressed to come into operation on particular day, then it shall come into operation on the day on which it receives the assent,—

(a) in the case of a Central Act made before the commencement of the Constitution, of the Governor-General, and

(b) in the case of an Act of Parliament, of the President.]

[2][* * *]

(3) Unless the contrary is expressed, a [3][Central Act] or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

[4][5A. Coming into operation of Governor-General's Act.—*[Rep. by the A.O. 1947]*.

6. Effect of repeal.—Where this Act, or any [3][Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

COMMENTS

(i) This section *inter alia* provides protection to any right, privilege, obligation or liability acquired or accrued under any enactment repealed. The provisions of the new Act can not infringe or relegate the right of appeal granted under the old Act; *Md. Makibar Rahman* v. *Islam Ali*, AIR 1994 Gau 4.

1. Subs. by the A.O. 1950, for the former sub-section.
2. Sub-section (2) omitted by the A.O. 1950.
3. Subs. by the A.O. 1937, for "Act of the Governor General in Council".
4. Ins. by the A.O. 1937.

(ii) Whenever there is a repeal of an enactment the consequences laid down in this section follow unless a different intention appears, since a single repeal scarcely or hardly leaves any room for contrary opinion or expression. Even in case a repeal of enactment is followed by a fresh legislation, this section is applicable and relevant unless the fresh/new legislation manifests an intention incompatible with or in conflict or contradiction to the provisions of the section concerned; *Ramesh Chandra Sahoo* v. *State*, AIR 1994 Ori 187.

(iii) 'Repeal' of provision is in distinction from 'deletion' of provision. 'Repeal' ordinarily brings about complete obliteration of the provision as if it never existed, thereby affecting all incoherent rights and all causes of action related to the 'repealed' provision while 'deletion' ordinarily takes effect from the date of legislature affecting the said deletion, never to effect total effacing or wiping out of the provision as if it never existed. For the purposes of this section, the above distinction between the two is essential; *Navrangpura Gam Dharmada Milkat Trust* v. *Ramuji Ramaji*, AIR 1994 Guj 75.

(iv) Where the accident took place when the Old Motor Vehicles Act was in force but the claim petition was filed after the repeal of the old Act and the new Act came into force, the case would be covered by the new Act and delay for a longer period than six months could not be condoned. In such a case clause (e) of section 6 of the General Clauses Act is not attracted because, by the enactment of the new law the remedy of the claimant has not been affected at all. His right to claim compensation by filing the claim within the same period of limitation has been preserved; *Vinod Gurudas Raikar* v. *National Insurance Co. Ltd.*, AIR 1991 SC 2156.

(v) The objectives of the provision of clause (e) of section 6 of the Act is to ensure protection of any right or privilege acquired under the repealed Act; *M/s. Gurcharan Singh Baldev Singh* v. *Yashwant Singh*, AIR 1992 SC 180.

[1][**6A. Repeal of Act making textual amendment in Act or Regulation.**—Where any [2][Central Act] or Regulation made after the commencement of this Act repeals any enactment by which the text of any [2][Central Act] or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.]

7. Revival of repealed enactments.—(1) In any [2][Central Act] or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all [2][Central Acts] made after the third day of January, 1968, and to all Regulations made on or after the fourteenth day of January, 1887.

8. Construction of references to repealed enactments.—[3][(1) Where this Act, or any [2][Central Act] or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

[4][(2)] [5][Where before the fifteenth day of August, 1947, any Act of Parliament of the United Kingdom repealed and re-enacted], with or without modification, any provision of a former enactment, then references in any [2][Central Act] or in any

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1. Ins. by Act 19 of 1936, sec. 2.
2. Subs. by the A.O. 1937, for "Act of the Governor General in Council".
3. The original section 8 was renumbered as sub-section (1) of that section by Act 18 of 1919, sec. 2 and Sch. I.
4. Ins. by Act 18 of 1919, sec. 2 and Sch. I.
5. Subs. by the A.O. 1950, for "Where any Act of Parliament repeals and re-enacts".

Regulation or instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.]

COMMENTS

Every Act has its own distinction. If a later Act merely makes a reference to a former Act or existing law, it is only by reference and all amendments, repeals new law subsequently made will have effect unless its operation is saved by the relevant provision of the section of the Act; *Gauri Shankar Gaur* v. *State of U.P.*, AIR 1994 SC 169.

9. Commencement and termination of time.—(1) In any [1][Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from", and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

(2) This section applies also to all [1][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

10. Computation of time.—(1) Where, by any [1][Central Act] or regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the [2][Indian Limitation Act, 1877 (15 of 1877)], applies.

(2) This section applies also to all [1][Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

COMMENTS

According to the tender notification, tender schedules could be obtained within the prescribed period. Since the last date of the prescribed period was subsequent to the date of notification, declared to be a holiday on the basis of the principles laid down in this section the last date of prescribed period for obtaining the tender schedules was extended to the next working day; *K. Soosairuthnam* v. *Div. Engineer, N.H.C. Tirunelveli*, AIR 1995 Mad 90.

11. Measurement of distances.—In the measurement of any distance, for the purpose of any [1][Central Act] or Regulation made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

12. Duty to be taken pro rata in enactments.—Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

13. Gender and number.—In all [1][Central Acts] and Regulations, unless there is anything repugnant in the subject or context,—

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and *vice versa*.

1. Subs. by the A.O. 1937, for "Acts of the Governor General in Council".
2. *See*, the Limitation Act, 1963 (36 of 1963).

eferences to the Sovereign.—[Rep. by the A.O. 1950.]

POWERS AND FUNCTIONARIES

14. Powers conferred to be exercisable from time to time.—(1) Where, by any [2][Central Act] or Regulation made after the commencement of this Act, any power is conferred [3][* * *], then [unless a different intention appears] that power may be exercised from time to time as occasion requires.

(2) This section applies also to all [2][Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

15. Power to appoint to include power to appoint ex officio.—Where, by any [2][Central Act] or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

16. Power to appoint to include power to suspend or dismiss.—Where, by any [2][Central Act] or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having [4][for the time being] power to make the appointment shall also have power to suspend or dismiss any person appointed [5][whether by itself or any other authority] in exercise of that power.

17. Substitution of functionaries.—(1) In any [2][Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the function of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all [2][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

18. Successors.—(1) In any [2][Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all [2][Central Acts] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

19. Official chiefs and subordinates.—(1) In any [2][Central Act] or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(2) This Section applies also to all [2][Central Act] made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

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1. Ins. by Act 18 of 1928, sec. 2 and Sch. I.
2. Subs. by the A.O. 1937, for "Acts of the Governor General in Council".
3. The words "on the Government" omitted by Act 18 of 1919, sec. 2 and Sch. I.
4. Ins. by Act 18 of 1919, sec. 2 and Sch. I.
5. Subs. by Act 18 of 1928, sec. 2 and Sch. I, for "by it".

PROVISIONS AS TO ORDERS, RULES, ETC., MADE UNDER ENACTMENTS

20. Construction of notifications, etc., issued under enactments.—*Where*, by any [1][Central Act] or Regulation, a power to issue any [2][notification], order, scheme, rule, form, or bye-law is conferred, then expressions used in the [2][notification], order, scheme, rule, form or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.

21. Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws.—Where, by any [1][Central Act] or Regulation, a power to [3][issue notifications,] orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any [2][notifications,] orders, rules or bye-laws so [3][issued].

COMMENTS

(i) The State Government cannot invoke this section of the Act for withdrawal of consent if the strength of the consent so granted for sub-lease the lessee executed sub-lease deed and on the culmination of such consent into contract, the sub-lessee had already commenced the mining operations thereby 'materialising' the consent and changing the conditions irrevocably from the one existing at the time of grant of such consent; *Government of Andhra Pradesh* v. *Y.S. Vivekananda Reddy*, AIR 1995 AP 1.

(ii) The provisions of the General Clauses Act, 1897 apply to all the Central Acts and Regulations/ Rules made thereunder by virtue of this section of power exercisable in the like manner under any of such Acts, Regulations or Rules includes, subject to the like sanction and conditions, if any, power to add to, amend vary or rescind any Act or Rules or Regulations so made; *Durairaju Naidu* v. *State of Tamil Nadu*, AIR 1994 Mad 68.

(iii) Where the power to order detention of a detenue has been exercised by the Central Government or the State Government or their officer, then the power to revoke the detention order can be passed by the authority ordering detention; *Amir Shad Khan* v. *L. Himingliana*, AIR 1991 SC 1983.

22. Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.—Where, by any [1][Central Act] or Regulation which is not to come into force immediately, on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

23. Provisions applicable to making of rules or bye-laws after previous publication.—Where, by any [1][Central Act] or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:—

(1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so

1. Subs. by the A.O. 1937, for "Act of the Governor General in Council".
2. Ins. by Act 1 of 1903, sec. 3 and Sch. II.
3. Subs. by Act 1 of 1903, sec. 3 and Sch. II, for "make".

requires, in such manner as the [1][Government concerned] prescribes;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;

(4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;

(5) the publication in the [2][Official Gazette] of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

24. Continuation of orders, etc., issued under enactments repealed and re-enacted.—Where any [3][Central Act] or Regulation, is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided any [4][appointment notification,] order, scheme, rule, form or bye-law, [5][made or] issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been [6][made or] issued under the provisions so re-enacted, unless and until it is superseded by any [7][appointment, notification,] order, scheme, rule, form or bye-law, [8][made or] issued under the provisions so re-enacted [9][and when any [3][Central Act] or Regulation, which, by a notification under section 5 or 5A of the [10]*Scheduled Districts* Act, 1874, (14 of 1874) or any like law, has been extended to any local area, has, by a subsequent notification, been withdrawn from the re-extended to such area or any part thereof, the provisions of such Act or Regulation shall be deemed to have been repealed and re-enacted in such area or part within the meaning of this Section].

MISCELLANEOUS

25. Recovery of fines.—Sections 63 to 70 of the Indian Penal Code (45 of 1860) and the provisions of the [11]Code of Criminal Procedure (5 of 1898) for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains and express provision to the contrary.

26. Provision as to offences punishable under two or more enactments.—Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

27. Meaning of service by post.—Where any [3][Central Act] or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, where the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered

1. Subs. by the A.O. 1950, for "Central Government or the Provincial Government".
2. Subs. by the A.O. 1937, for "Gazette".
3. Subs. by A.O. 1937, for "Act of the Governor General in Council".
4. Ins. by Act 1 of 1903, sec. 3 and Sch. II.
5. Ins. by Act 17 of 1914, sec. 2 and Sch. I.
6. Rep. by the A.O. 1937.
7. *See* the Code of Criminal Procedure, 1973 (2 of 1974).

post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

COMMENTS

(i) A notice when required under the statutory rules to be sent by 'registered post acknowledgment due' is instead sent by 'registered post' only, the protection of presumption regarding serving of notice under 'registered post' under this section of the Act is neither tenable nor based upon sound exposition of law; *United Commercial Bank v. Bhim Sain Makhija*, AIR 1994 Del 181.

(ii) Where a notice is sent by the landlord by registered post and the same is returned by the tenant with an endorsement of refusal, it will be presumed that the notice has been served; *Jagdish Singh v. Nanhu Singh*; AIR 1992 SC 1604.

28. Citation of enactments.—(1) In any [1][Central Act] or Regulation, and in any rule, bye-law, instrument or document, made under, or with reference to any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in any [1][Central Act] or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

29. Saving for previous enactments, rules and bye-laws.—The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law made after the commencement of this Act.

[2][**30. Application of Act to Ordinances.**—In this Act the expression [1][Central Act], wherever it occurs, except in section 5 and the word "Act" in [3][clauses (9), (13), (25), (40), (43), (52) and (54) of section 3 and in section 25 shall be deemed to include an Ordinance made and promulgated by the Governor General under section 23 of the Indian Councils Act, 1861 (24 and 25 Vict., c.67) [4][or section 72 of the Government of India Act, 1915,] (5 and 6 Geo. V, c, 61) [5][or section 42 [6][* * *] of the Government of India Act, 1935] (26 Geo. V. c. 2) [7][and an Ordinance promulgated by the President under article 123 of the Constitution.]

[8][**30A. Application of Act to Acts made by the Governor-General.**—*[Rep. by the A.O. 1937].*

[9][**31. Construction of references to Local Government of a Province.**—*[Rep. by the A.O. 1937.]*.

THE SCHEDULE.—**Enactments repealed.**— *[Rep. by the Repealing and Amending Act, 1903 (1 of 1903), sec. 4 and Sch. III].*

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1. Subs. by the A.O. 1937, for "Act of the Governor General in Council".
2. Ins. by Act 17 of 1914, sec. 2 and Sch. I.
3. Subs. by the A.O. 1950, for "clauses (9), (12), (38), (48) and (50)".
4. Ins. by Act 24 of 1917, sec. 2 and Sch. I.
5. Ins. by the A.O. 1937.
6. The words and figures "or Section 43" omitted by the A.O. 1947.
7. Added by the A.O. 1950.
8. Ins. by Act 11 of 1923, sec. 2 and Sch. I.
9. Ins. by Act 38 of 1920, sec. 2 and Sch. I.

ANNEXURE 3.02

BOMBAY ACT NO. I OF 1904[1]

[THE MAHARASHTRA GENERAL CLAUSES ACT]

[*30th May, 1904*]

Amended by Bom. 4 of 1905.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 17 of 1945. ‡

Amended by Bom. 5 of 1948.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 28 of 1950.

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

Amended by Bom. 24 of of 1957.

Amended by Bom. 8 of 1958.

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 24 of 2012. (22-08-2012) @

An Act for further shortening the lauguage used in Bombay Acts, and for other purposes

WHEREAS it is expedient further to shorten the language used in Bombay Acts, and to make certain other provisions relating to those Acts ; It is hereby enacted as follows :—

Preliminary

Short title.

1. This Act may be called [2][the Maharashtra General Clauses Act].

Extension of application of Act to Acts, rules, etc. made on or after the 1st day of November, 1956.

[3][**1-A.** The provisions of this Act which relate to Bombay Acts, Regulations and Ordinances shall apply also in relation to Acts, Regulations and Ordinances of the * State of Bombay passed, made or promulgated on or after the 1st day of November 1956 and such provisions of this Act as relate to any notification, order, scheme, rule, by-law, or form shall apply also in relation to any notification, order, scheme, rule, by-law, or form issued or made under any Act, Regulation or Ordinance passed, made or promulgated on or after that date :

Provided that where any such Act, Regulation, Ordinance, notification, order, scheme, rule, by-law or form passed, made or promulgated on or after the 1st day of November 1956 amends any Act, Regulation, Ordinance, notification, order, scheme, rule, by-law or form passed, made or promulgated before that date in relation to the territories transferred to the new State of Bombay under clauses (b) to (e) of sub-section (*1*) of section 8 of the States Reorganisation Act, 1956, the law in force of these territories in respect of the interpretation of the law so amended shall apply to the amending law, and not the provisions hereinafter of this Act.]

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1 For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1903, Pt. VII, pp. 5, 6; for Report of Select Committee, *see ibid.*, 1904, Pt. VII, p. 1, and for Proceedings in Council, *see ibid.*, 1903, Pt. VII, p. 130 *ibid.*, 1904, Pt. VII, p. 42.

2 The short title was amended for the "the Bombay General clauses Act, 1904" by Mah. 24 of 2012, s. 2, Sch. Entry 11, w.e.f. 1-6-1960.

3 This section was inserted by Bom. 24 of 1957, s. 2.

* The words "State of Bombay" shall stand unmodified, *vide* the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

‡ This Act has been re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

@ This indicates the date of commencement of the Act.

Extension of application of Act to Acts, rules, etc. of State of Maharashtra.

[1]**[1B.** The provisions of this Act which relate to Bombay Acts, Regulations and Ordinances shall apply also in relation to Acts, Regulations and Ordinances of the State of Maharashtra passed, made or promulgated on or after the 1st day of May, 1960 and such provisions of this Act as relate to any notification, order, scheme, rule, by-law or form shall apply also in relation to any notificatin, order, scheme, rule, by-law, or form issued or made under any Act, Regulation or Ordinance passed, made or promulgated on or after that date :

Provided that where any such Act, Regulation, Ordinance, notificatin, order, scheme, rule, by-law or form passed, made or promulgated on or after that date amends any Act, Regulation, Ordinance, notification, order, scheme, rule, by-law or form passed, made or promulgated in relation to any territory of the State of Maharashtra, not being the Bombay area of that State, the law in force in those territories in the interpretation of the law so amended shall apply to the amending law, and not the provisions hereinafter of this Act.]

Repeal.

2. The Bombay Acts mentioned in the Schedule are repealed to the extent specified in the fourth column thereof.

General Definitions

Definitions.

3. In this Act, and in all Bombay Acts [2][or Maharashtra Acts] made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

"Abet."

(*1*) "abet" with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code : XLV of 1860.

"Act."

(*2*) "act", used with reference to an offence or a civil wrong, shall include a series of acts ; and words which refer to acts done shall extend also to illegal omissions.

"Affidavit."

(*3*) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing ;

"Barrister."

(*4*) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland ;

"Bombay Act."

(*5*) "Bombay Act" shall mean an Act made by the [5][Governor of Bombay] in Council under the [3][Indian Councils Act, 1861] or the Indian Councils Act, 1861 and 1892 [4][or the Indian Councils Acts, 1861 to 1909 or the Government of India Act, 1915, or made by the local Legislature, or the Governor of the Presidency of Bombay under the Government of India Act, or by the Provincial Legislature, or the [5][Governor of Bombay], under the Government of India Act, 1935], [6][or made by the Legislature of the [7][pre-Re-organisation or reorganised] [5][State of Bombay] under the Constitution];

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1 This section was inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 These words were inserted, *ibid.*

3 *See* now the Government of India Act, 1935.

4 These words and figures were inserted by the Adaptation of Indian Laws Order in Council.

5 These words stand unmodified *vide* Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

6 This portion was inserted by the Adaptation of Laws Order, 1950.

7 These words were substituted for the words "State of Bombay" by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

[1][(6), "Bombay area of the State of Maharashtra" shall mean the area of the State of Maharashtra excluding the Vidarbha region, and the Hyderabad area, of that State;]

[2](7)* * * * *

[2](8)* * * * *

(9) " Chapter" shall mean a Chapter of the Act in which the word "Chapter" occurs ; "Chapter."

[3][(10) "City of Bombay" shall mean the area within the local limits of the ordinary original civil jurisdiction of the Bombay High Court of Judicature immediately before the date on which the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, came into force ;] "City of Bombay."

Bom. XVII of 1945.

(11) "Collector" shall mean, in the *City of Bombay, the Collector of Bombay ; and elsewhere the chief officer in charge of the revenue administration of a district ; "Collector."

(12) "commencement" used with reference to an Act, shall mean the day on which the Act comes into force ; "Commencement."

[4][13) "Commissioner" shall mean the Commissioner of a division appointed under the £Bombay Land Revenue Code, 1879 ;]

Bom. V of 1879.

(14) "Consular Officer" shall include consul-general, consul, Vice-consul, consular agent, pro-consul and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent ; "Consular Officer."

(15) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction ; "District Judge."

(16) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter ; "Document."

(17) "enactment" shall include[5]* * *any Regulation of the Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid ; "Enactment."

(18) "father" in the case of any one whose personal law permits adoption, shall include an adoptive father ; "Father."

(19) "financial year" shall mean the year commencing on the first day of April ; "Financial year."

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1 This clause was inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 Clauses (7) and (8) were omitted by the Adaptation of Indian Laws Order in Council.

3 This clause was substituted for the original by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2 proviso.

4 This clause was inserted by Bom. 8 of 1958, 3, Sch.

5 The words deleted by Bom. 5 of 1948, s. 2, have been omitted.

* The name of this city was restored as "Mumbai" *vide* Mah. 25 of 1996, s. 3.

£ *See* now the Maharashtra Land Revenue code, 1966 (Mah. XLI & 1966).

"Good faith." (*20*) "a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not ;

[1][(*21*) "*Greater Bombay" shall mean the areas specified in Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945] ; Bom. XVII of 1945.

"High Court." (22) "High Court", used with reference to civil proceedings shall mean the highest Civil Court of appeal in the part of the Bombay Presidency [2][and after the 1st day of May 1960 in the part of the State of the Maharashtra] in which the Act containing the exspression operates ;

[3][(*23*) "Hyderabad area of the [4][State of Bombay]" shall mean the territories transferred to the new State of Bombay under clause (*b*) of sub-section (*1*) of section 8 of the States Reorganisation Act, 1956 [5][and after the 1st day of May 1960 the said territories which form part of the State of Maharashtra shall be known as the Hyderabad area of the State of Maharashtra]; XXXVII of 1956.

"Immoveable property." (*24*) "immovabole property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth ;

"Imprisonment." (*25*) "imprisonment" shall mean imprisonment of either description as defined in the [6][Indian Penal Code]; XLV of 1860.

[7]* * * * *

"Local authority." (*26*) "local authority" shall mean a municipal corporation, municipality, local board, body of port trustees or commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of municipal or local fund ;

[8][(*27*) "Maharashtra Act" shall mean an Act made on or after the 1st day of May 1960 by the Legislature of the State of Maharashtra under the Constitution] ;

"Magistrate." (*28*) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure, for the time being in force ;

"Master (of a ship)." (*29*) "master" used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the timebeing control or charge of the ship ;

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1 This clause was inserted by Bom. 17 of 1945, s. 9. Sch. E read with Bom. 52 of 1947. s. 2, proviso.

2 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3 Original Clause (*23*) was omitted by the Adaptation of Laws Order, 1950 and a new clause (*23*) was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956, as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order, 1957.

4 These words stand unmodified, *see* the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

5 These words were inserted, *ibid.*

6 Central Acts.

7 Clause (*25A*) was omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

8 This clause was inserted, *ibid.*

* *See* now "Brihan Mumbai" (Mah. 25 of 1996, s. 3.)

(*30*) "month" shall mean a month reckoned according to the British calendar ; "Month."

(*31*) "moveable property" shall mean property of every description, except immoveabe property ; "Moveable property."

(*32*) "Oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing ; "Oath."

(*33*) "offence" shall mean any act or omission made punishable by any law for the time being in force ; "Offence."

(*34*) "part" shall mean a part of the Act in which the word occurs ; "Part."

(*35*) "person" shall include any company or association or body of individuals, whether incorporated or not ; "Person."

[1][(*35A*) "pre-Reorganisation" [2][State of Bombay] shall mean—

(*a*) as respects any period before the commencement of the Constitution, the area comprised in the Province of Bombay ;

XXXVII of 1956. (*b*) as respects any period after the commencement of the Constitution, the territories of the State of Bombay as specified in the First Schedule to the Constitution before the commencement of the States Reorganisation Act, 1956;]

XLV of 1860. (*36*) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code ; "Public nuisance."

[3][(*37*) "registered" used with reference to a document, shall mean registered in a Part A State or a Part C State under the law for the time being in force for the registration of documents;] "Registered."

[4](*38*) * * * *

(*39*) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment ; "Rule."

[5](*39A*) * * * *

(*40*) "schedule" shall mean a schedule to the Act in which the word occurs ; "Schedule."

XII of 1874. (*41*) "[6]Scheduled District" shall mean a "Scheduled District" as defined in the [7]Scheduled Districts Act, 1874 ; "Scheduled District."

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1 This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

2 These words stand unmodified *vide* the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3 Clause (*37*) was substituted for the original by the Adaptation of Laws Order, 1950.

4 Clause (*38*) was deleted by Bom. 5 of 1948, s. 2.

5 Clause (*39A*) was omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

6 That is the villages belonging to the following mehwassi Chiefs :-
(1) The Parvi of Kathi.
(2) The Parvi of Nal.
(3) The Parvi of Singpur.
(4) The Walvi of Gaohalli.
(5) The Wassawa of Chikhli.
(6) The Parvi of Nawalpur.

7 The Scheduled Districts Act ceases to have effect under the Adaptation of Indian Laws Order in Council.

"Section." (*42*) "section" shall mean a section of the Act in which the word occurs ;

"Ship." (*43*) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars ;

"Sign." (*44*) "sign" with its grammatical variations and cognate expressions, shall with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions ;

"Son." (*45*) "son", in the case of any one whose personal law permits adoption, shall include an adopted son ;

"Sub-Section." (*46*) "sub-section" shall mean a sub-section of the Section in which the word occurs ;

[1][(*46A*) "[2][State of Bombay]" shall mean—

(*a*) as respects any period before the 1st day of November 1956 the pre-Reorganisation State of Bombay ;

(*b*) as respects any period on and after that day the territories comprised in the new State of Bombay under section 8 of the States Reorganisation Act, 1956;] XXXVII of 1956.

[3][*46AA*) "State of Maharashtra" shall mean the territories which on the 1st day of May 1960 are known as the State of Maharashtra under section 3 of the Bombay Reorganisation Act, 1960;] XI of 1960.

[1][(*46B*) "transferred territories" shall mean the territories transferred from the pre-Reorganisation [2][State of Bombay] to the new States of Mysore and Rajasthan under section 7 and 10 of the States Reorganisation Act, 1956;] XXXVII of 1956.

"Swear." (*47*) "swear", with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing ;

"Vessel." (*48*) "vessel" shall include any ship or boat or any other description of vessel used in navigation ;

[4][(*48A*) "Vidarbha region, or Madhya Pradesh area, or Vidarbha area, of the [2][State of Bombay]" shall mean the territories transferred to the new State of Bombay under clause (*c*) of sub-section (*1*) of section 8 of the States Reorganisation Act, 1956 [5][and after the 1st day of May 1960]the said territories which form part of the State of Maharashtra shall be known as the Vidarbha region, or Madhya Pradesh area, or Vidarbha area, of the State of Maharashtra]; XXXVII of 1956.

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1 This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

2 These words stand unmodified *vide* the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3 This clause was inserted, *ibid.*

4 This clause was inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order, 1956 as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order, 1957.

5 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

(*49*) "Will" shall include a codicil and every writing making a voluntary posthumous disposition of property ; "Will."

(*50*) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words or figures in a visible form on any substance ; and "Writing."

(*51*) "year" shall mean a year reckoned according to the British calendar. "Year."

Application of certain of the foregoing definitions to previous Bombay Acts.

4. The definitions in section 3 of the following words—that is to say, "abet", "affidavit", [1]* * [2][Bombay area of the State of Maharashtra] "Chapter" "City of Bombay", Collector", Commissioner", "good faith", [3]["Greater Bombay", [1] * * *, [4][Hyderabad area of the [5][State of Bombay]], [6] * * * * "immoveable property", "Magistrate", "month" "moveable property", "oath", "part", "person", [7][pre-reorganisation [5][State of Bombay]], [6][* * * *, [1]* * *"Schedule", "section [5][State of Bombay]], [2][State of Maharashtra], "swear", [7][transferred territories], "vessel", [4][Vidarbha region, or Madhya Pradesh area, or Vidrabha area, of the [5][State of Bombay]], "writing", and "year" apply also, unless there is anything repugnant in the subject or context, to all Bombay Acts made before the commencement of this Act.

General Rules of Construction

Coming into operation of Bombay Acts [2][or Maharashtra Acts.].

5. [8][(*1*) Where any Bombay Act [2][or Maharashtra Act] is not expressed to come into operation on a particular day, then,

(*i*) in the case of a Bombay Act made before the commencement of the Constitution, it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor-General or His Majesty, as the case may require, is first published in the *Official Gazette* and, if it is an Act of the Governor, on the day on which it is first published as an Act in the *Official Gazette* ;

(ii) in the case of a Bombay Act [2][or Maharashtra Act] made after the commencement of the Constitution, it shall come into operation on the day on which the assent thereto of the Governor or the President, as the case may require, is first published in the *Official Gazette.*]

(*2*) Unless the contrary is expressed, a Bombay Act [2][or Maharashtra Act] be construed as coming into operation immediately on the expiration of the day preceding its commencement.

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1 The words "British India", "Government of India" and "Presidency of Bombay" were omitted by the Adaptation of Indian Laws Order in Council.

2 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

3 These words were inserted by Bom. 17 of 1945 read with Bom. 52 of 1947, S. 2. proviso.

4 These words were inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956 as amended by the Bombay Adaptation of Laws (State and Concurrent Subjects) (Second Amendment) Order, 1957.

5 These words stand unmodified *vide* the Maharashtra Adaptation of Laws (State and Concurent Subjects) Order, 1960.

6 The words "Kutch area of the State of Bombay", and "Saurashtra area of the State of Bombay" were omitted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

7 These words were inserted by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956.

8 This sub-section was substituted for the original sub-section by the Adaptation of Laws Order, 1950.

Printing of date on which Act is published after having received the assent of the Governor, Governor-General, or His Majesty as the case may require.

6. In this Act, and in every Bombay Act [1][or Maharashtra Act], made after the commencement of this Act, the date of such publication as is mentioned in section 5, sub-section (*1*), shall be printed above the title of the Act, and shall form part of the Act.

Effect of repeal.

7. Where this Act, or any Bombay Act [1][or Maharashtra Act], made after the commencement of this Act, repeals any enactment thereto made or hereafter to be made, then, unless a different intenton appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or

(*c*) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Repeal of enactment making textual amendment in any Act.

[2][**7A.** Where any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act repeals any enactment by which the text of any previous enactment was amended by the express omission, insertion, or substitution of any matter, then, unless, a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal].

Revival of repealed enactments.

8. (*1*) In any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Construction of references to repealed enactments.

9. Where this Act, or any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then reference in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as reference to the provision so re-enacted.

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1 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 This section was inserted by Bom. 5 of 1948, s. 3.

Commencement and termination of time.

10. (*1*) In any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from" and, for the purpose, of including the last in a series of days or any other period of time, to use the word "to".

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

Computation of time.

11. Where, by any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the [2]Indian Limitation Act, 1877, applies.

Measurement of distance.

12. In the measurement of any distance for the purpose of any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Gender and number.

13. In all Bombay Act [1][or Maharashtra Act], unless there is anything repugnant in the subject or context—

(*a*) words importing the masculine gender shall be taken to include females; and

(*b*) words in the singular shall include the plural, and *vice-versa*.

Powers and Functionaries

Power conferred on any Government to be exercisable from time to time.

14. Where, by any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act any power is conferred on [3][any Government], then that power may be exercised from time to time as occasion requires.

Power to appoint to include power to appoint *ex-officio*.

15. Where, by any Bombay Act [1][or Maharashtra Act] a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise, expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

Power to appoint to include power to suspend or dismiss.

16. Where, by any Bombay Act [1][or Maharashtra Act] a power to make any appointment is conferred, then, unless a different intention appears the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

Substitution of functionaries.

17. (*1*) In any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act it shall be sufficient for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office,

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1 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 *See*, now the Limitation Act, 1963 (36 of 1963).

3 The words "any Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Successors.

18. (*1*) In any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act is shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Official chiefs and subordinates.

19. (*1*) In any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act it shall be sufficient for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(*2*) This section applies also to all Bombay Acts made before the commencement of this Act.

Provisions as to Orders, Rules, etc., made under Enactments

Construction of orders etc., issued under Bombay Acts [1][or Maharashtra Acts].

20. Where, by any Bombay Act [1][or Maharashtra Act], a power to issue any notification, order, scheme, rule, by-law or form is conferred, then expression used in the notification, order, scheme, rule, by-law or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Power to make to inculde power to add to, amend, vary or rescind, orders, etc.

21. Where, by any Bombay Act [1][or Maharashtra Act], a power to issue notifications, orders, rules or by-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifictions, orders, rules or by-laws, so issued.

Making of rules or by-laws and issuing of orders between publication and commencement of Bombay Act [1][or Maharashtra Act.]

22. Where, by any Bombay Act [1][or Maharashtra Act], which is not to come into operation on [2][the passing thereof], a power is conferred to make rules or by-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer, thereunder, or with respect to the person by whom, or the time when or the place where, or the manner in which, or the fees for which anything is to be done under the Act, then that power may be exercised at anytime after [2][the passing thereof], but rules, by-laws or orders so made or issued shall not take effect till the commencement of the Act.

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1 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 The words "the passing thereof" were substitutd for the words "the day on which it is first published in the *Bombay Government Gazette* after having received the assent of the Governor-General and "the Act has been published as aforesaid", respectively, by the Adaptation of Indian Laws Order in Council.

Publication of orders and notifications in the *Official Gazette* to be deemed to be due publication.

23. Where, in any Bombay Act [1][or Maharashtra Act], or in any rule passed under any such Act, it is directed that any order, notification or other mater shall be notified or published, then such notification or publication shall, unless the enactment or rule otherwise provides, be deemed to be duly made if it is published in the [2][*Official Gazette*].

Provisions applicable to making of rules or by-laws after previous publication.

24. Where, by any Bombay Act [1][or Maharashtra Act] a power to make rules or by-laws is expressed to be given subject to the condition of the rules or by-laws being made after previous publication, then the following provisions shall apply, namely :—

(*a*) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby ;

(*b*) the publication shall be made in such manner as that authority deems to be sufficient or, if the condition with respect to previous publication so requires, in such manner as the [3][Central Government, or as the case may be, the [4][State] Government] prescribes ;

(*c*) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;

(*d*) the authority having power to make the rules or by-laws, and, where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified;

(*e*) the publication in the [5][*Official Gazette*] of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made.

Continuation of orders, etc, issued under enactments repealed and re-enacted.

25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bombay Act [1][or Maharashtra Act] with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, by-law or form made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, by-law or form made or issued under the provisions so re-enacted.

Miscellaneous

Recovery of fines.

26. Sections 63 to 70 of the [6]Indian Penal Code, and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Bombay Act

1 These words were inserted by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 The words *"Official Gazette"* were substituted for the words *"Bombay Government Gazette", ibid.*

3 The words "Central Government or as the case may be, the Provincial Government', were substituted for the word "Local Government", *ibid.*

4 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

5 The words *"Official Gazette"* were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

6 Central Acts.

[1][or Maharashtra Act], or any rule or by-law made under any Bombay Act [1][or Maharashtra Act], unless the Act, rule or by-law contains an express provision to the contrary.

Provisions as to offences punishable under two or more enactments.

27. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of service by post.

28. Where any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act authorizes or requires any document to be served by post whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

29. (*1*) In any Bombay Act [1][or Maharashtra Act], and in any rule, by law, instrument or document made under, or with reference to, any Bombay Act [1][or Maharashtra Act] any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(*2*) In this Act, and in any Bombay Act [1][or Maharashtra Act] made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or reference to as forming the beginning and as forming the end of the portion comprised in description or citation.

Saving for previous Acts, rules and by-laws.

30. Where any Act, rule or by-law made after the commencement of this Act continues or amends any Acts, rules or by-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reasons merely of such continuance or amendment affect the construction of such Acts, rules or by-laws.

Application of Act to Ordinances and Regulations.

[2][**31.** The provisions of this Act shall apply—

(*a*) in relation to any Ordinance promulgated by the [3][Governor of Bombay] under section 88 of the Government of India Act, 1935, as they apply in relation to Bombay Acts made under the said Act by the Governor and in relation to any Regulation made by the Governor under section 92 of the said Act as they apply in relation to Bombay Acts made by the Provincial Legislature, and

(*b*) in relation to any Ordinance promulgated by the Governor under article 213 of the Constitution or any Regulation made by the Governor under paragraph 5 of the Fifth Schedule to the Constitution, as they apply in relation to Bombay Acts [1][or Maharashtra Acts] made by the State Legislature :

Provided that clause (*ii*) of sub-section (*1*) of section 5 of this Act shall apply to any Ordinance referred to in clause (*b*) as if for the reference in said clause (*ii*) to the day of the first publication of the assent to an Act in the *Official Gazette* there were substituted a reference to the day of the first publication of the Ordinance in that *Gazette*].

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1 These words were inserted by Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2 Section 31 was substituted by the Adaptation of Laws Order, 1950.

3 These words stand unmodified *vide* the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

THE SCHEDULE

Enactments Repealed

(*See* Section 2)

Year (1)	No. (2)	Title or Subject (3)	Extent of repeal (4)
1886	II	The Bombay General Clauses Act, 1886	The whole [1][except so much of [2][Schedule B] as relates to unrepealed enactments].
1891	I	An Act to amend the Bombay General Clauses Act, 1886.	So much as is unrepealed.
1896	I	—— do —— —— do ——	The whole.

APPENDIX

[3]*SCHEDULE B to the Bombay General Clauses Act, 1886*
(Bom. Act III of 1886)

Verbal Amendments made in the Regulations and Acts of the Governor of Bombay in Council

ENACTMENT No. and year (1)	Section (2)	Clause (3)	Words repealed (4)	Words, if any, substituted for the words repealed (5)
Regulations-				
[4]XII of 1827.	19	1	"Magistrate" ..	"District Magistrate".
	19	6	"The Magistrate" (the first time the words occur)	District Magistrate"
	19	6	"the Magistrate" (the second time the words occur).	"any Magistrate".
	19	6	"ordinary" ..	"simple".
	19	6	"without labour" ..	..
	19	7	"Magistrate" (the first time the word occurs).	"District Magistrate".
	19	7	"Magistrate" (the second time the word occurs).	"Magistrate before whom proceedings against such individual are being held."
	19	8	"the Magistrate shall also"	"any Magistrate may".
	20	..	"Magistrate" ..	"District Magistrate".

1 These words were inserted by section 2 of the Bombay Repealing and Amending Act, 1905 (Bom. 4 of 1905)

2 Printed as an Appendix to this Act.

3 This schedule so far as it affects unrepealed enactments has been reproduced here as an Appendix as the insertion of certain words in the Schedule to Bom. I of 1904 by Bom. 4 of 1905, has revived it as regards such enactments. Entries relating to sections which have been repealed or substituted after the passing of Bom. 4 of 1905, have also been omitted, a foot note explanation being given in each case.

4. Bom. Reg. XII of 1827 s. 19, cls. 1, 6, 7 and 8 are repealed by the Bombay District Police Act, 1890 (Bom. 4 of 1890) wherever that Act extends. The Regn. was repealed by Bom. 63 of 1959.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

ENACTMENT No. and year (1)	Section (2)	Clause (3)	Words repealed (4)	Words, if any, substituted for the words repealed (5)
Regulations-contd.				
XII of 1827. —contd.	27	2	"Magistrate" (each time the word occurs).	"District Magistrate"
	27	2	"ordinary"	"simple."
	27	2	"without hard labour"	..... "District or Sub-Divisional Magisrate.
	37	1	"Magistrate" ..	"District Magistrate"
XII of 1827.	40	..	"Magistrate" ..	"District".
	41	1	"local" ..	"District".
	42	1	"local" ..	"District Magistrate"
	42	2,3,4	"Magistrate" (each time the word occurs). ..	"District Magistrate".
XXV of 1827..	4	2	"Magistrate" (both times the word occurs).	
	7	..	"Magistrate" ..	
Acts.				
[2] I of 1862	1	..	"Amendment to this Act"	.. .. ..
IV of 1862	1	..	"the Magistrate" (the second time the words occur).	"a Magistrate of the first class".
	1	..	"calendar" ..	..
	6	..	"Magistrate" ..	"District Magistrate".
	6	..	"this Act" ..	"section 4".
	6	..	"of Police" ..	...
	7	..	"of either kind" ..	..
	7	..	"calendar" ..	.. ..
	10	..	"Magistrate" ..	"District Magistrate".
	10	..	"of Police" ..	.. ..
V of 1862	3	..	"Calendar" ..	.. ..
VI of 1862	8 and 9	..	"Calendar" (each time the word occurs).	.. ..
	21	..	"The following words and expressions".	.. ..
	21	..	"shall have the meanings hereby assigned to them".	.. ..
	21	..	"(that is say)"	
I of 1863	6	..	"Justice of the Peace or person exercising the powers of a Magistrate within the province of Sind".	"of the first class".
	12	..	——do——	——do——
	11	..	"of this Act" ..	... ..

1 *See supra.*

2 Bom. I of 1862 has been repealed by Bom. 11 of 1928, section 3, Second Schedule.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

ENACTMENT No. and year (1)	Section (2)	Clause (3)	Words repealed (4)	Words, if any, substituted for the words repealed (5)
Acts—contd.				
II of 1863.	2	..	"of this Act" (the first time the words occur')	.. ..
	3,4,5,7, 8,10,11 and 13.	..	"of this Act" (each time the words occur).	.. ..
	4,5 and 11	..	"calendar" (each time the word occurs).	.. ..
	5 and 11	..	"collectorate or" (each time the words occur).	.. ..
	11	4	"collectorate" ..	"district".
	11	6	"collectorate" (each time the word occurs).	"district".
III of 1863	1 and 2	..	"to this Act" (each time the words occur).	.. .. ..
V of 1863	20	..	"of this Act" ..	... .
[1] * *	* *	* *	* * * * *	* * *
VII of 1863	6	..	"of this Act" (the first time the words occur).	.. ..
	7,8,9,11,12 13 and 26.	..	"of this Act" (each time the words occur).	.. ...
	9	1 and 2	"collectorate or" (each time the words occur).	.. ..
		3,4,6 and 7.	"collectorate" (each time the word occurs).	"district"
	9	8	"calendar" ..	... ..
	9	9	"Revenue" ..	.. .. ..
	9	9	"of the division" ..	.. .. ..
	12	..	"or Sub-Collector" ..	.. .. ..
	20	2	"annexed" ..	.. .. ..
VII of 1866	6	..	"of this Act" ..	.. .. ..
XII of 1866	15	..	"annexed to this Act"	.. ..
[2] * *	* *	* *	* * * * *	* * *
VI of 1867	5,9 and 10	.. ..	"of this Act" (each time the words occur).	.. .. ..
[3] VII of 1867	34	..	"of this Act" (each time the words occur).	.. ..
			"full-power Magistrate"..	"Magistrate of the first class".

1 The entry relating to Bom. 6 of 1863 is omitted as the Act has been repealed by Bom. 7 of 1920.

2 The entry relating to Bom. 13 of 1866 is omitted as that Act ceases to have effect under the Adaptation of Indian Laws Order in Council.

3 During such time as Bom. 6 of 1933 and the rules and by-laws shall be in operation in any village, sections 33 and 34 of Bom. 7 of 1867 cease to have any operation in the said village, *See* section 115 of Bom. 6 of 1933.

ENACTMENT No. and year (1)	Section (2)	Clause (3)	Words repealed (4)	Words, if any, substituted for the words repealed (5)
Acts—contd.				
VIII of 1867	[1]	..	"Commissioner of Police" Act, 1861.	"Acts, 1867 and 1890".]
	3,4,5,15 and 18	..	"of Police" (wherever in the said sections those words follow the word "Commissioner").	.. ..
	5	..	"Police" (in each place in which the word precedes the word "Commissioner").	.. ..
	18	..	"of this Act"	.. ..
II of 1868	17	..	"Revenue or Police"	.. .. ..
[2]* *	* *	* *	* * * *	* * * *
1 of 1874	In the preamble	..	"to this Act"	.. .. ..
	4	..	The last three words	.. ..
	13	..	"of this Act" (the first time the words occur).	.. ..
	14	..	"of this Act"	.. ..
	29	..	"calendar"	.. ...
II of 1874	15	..	"of this Act" (each time the words occur).	.. ..
[3]II of 1874	3,4,6,7 10,11, 12,13, 21,31, 37,39, 55,67, 73,75, 76 and 83.	..	"of this Act" (each time the words occur).	.. ..
	6	1	"Revenue" (each time the word occurs).	.. ...
	20	..	"of this Act" (the first time the words occur).	.. ..
	40	1	The last three words	.. ..
	73	2	"thereof"	.. ..
	74	..	"revenue"	.. ..
	74	..	"appointed under ; Regulation V of 1830, or other law in force for the time being".	..
	77	..	"empowered under the provisions of Bombay Act, I of 1868".	..
	77	..	"so empowered"	.. ..
	84	..	"Revenue"	.. ...
III of 1875	7	..	"of either description"	.. ..
	7	..	"calendar"	

1 Inserted by the Bombay General Clauses Amendment Act, 1891 (Bom. I of 1891).
2 The entry relating to Bom. 3 of 1869 is omitted as that Act has been repealed by Bom. 6 of 1933.
3 The entries relating to ss. 44, 47, 50 and 59 of this Act are omitted as they have been repealed or substituted by Bom. 3 of 1910.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

ENACTMENT No. and year (1)	Section (2)	Clause (3)	Words repealed (4)	Words, if any, substituted for the words repealed (5)
II of 1876.	14,16,18 and 33.	..	"of this Act" (each time the words occur)	.. ..
	16	..	"hereunto annexed"	
	31	..	"annexed to this Act"	
[1] * *	* *	* *	* * * *	* * *
I of 1877	3,9,16, 17 and 25	..	"of this Act" (each time the words occur). ..	...
	9,10,11, 14,15, 17 and 18	..	"hereto annexed" (each time words occur).	.. ..
	12	(b)	"of this Act" ..	...
	19	..	"of this Act" (the first time the words occur). ..	..
	23	(b)	"of this Act"	
	20 and 24.	..	"of either description within the meaning of the Indian Penal Code" (in each place in which these words occur). ..	..
	28	..	"The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to"	..
	28	..	"and all such fines"	
[2] V of 1878	3	3	"means, in Sind, the [3][Provincial Government] and elsewhere a commissioner of land revenue, or, if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer.	"includes an officer appointed by Government to be a Commissioner for the purposes of this Act".
	3	4	"means a Collector of land revenue or"	"includes"
	45	..	"of this Act" (each time the words occur).	.. ..
IV of 1879	3	..	"The last three words"	.. ..
	9,10,11, 14,15, 17 and 18	..	"hereto annexed" (each time the words occur).	.. ..
	9,16, 17 and 25.	..	"of this Act" (each time the words occur).	.. ..

1 The entry relating to Bom. 3 of 1876 is omitted as the Act has been repealed by Bom. 2 of 1906.

2 The entry relating to section 50 of this Act is omitted as the section has been subsequently substituted by Bom. 12 of 1912.

3 The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

SCHEDULE B to the Bombay General Clauses Act, 1886 (Bom. Act III of 1886)—contd.

ENACTMENT No. and year (1)	Section (2)	Clause (3)	Words repealed (4)	Words, if any, substituted for the words repealed (5)
IV of 1879 *Contd.*	12	(b)	"of this Act" ..	..
	19	..	"of this Act" (the first time the words occur). ..	..
	20 and 24.	..	"of either description within the meaning of the Indian Penal Code" (in each place in which the words occur). ..	..
	23	(b)	"of this Act" ..	..
V of 1879	3	2	"of this Act" ..	..
	10,13 18,38, 86,87, 161 and 216	..	"of this Act" (each time the words occur). ..	..
	23	..	"to this Act" ..	...
[1]VI of 1879	21 and 34.	..	"of this Act" ..	..
[1]VII of 1879	3	5.	"means the head revenue officer of a district and" ..	..
	57	..	"of this Act" ..	..
	61 and 62.	..	"of either description within the meaning of the said Code" (in each place in which these words occur). ..	..
	67	..	"of the division" ..	..
[1]I of 1880	3	7	"hereto annexed" ..	..
	33	(b)	"hereto annexed" ..	..
[1]I of 1883	3,5 and 8	..	"of this Act" (each time the words occur). ..	..
	3	..	"annexed to this Act" ..	..
[1]II of 1883	In the preamble.	..	"to this Act" ..	..
	4	..	"to this Act" ..	..
	17	..	"to this Act" (the first time the words occur). ..	..
[2] * *	* *	* *	* * * *	* * *

1 The entry relating to sections 2, 214 and 215 of this Act are omitted as these sections have been repealed or substituted by Bom. 4 of 1913.

2 The entry relating to Bom. 1 of 1884 is omitted as that Act has been repealed by Bom. 6 of 1933.

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ANNEXURE 4.01

ACT No. VII of 1865.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor-General on the 24th February* 1865).

An Act to give effect to Rules for the management and preservation of Government Forests.

WHEREAS it is expedient that Rules having the force of law should be made from time to time for the better management and preservation of Forests wherein rights are vested in Her Majesty for the purposes of the Government of India; It is enacted as follows:—

Preamble.

Interpretation Clause.

1. In this Act, unless there be something repugnant in the subject or context—

"Government Forests."

"Government Forests" shall mean such land covered with trees, brushwood or jungle, as shall be declared in accordance with the second Section of this Act to be subject to its provisions.

" Magistrate."

"Magistrate" shall mean the Chief Officer charged with the Executive administration of a district or place in criminal matters by whatever designation such Officer is called, and shall include any person invested by the Local Government with the powers of a Magistrate or of a subordinate Magistrate as defined in the Code of Criminal Procedure, with a view to the exercise by him of such powers under this Act.

" Local Government."

And in every part of British India in which this Act operates, "Local Government" denotes the persons authorized to administer Executive Government in such part, and includes the Chief Commissioner of any part of British India under the immediate administration of the Governor-General of India in Council whenever such Chief Commissioner is authorized by the Governor General in Council to exercise the powers of a Local Government under this Act.

Governor-General in Council and the Local Governments may render certain lands subject to the provisions of this Act.

2. The Governor-General of India in Council within the Provinces under his immediate administration, and the Local Governments within the Territories under their control, may, by notification in the Official Gazette, render subject to the provisions of this Act, such land covered with trees, brushwood, or jungle, as they may define for the purpose by such notification: Provided that

that such notification shall not abridge or affect any existing rights of individuals or communities.

Local Governments may make Rules for management and preservation of Forests, and for regulating the conduct of persons employed on them.

3. For the management and preservation of any Government Forests or any part thereof in the Territories under their control, the Local Governments may, subject to the confirmation hereinafter mentioned, make Rules in respect of the matters hereinafter declared, and from time to time may, subject to the like confirmation, repeal, alter, and amend the same. Such Rules shall not be repugnant to any law in force.

What may be provided for by Rules made in pursuance of this Act.

4. Rules made in pursuance of this Act may provide for the following matters :—

First.—The preservation of all growing trees, shrubs, and plants, within Government Forests or of certain kinds only—by prohibiting the marking, girdling, felling, and lopping thereof, and all kinds of injury thereto; by prohibiting the kindling of fires so as to endanger such trees, shrubs, and plants; by prohibiting the collecting and removing of leaves, fruits, grass, wood-oil, resin, wax, honey, elephants' tusks, horns, skins and hides, stones, lime, or any natural produce of such Forests; by prohibiting the ingress into and the passage through such Forests, except on authorized roads and paths; by prohibiting cultivation and the burning of lime and charcoal, and the grazing of cattle within such Forests.

Second.—The regulation of the use of streams and canals passing through or coming from Government Forests or used for the transport of timber or other the produce of such Forests—by prohibiting the closing or blocking up for any purposes whatsoever of streams or canals used or required for the transport of timber or Forest produce; by prohibiting the poisoning of or otherwise interfering with streams and waters in Government Forests in such a manner as to render the water unfit for use; by regulating and restricting the mode by which timber shall be permitted to be floated down rivers flowing through or from Government Forests and removed from the same; by authorizing the stoppage of all floating timber at certain Stations on such rivers within or without the limits of Government Forests for the purpose of levying the dues or revenues lawfully payable thereon; by authorizing the collecting of all timber adrift on such rivers, and the disposal of the same belonging to the Government.

Third.—The safe custody of timber the produce of Government Forests—by regulating the manner in which timber, being the produce of Government Forests, shall be felled or converted; by prohibiting the converting or cutting into pieces or burning of any timber, or the disposal of such timber by sale or otherwise, by any person not the lawful owner of such timber, or not acting on behalf of the owner; by

regulating

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regulating the manner in which property-marks shall be affixed to timber and other Forest produce in Government Forests; by prohibiting the affixing of property-marks to timber by any person not the owner of the timber or acting on behalf of the owner, so long as such timber shall be within certain territorial limits, or shall be in transit on certain rivers; by prohibiting within certain territorial limits the effacing or alteration of property-marks on timber; by prohibiting, within such limits, the use of the property-marks employed by the Government, or the fraudulent use of the property-marks of private persons; by requiring the registry within certain territorial limits of implements for affixing property-marks on timber; by directing the levying of fees for the registration of such implements.

Fourth.—The regulation of the duties of the Government Officers and establishments charged with the management and conservancy of Government Forests and with the levy of Forest dues and revenues—by prohibiting their engaging in any employment or office other than their duties as public servants; by fixing penalties for the wilful neglect of the Rules laid down for the guidance of such persons in all matters connected with the guarding of the boundaries of the Forests, the marking, girdling or felling of trees, the marking and passing of timber, the reporting and preventing of offences against the Rules made in pursuance of this Act and the collecting of Forest dues or revenues.

Power to Local Government to prescribe punishments for infringement of Rules.

5. In cases where the penalty of confiscation is not provided by this Act, the Local Government may prescribe punishments for the infringement of Rules made in pursuance thereof, by fine not exceeding five hundred rupees, and in default of payment of such fine may provide for the imprisonment of the offender for such term as is mentioned in the sixty-seventh Section of the Indian Penal Code.

Rules when confirmed and published to have the force of law.

6. Such Rules when confirmed by the Governor General in Council and published in the Official Gazette shall have the force of law.

Confiscation in case of infringement of Rules.

7. All implements used in infringing any of the Rules made in pursuance of this Act, and all timber or other Forest produce, removed or attemped to be removed, or marked, converted, or cut up contrary to such Rules, shall be confiscated.

Arrest and seizure in case of infringement of Rules.

8. Any Police Officer or person employed as an Officer of Government to prevent infringement of the Rules made in pursuance of this Act may arrest any person infringing any of such Rules, and may seize any implements used in such infringement, and any timber liable to confiscation under this Act.

9. Any

Procedure in case of arrest.

9. Any person arrested on the ground that he has committed an infringement of such Rules shall forthwith be taken before a Magistrate, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of.

The causing or procuring a punishable act to be done is punishable in the same manner as the doing of the act.

10. Where the doing of any act is made punishable by this Act, or by any of the Rules to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner.

Procedure in respect of property seized as liable to confiscation.

11. When any timber or other property shall be seized as liable to confiscation under this Act, any Magistrate or Officer empowered to enforce penalties under this Act within the district or division of a district wherein the same may be seized, may, upon information, summon the person in possession of such timber or other property, and upon his appearance, or in default thereof, may examine into the cause of the seizure of such timber or other property, and may adjudge the same to be confiscated and sold on account of the Government.

Penalty for vexatious seizures and arrests.

12. Any Police Officer or Officer of Government who shall vexatiously and unnecessarily seize the goods or chattels of any person under the pretence of seizing property liable to confiscation, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment of either description as defined in the Indian Penal Code for a term not exceeding three months.

Enforcement of confiscations and penalties under Rules.

13. All fines and penalties under the Rules made in pursuance of this Act shall be enforced by a Magistrate in the manner prescribed by the Code of Criminal Procedure, and the Rules therein contained for the trial of cases and for appeals shall be applicable to confiscations adjudged under this Act.

Property on confiscation to vest in Her Majesty.

14. When the confiscation of any property shall be adjudged under the last preceding Section, the same shall thereupon belong to and vest in Her Majesty, and a Warrant shall be issued by the Court to a Police Officer directing him to hold the property confiscated at the disposal of the Local Government.

Remission of penalties.

15. When any confiscation or penalty shall be adjudged under this Act, the Local Governments may, within three months after final judgment, call for the proceedings of the case, and, if they shall see cause, may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof, and direct that the offender be discharged.

16. No

Limitation of suits under this Act.

16. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit or other proceeding and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Period within which charges to be brought.

17. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Extent of Act.

18. This Act shall extend to all the Territories under the immediate administration of the Government of India and under the Governments of Bengal, the North-Western Provinces, and the Punjab; and it shall be lawful for the Governors in Council of Madras and Bombay respectively, by notification in the Official Gazette, to extend this Act to the Territories under their respective Governments.

Commencement of Act. Short Title.

19. This Act shall come into operation on the first day of May 1865, and may be cited as "The Government Forests, Act, 1865."

ANNEXURE 4.02

APPLICATION OF THE INDIAN FOREST ACT TO BERAR.

G. I. F. D., Notification No. 2197-I-B, dated the 13th October 1911.

In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf, the Governor-General in Council is pleased to apply to Berar the provisions, so far as they may be applicable, of the Indian Forest Act, 1878 (VII of 1878), subject to any amendments to which the Act is for the time being subject in British India:

Provided, first, that for the purpose of facilitating the application of the said Act, any Court in Berar may construe the provisions thereof with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before the Court:

Provided, secondly, that all references to the "Local Government" shall be read as referring to the Chief Commissioner of the Central Provinces and Berar:

Provided, thirdly, that the said Act shall apply to all lands declared or constituted to be "State Forests" under the Berar Forest Law, 1886, or the Berar Forest Law, 1886, as amended by the Berar Forest Law Amendment Law, 1891, as if such lands were reserved forests constituted under the said Act.

2. The Berar Forest Law, 1886, and the Berar Forest Law Amendment Law, 1891, are hereby rescinded.

NOTIFICATION.

Nagpur, the 28th November 1913.

No. 1121.—In modification of *Residency Orders* Notifications No. 184, dated the 6th June 1892, and No. 440, dated the 12th December 1894, and in supersession of *Central Provinces Gazette* Notification No. 1384, dated the 27th November 1907, the Chief Commissioner is pleased to declare, under Section 75 (*d*) of the Indian Forest Act, 1878, as amended by Act XV of 1911, and as applied to Berar, that State Forests in Berar shall in future be divided into two classes—A and C—*viz.*:—

Class A shall comprise all forest areas hitherto notified as Class A, Division I; Class A, Division II; and Class B, and such areas as may in future be notified as Class A.

Class C shall comprise all other Reserved Forests.

J. HULLAH,
Third Secretary to the Chief Commissioner,
Central Provinces.

ANNEXURE 4.03

ACT No. XVI OF 1927

THE INDIAN FOREST ACT, 1927

(In its application to the State of Maharashtra)

(As modified up to the 15th May 2016)

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ACT No. XVI OF 1927

[THE INDIAN FOREST ACT, 1927]

[*21st September 1927*]

Amended by Act 26 of 1930.

Amended by Act 3 of 1933.

Adapted and modified by the Government of India (Adaptation of Indian Laws) Order, 1937.

Repealed in part by Act 2 of 1948.

Adapted and modified by the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

Amended by Bom. 62 of 1948.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 23 of 1951.

.. .. .. 25 of 1953.

.. .. .. 24 of 1955.

.. .. .. 10 of 1956.

.. .. .. 17 of 1956.

Adapted and modified by the Adaptation of Laws (No. 3) Order, 1956.

Amended by Bom. 26 of 1957.

.. .. Mah. 6 of 1961.

.. .. .. 15 of 1965.

.. .. .. 27 of 1968.

.. .. .. 29 of 1975. (30-8-1975)*

.. .. .. 14 of 1978. (26-4-1978)*

.. .. .. 23 of 1984. (22-6-1984)*

.. .. .. 7 of 1985. (1-6-1985)*

Amended by Act 4 of 2005. (11-1-2005)*

Amended by Governor of Maharashtra *vide* Notification No. RB/TC/e-11019(15)(2014)/Notification-3/Bamboo-MFP/741, dated the 19th August 2014.

Amended by the Governor of Maharashtra *vide* Notification No. RB/TC/e-11019(89)(2013)/Notification-4/1120/2014, dated the 30th October 2014.

Amended by Mah. 21 of 2015 (23-6-2015)*§

An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce.

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

CHAPTER I

PRELIMINARY

Short title and extent

1. *(1)* This Act may be called the Indian Forest Act, 1927.

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

(3) It applies to the territories which, immediately before the 1st November, 1956 were comprised in the States of Bihar, Bombay, Coorg, Delhi, Madhya Pradesh, Orrisa, Punjab, Uttar Pradesh and West Bangal; but the Government of any State may by notification in the *Offieial Gazette* bring this Act into force in the whole or any specified part of that State to which this Act extends and where it is not in force :]

For Statement of Objects and Reasons, see *Gazette of India*, 1926, Part V, p. 165, and for Report of Select Committee, *see ibid*, p. 242.

Sub-sections (2) and (3) were substituted by the Adaptation of Laws (No. 3) Order, 1956.

These words were added by Mah. 6 of 1961, s.3(*i*).

This indicates the date of commencement of Act.

§ This Act came into force w.e.f. the 23rd June 2015, *vide* Government Notification, Revenue and Forests Department No. TRS. 01/2010/C.R. 03/F-6, dated the 22nd June 2015.

[1][Provided that, on the commencement of the Indian Forest (Maharashtra Unification and Amendment) Act, 1960, this Act shall be in force in the Hyderabad area of the State of Maharashtra.] Mah VI of 1961

Interpretation clause

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

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

(2) "Forest-officer" means any person whom [2]******** the [3][* [State] Government] or any officer empowered by[5] ******** the[3] [4][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;

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

(4) "forest-produce" includes—

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

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds [6][,kuth] [6][apta and temburni leaves] [7][,rosha grass including oil derived therefrom, rauwolfia serpentina] and myrabolams, and

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

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

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

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey, and wax, and all other parts of produce of animals, and

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

[8][*(4A)* "owner" includes a Court of Wards in respect of property under the superintendence or charge of such court;]

[9][*(4B)* "Police Officer" means a Police Officer as defined in the [10]Bombay Police Act, 1951; Bom XXII of 1951

(4C) "Revenue Officer" means a Revenue Officer as defined [11][in the Maharashtra Land Revenue Code, 1966;] Mah XLI of 1966

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

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

(7) "tree" includes palms, [12][bamboos, stumps, brush-wood and canes].

Construction of certain references to Central or Bombay Acts

[13][**2A.** In the application of this Act to any area of the State of Maharashtra other than the Bombay area thereof, any reference to a provision of a Central or Bombay Act shall, where no such Act is force in that area, be construed as a reference to the provision of the corresponding law, if any, in force in that area.]

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1 This *proviso* was added by Mah. 6 of 1961, s.3 *(a)*.

2 The words "the Governor-General in Council, or" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.

3 The words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

4 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

5 This word was inserted by s. 2 of the Indian Forest (Amendment) Act, 1930 (26 of 1930).

6 These words were inserted by Bom. 24 of 1955, s.2.

7 These words were inserted by Mah. 27 of 1968, s.2.

8 This clause was inserted by s. 2 of the Indian Forest (Amendment) Act, 1933 (3 of 1933).

9 These clauses were inserted by Mah. 6 of 1961, s. 4.

10 These words were substituted by Mah. 7 of 1985, s. 2.

11 The words "bamboos, stumps, brushwood and canes" were deleted by the Governor of Maharashtra vide Notification No. RB/TC/e-11019(15)(2014)/Notification-3/Bamboo-MFP/741, dated the 19th August 2014, Part II, issued in exercise of the powers conferred by sub-paragraph (*1*) of Paragraph 5 of the Fifth Schedule to the Constitution of India which shall apply to the Scheduled Areas in the State of Maharashtra referred to in clause (*1*) of article 244 of the Constitution of India.

12 This section was inserted by Mah. 6 of 1961, s. 5.

13 Short title of the Act has been amended as "The Maharashtra Police Act" by Mah.24 of 2012,s.2 and 3.Sch., entry 45, w.e.f. 1-5-1960.

CHAPTER II

OF RESERVED FORESTS

Power to reserve forests.

3. The [1][State] Government] may constitute any forest land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

Notification by [2][State] Government].

4. (*1*) Whenever it has been decided to constitute any land a reserved forest, the [2][State] Government] shall issue a notification in the [3][*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 forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

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

(*3*) Nothing in this section shall prevent the [2][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 of accrual of forest-rights.

5. After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or [4][on behalf of the [5][Government] or some person in whom such right was vested when the notification was issued and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the [1][[State] Government] in this behalf.

Proclamation by Forest Settlement-Officer.

6. When a notification has been issued under section 4, the Forest Settlement-Officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein a proclamation—

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

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

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-Officer or 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. 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 acquainted with the same.

Powers of Forest Settlement-Officer.

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

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the words "local official gazette", by the Adaptation of Laws Order, 1950.

[4] These words were substituted for the words "on behalf of Government", by the Government of India (Adaptation of Indian Laws) Order, 1937.

[5] The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

(*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 practice of shifting cultivation.

10. *(1)* In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-Officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the [1][2][State] Government,] together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(*2*) On receipt of the statement and opinion, the [1][2][State] Government] may make an order permitting or prohibiting the practice wholly or in part.

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

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

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

(*4*) All arrangements made under sub-secion (*3*) shall be subject to the previous sanction of the [2][State] Government].

(*5*) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the [1][2][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 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. 1 of 1894.

(*3*) For the purpose of acquiring such land—

(*a*) the Forest Settlement-Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894; 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 sections of that Act shall be deemed to have been complied with; and

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

Orders on claims to rights of pasture or to forest-produce.

12. [3][*(1)*] In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-Officer shall pass an order admitting or rejecting the same in whole or in part.

[4][(*2*) A copy of the order passed under sub-section (*1*) shall be furnished to the claimants by the Forest Settlement-Officer, and another copy of that order shall be forwarded to the Forest Officer who attended the inquiry or, if no such officer attended, to the Divisional Forest Officer.]

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1. The words "Provincial Government" were substituted for words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
2. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. Section 12 was re-numbered as sub-section (*1*) of that section by Mah. 6 of 1961, s. 6.
4. This sub-section was added by Mah. 6 of 1961, s. 6.

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 buildings (if any) in respect of which the exercise of such rights is claimed.

Record where he 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. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

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, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by the [1][2][State] Government].

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 [1][2][State] Government] may make in this behalf, commute such rights, by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

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

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

Provided that the [1][2][State] Government] may establish a Court (hereinafter called the "Forest Court") composed of three persons to be appointed by the [1][2][State] Government] and when the Forest Court has been so established, all such appeals, shall be presented to it.

Appeal under section 17.

18. (*1*) Every appeal under section 17 shall be made by petition in writng and may be delivered to the Forest Settlement-Officer, who shall forward it without delay to the authority competent to hear the same.

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

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

(*4*) The order passed on the appeal by such officer, or Court, or by the majority of the members of such Court, as the case may be, shall subject only to revision by the [1][2][State] Government], be final.

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[1] The words "Provincial Government" were substituted for words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[2] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These words were substituted for words "Local Official Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

Pleaders

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

Notification declaring forest reserved.

20. *(1)* When the following events have occurred, namely :—

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

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

(c) all lands (if any) to be included in the proposed 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,

1 of 1894

the [2][State] Government] shall publish a notification in the [3][Official Gazette] specifying, definitely, according to boundary-marks erected or otherwise, the limit of the forest 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 forest shall be deemed to be a reserved forest.

Publication of translation of such notification in neighbourhood of forest.

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

Power to revise arrangement made under section 15 or section 18.

22. The [2][State] Government] may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

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

23. 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 [4][on behalf of the [5][Government]]or some person in whom such right was vested when the notification under section 20 was issued.

Rights not to be alienated without sanction.

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

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

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

Power to stop ways and water courses in reserved forests.

25. The Forest-officer may, with the previous sanction of the [2][State] Government] or of any officer duly authorised by it in this behalf, 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, which the [2][State] Government] deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Acts prohibited in such forests.

26. *(1)* Any person who—

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

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

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1 The words "Provincial Government" were substituted for words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

2 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3 These words were substituted for words "on behalf of Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

4 The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

5 This portion was substituted for the original by Mah. 6 of 1961, s.7(*i*).

or who, in a reserved forest or a proposed forest in land notified as aforesaid under section 4—]

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

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

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

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

(*g*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce ;

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

(*i*) in contravention of any rules made in this behalf by the [[2][State] Government] hunts, shoots, fishes, poisons water or sets traps or snares ; or

(*j*) in any area in which the Elephant's Preservation Act, 1879 is not in force, kills or catches elephants in contravention of any rules so made;

shall be punishable with imprisonment for a term which may extend to [3][one year or with fine which may extend to [4][five thousand rupees]], or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

[5][Provided that, in cases where the forest-offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted for any forest-offence the punishment may extend to double the punishment mentioned in this sub-section.]

[6][(*1A*) (*a*) The Forest-officer may evict from a reserved forest or from any land in a reserved forest any person who, in such forest, trespasses or pastures cattle, or permits cattle to trespass, or clears or breaks up such land for cultivation or for any other purpose, and may demolish any building erected or construction made by such person on such land.

(*b*) Any agricultural or other crops grown, or any building erected or any construction made, by any person on any land in a reserved forest shall be liable to confiscation by an order of the Divisional Forest-officer.

(*c*) The provisions of this sub-section shall have effect notwithstanding any punishment inflicted under sub-section (*1*).]

Provided that, nothing in the above sub-section shall adversely affect the forest rights conferred on the forest dwelling Scheduled Tribes and other traditional forest dwellers under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the ownership rights of Gram Sabha over the minor forest-produce under the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.]

(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 [[2][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 [7][on behalf of the [8][Government] under section 23.

(3) Whenever fire is caused wilfully or by gross negligence in a reserve forest the [[2][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.

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1. The words "Provincial Government" were substituted for words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
2. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. The words were substituted for words "six months or with fine which may extend to five hundred rupees" by the Mah. 7 of 1985, s.3.
4. These words were substituted for words "two thousand rupees" by the Mah 21 of 2015, s.2(*a*)(*i*).
5. This proviso was added by Mah. 21 of 2015, s.2(*a*)(*ii*).
6. Sub-section (*1A*) was inserted, by Mah. 21 of 2015, s.2(*b*).
7. These words were substituted for the words "on behalf of Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
8. The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[1][(4) Any person who causes resistance or hurt to deter public servants or employees engaged on their behalf from discharging their duties under sub-section (*1-A*) shall, on conviction, be punished with imprisonment for a term which shall not be less than one year but may extend to six years and also with fine which shall not be less than one thousand rupees.

(*5*) No civil court shall have any jurisdiction in any matter provided for by sub-section (*1-A*).]

Power to declare forest no longer reserved.

27. (*1*) The [2][[State] Government] may, *** by notification in the [3][Official Gazette], direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

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

CHAPTER III

OF VILLAGE FORESTS

Formation of village-forests.

28. (*1*) The [4][[State] Government] may assign to any village-community [5][village panchayat established under [6][the [7]Bombay Village Panchayats Act, 1958], or co-operative society registered or deemed to be registered under [8][the Maharashtra Co-operative Societies Act, 1960]], the rights of Government to or over any land which has been constituted a reserved forest [9][or called a protected forest], and may cancel such assignment. All forests so assigned shall be called village-forests. Bom. III 1959 Mah. XIV 1961

(*2*) The [10][[State] Government] may make rules for regulating the management of village-forests, prescribing the conditions under which the community [11][Panchayat or society] to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.

(*3*) All the provisions of this Act relating to reserved [12][or protected] forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests [13][according as the forests assigned are reserved or protected forests.]

[14]@ CHAPTER IIIA

OF MINOR FOREST PRODUCE IN SCHEDULED AREAS

Provisions for Minor Forest Produce in Scheduled Areas.

28A. (*1*) Notwithstanding anything contained in this Act, the transit permits, in relation to transportation of minor forest produce in the Scheduled Areas referred to in clause (*1*) of article 244 of the Constitution of India shall be modified and given by the Panchayat at the appropriate level and the *Gram Sabha* or a committee thereof.

(*2*) All decisions for the collection and sale of minor forest produce in the Scheduled Areas, and the sharing of all sale proceeds shall be taken by at Panchayats at the appropriate level and the concerned *Gram Sabha*.

Explanations.—For the purpose of Chapter IIIA, —

(i) "minor forest produce" in Scheduled Areas shall have the same meaning as assigned to it in the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade)(Amendment) Act, 1997,

(ii) "*Gram Sabha*" shall have the same meaning as assigned to in Chapter IIIA of the Maharashtra Village Panchayats Act.]

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[1] Sub-sections (*4*) and (*5*) were substituted by the Mah. 21 of 2015, s.2(*c*).
[2] The words "Provincial Government" were substituted for words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
[3] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] The words "subject to the control of the Governor-General in Council" were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.
[5] These words were substituted for words "*Local Official Gazette*" by Government of India (Adaptation of Indian Laws) Order, 1937.
[6] These words and figures were inserted by Bom. 24 of 1955, s.3.
[7] These words and figures were substituted for the words and figures "The Bombay Village and Panchayats Act, 1933." by Bom. 24 of 1955, s. 4 (*f*).
[8] These words and figures were substituted for the words and figures "The Bombay Co-operative Societies Act, 1925." by Mah. 7 of 1985, s. 4 (*a*).
[9] The words were inserted by Bom. 62 of 1948, s.2(*i*).
[10] These words were inserted by Bom. 24 of 1955, s.3.
[11] These words were inserted by Bom. 62 of 1948, s.2(*ii*)(*a*).
[12] These words were inserted Bom. 61 of 1948, s.2(*ii*)(*b*).
[13] Chapter IIIA was inserted by the Governor of Maharashtra *vide* Notification No. RB/TC/e-11019(89)(2013)/ Notification-4/1120/2014, dated the 30th October 2014, Part II, issued in exercise of the powers conferred by sub-paragraph *(1)*of Paragraph 5 of the Fifth Schedule to the Constitution of India which shall apply to the Scheduled Areas in the State of Maharashtra referred to in clause *(1)* of article 244 of the Constitution of India.
[14] In its application to the State of Maharashtra.
* The Short title of the Act has been amended as "the Maharashtra Village Panchayats Act" by Mah. 24 of 2012, s. 2 and 3, Sch., entry 74, w.e.f. 1-5-1960.

CHAPTER IV

OF PROTECTED FORESTS

Protected forests

29. (*1*) The [1][2][State] Government] may, by notification in the [3][*Official Gazette*] declare the provisions of this Chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

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

(*3*) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the [1][2][State] Government] thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved :

Provided that, if, in the case of any forest-land or waste-land, the [1][2][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 [1][2][State] Government] may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

Power to issue notification reserving trees, etc.

30. The [2][State] Government] may, by notification in the [3][*Official Gazette*]—

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

(*b*) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the [1][2][State] Government] thinks fit, and that rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for due exercise of the right suspended in the portion so closed ; or

(*c*) prohibit, from a date fixed as aforesaid, the quarring 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

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

Power to make rules for protected forests

32. The [2][State] Government] may make rules to regulate the following matters, namely :—

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

(*b*) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons ;

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

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

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

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1. The words "Provincial Government" were substituted for words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
2. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. These words were substituted for the words "Local *Official Gazette*" by the Government of India (Adaptation of Indian Laws) Order, 1937.

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

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

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

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

(*j*) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests, and the killing or catching of elephants in such forests in areas in which the Elephant's Preservation Act, 1879 is not in force ; VI of 1879

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

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

Penalties for acts in contravention of notification under section 30 or of rules under section 32.

33. (*1*) Any person who commits any of the following offences, namely :—

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

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

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

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

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

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

(*g*) permits cattle to damage any such tree ;

(*h*) infringes any rule made under section 32 ;

shall be punishable with imprisonment for a term which may extend to [1][one year or with fine which may extend to [2][five thousand rupees.]] or with both.

(*2*) Whenever fire is caused wilfully or by gross negligence in a protected forest, the [3][[4][State] Government] may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

[5][(*3*) Where a person is convicted of an offence under sub-section (*1*)—

(*a*) a Forest-officer not below the rank of Ranger ; or

(*b*) a Police Officer not below the rank of Sub-Inspector ; or

(*c*) a Revenue Officer not below the rank of Mahalkari or Tahsildar, may evict him from the protected forest in relation to which he has committed the offence.]

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

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

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1. These words were substituted for the words "six months or with fine which may extend to five hundred rupees" by Mah. 23 of 1984, s. 5.
2. These words were substituted for the words "two thousand rupees" by Mah. 21 of 2015, s. 3.
3. The words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
4. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
5. This sub-section was inserted by Mah. 6 of 1961, s. 8.

CHAPTER V

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT

Interpretation.

*[34 A. For the purposes of the Chapter "forest" includes any land containing trees and shrubs, pasture, lands and any other land whatsoever which the [2][State] Government] may, by notification in the *Official Gazette*, declare to be a forest.

Protection of forests for special purposes.

*[35. *[(*1*) The [2][State] Government] may, by notification in the *Official Gazette*, —

(*i*) regulate or prohibit in any forest—

(*a*) the breaking up or clearing of the land for cultivation ;

(*b*) the pasturing of cattle ;

(*c*) the firing or clearing on the vegetation ;

(*d*) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any trees ;

(*e*) the lopping and pollarding of trees ;

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

(*g*) the quarring of stone or the burning of lime or charcoal or the collection or removal of any forest-produce or its subjection to any manufacturing process ;

(*ii*) regulate in any forest the regeneration of forests and their protection from fire ;

when such regulation or prohibition appears necessary for any of the following purposes :—

(*a*) for the conservation of trees and forests ;

(*b*) for the preservation and improvement of soil or the reclamation of saline or water-logged land, the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel ;

(*c*) for the improvement of grazing ;

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

(*e*) for the maintenance, increase and distribution of the supply of fodder, leaf manure, timber or fuel ;

(*f*) for the maintenance of reservoirs or irrigation works and hydro-electric works ;

(*g*) for protection against storms, winds, rolling stones, floods and drought ;

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

(*i*) for the preservation of the public health.]

(*2*) The [2][State] Government] may, for any such purpose, construct at its own expense [3][in any forest], such work as it thinks fit.

(*3*) No notification shall be made under sub-section (*1*) nor shall any work be begun under sub-section (*2*), until after the issue [4][by an officer authorised by the State Government in that behalf of] a notice to the owner of such forest [5]* * * 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 an officer duly appointed in that behalf and have been considered by the [2][State] Government].

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1. This section was inserted by Bom. 62 of 1948, s. 3(*1*).
2. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
3. The words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
4. Sub-section (*3*) was substituted for the original by Bom. 62 of 1948, s.3(*1*).
5. The words were substituted for the words "in or upon any forest or waste lands" by Bom. 62 of 1948, s. 3 (*2*).
6. The words were inserted by Bom. 24 of 1955, s. 3.
7. These words "or land" were deleted by Bom. 62 of 1948, s.3(*3*).
8. Sections 34A, 35, 36, 36A, 36B, 36C and 37 have been repealed in Maharashtra by Mah. 29 of 1975, s.24 and the same have been re-enacted in respect of lands restored under section 22A of the Maharashtra Private Forests (Acquisition) Act, 1975 by Mah. 14 of 1978, s.4. Sub-section (*2*) of section 4 of the Mah. 14 of 1978 reads as follows:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), on and from the date of commencement of the Maharashtra Private Forests (Acquisition) (Amendment) Act, 1978, sections 34A, 35, 36, 36A, 36B and 37 of the Forest Act, shall, in respect of the lands restored under section 22A be deemed to have been re-enacted in the same form and be deemed always to have been in force and applicable in respect of such lands, as if they had not been repealed." Mah. XIV of 1978.

[1][(4) A notice to show cause why a notification under sub-section (*1*) should not be made, may require that for any period not exceeding [2][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 clause (*i*) of sub-section (*1*), whether by reason of any 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 clause (*i*) of sub-section (*1*), to the extent specified in the notice.

(*5*) A notice issued under sub-section (*3*) shall be served on the owner of such forest in the manner provided in the Code of Civil Procedure, 1908, for the service of summons and shall also be published in the manner prescribed by rules. V of 1908

[3][(*5A*) Where a notice issued under sub-section (*3*) has been served on the owner of a forest in accordance with sub-section (*5*), any person acquiring thereafter the right of ownership of that forest shall be bound by the notice as if it had been served on him as an owner and he shall accordingly comply with the notice, requisition and notification, if any, issued under this section.]

(*6*) Any person contravening any requisiton made under sub-section (*4*) in a notice to show cause why a notification under sub-section (*1*) should not be made shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.]

[4][(7) Any person contravening any of the provisions of a notification issued under sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.]

Power to assume management of forests.

*36. (*1*) In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the [5][[6][State] Government] may, after notice in writing to the owner of such forest [7]** 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 [8][or protected] forest shall apply to such forests [7]**.

(*2*) The net profits, if any, arising from the management of such forest [7]** shall be paid to the said owner.

Manner of serving notice and order under section 36.

*[9][36-A. The notice referred to in sub-section (*1*) of section 36 and the order, if any, made placing a 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 summons. V of 1908

Period of control.

*36-B. (*1*) The period of such control of any forest shall be for ten years from the date of the order aforesaid; but such period may thereafter be extended for successive periods of not more than ten years each:

Provided that, the period of such control shall not in the aggregate exceed 30 years from the date of the order.

(*2*) The Forest-officer, under whose control the forest is placed, shall, not later than six months before the expiry of any period referred to in sub-section (*1*), make a report regarding such control and shall state therein whether in his opinion, any period of control should be extended.

(*3*) After considering any such report and subject to sub-section (*1*), the State Government shall decide whether to extend any period of control or whether to terminate in the manner provided in the next succeeding section.

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[1] These sub-sections were added by Bom. 24 of 1955, s. 4.

[2] These words were substituted for the words "six months" by Mah. 6 of 1961, s. 9(*i*).

[3] This sub-section was inserted by Mah. 6 of 1961, s. 9 (*ii*).

[4] This sub-section was inserted by Mah. 6 of 1961, s. 9(*iii*).

[5] These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[6] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[7] The words "or land" were deleted by Bom. 62 of 1948, s. 4 (*i*).

[8] These words were inserted, by Bom. 62 of 1948, s. 4 (*ii*).

[9] Sections 36-A, 36-B and 36-C were inserted by Bom. 24 of 1955, s. 5.

* *See* foot-note * on page 11.

(*4*) No period of control shall be extended unless the owner has been given reasonable opportunity of showing cause against such extension.

Termination of control.

*36-C. (*1*) If the State Government decides to terminate 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, so 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.

(*2*) 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 any 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.

*[37. (*1*) In any case under this Chapter in which the [2][State Government considers that, in lieu of placing the forest [3]** under the control of a Forest-officer the same should be acquired for public purposes the [2][State Government] may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894].

1 of 1894.

* * * * *

Protection of forests at request of owners.

38. (*1*) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

(*a*) that such land be managed on their behalf by the Forest-officer as 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 [1][[State] Government] may, by notification in the [4] *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

OF THE DUTY OF THE TIMBER AND OTHER FOREST-PRODUCE

Power to impose duty on timber and other forest-produce.

39. (*1*) The [1][Central Government] may levy a duty in such manner, at such places and at such rates as it may declare by notification in the [4][*Official Gazette*] on all timber or other forest-produce—

(*a*) which is produced in [5][the territories to which this Act extends] and in respect of which [6][the [7][Government]] has any right ;

(*b*) which is brought from any place outside [5][the territories to which this Act extends].

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* *See* foot-note * on page 12.

1 The words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

2 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3 The words "or land" were deleted by Bom. 62 of 1948, s. 5 (*i*).

4 Sub-section (*2*) was deleted, *ibid.*, s. 5 (*ii*).

5 These words were substituted for the words "Local *Official Gazette*" by the Government of India (Adaptation of Indian Laws) Order, 1937.

6 These words were substituted for the words and letters "Part A States and Part C States" by the Adaptation of Laws (No. 3) Order, 1956.

7 The words "the Crown" were substituted for the words "the Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

8 The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

* * * * *

(*2*) In every case in which such duty is directed to be levied *ad-valorem*, the [2][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 [2][3][State] Government], shall be deemed to be and to have been duly levied under the provisions of this Act.

[4][(*4*) Notwithstanding anything in this section, the [3][State] Government may until provision to the contrary is made by [5][Parliament] continue to levy any duty which it was lawfully levying before the commencement of [6][the Constitution] under this section as then in force :

Porvided that nothing in this sub-section authorises the levy of any duty which as between timber or other forest-produce of the [7][State], and similar produce of the locality outside the [7][State], discriminates in favour of the former, or which in the case of timber or other forest-produce of localities outside the [7][State], discriminates between timber or other forest-produce of one locality and similar timber or other forest-produce of another locality.]

Limit not to apply to purchase-money or royalty.

40. 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 VII

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT

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

41. (*1*) The control of all rivers and their banks as regards the floting of timber as well as the control of all timber and other forest-produce in transit by land or water, is vested in the [2][3][State] Government], and it may make rules to regulate the transit of all timber and other forest-produce.

[8][(*1A*) Notwithstanding anything contained in any law for the time being in force the State Government may make rules to regulate by grant of licences, within the forest limits or such distance therefrom not exceeding eighty kilometers as may be determined, the converting or cutting of timber in a saw mill, and prescribe fees and conditions, subject to which such licence may be granted, and the manner in which, and the authority to whom, an appeal against the order of refusal, suspension or revocation of a licence may be filed ;]

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1 The proviso was repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.

2 These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4 This sub-section was inserted by the Government of India (Adaptation of Indian Laws) Order, 1937.

5 The word "Parliament" was substituted for the words "Central Legislature" by the Adaptation of Laws Order, 1950.

6 The words " the Constitution" were substituted for the words "Part III of the Government of India Act, 1935, the Adaptation of Laws order, 1950.

7 The word "State" was substituted for the word "Provinces", the Adapation of Laws order, 1950.

8 This sub-section (1A) was inserted by Mah. 23 of 1984, s. 2 (*a*), with effect from 12th day of September 1960.

* Section 3 of Mah. 23 of 1984 reads as follows.—

"3. Consequences of retrospective amendment of section 41 of Act XVI of 1927.—It is hereby declared that section 41 of the Indian Forest Act, 1927 in its application to the State of Maharashtra (hereinafter in this section refferred to as "the principal Act"), having been retrospectively amended by this Act, with power to the State Government to make rules for the purposes referred to in section 41 of the principal Act, as amended by this Act,—

(*a*) rule 88 under the heading "I. Conversion of timber with certain distance of Forests" in Chapter VI of the Bombay Forest Rules, 1942 and the Form in Schedule EE thereto or any other provisions in relation to the grant of such licences contained in the said rules and the corresponding provisions contained in any other rules applicable in the Marathwada and the Vidarbha region as amended from timer to time, and in force on the day immediately preceding the date of commencement of this Act shall be deemed to have been validly made and effective and continuously in force as if they have been made under the principal Act as amended by this Act;

(*b*) all licences granted under the said rules and subsisting on the date of commencement of this Act shall be valid for the period for which they are granted or renewed;

(*c*) anything done or any action taken under the principal Act, as amended by this Act (including the rules made thereunder), shall be deemed to be, and shall be deemed always to have been, validly done and taken, and shall not be called in question in any Court or before any authority merely on the ground that there was no valid rule making power vested in the State Government or that the amendments to the rules were not validly made or that the rules or amendments made thereto and the licences granted or renewed thereunder as aforesaid did not fit in the rule-making power of the State Government or on such other ground".

(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 may be imported, exported or moved into, from or within [1][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*) provides for the issue, production and return of such passes and for the payment of fees therefor ;

(*d*) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to [2][the [3][Government]] on account of the price thereof, or on account of duty, fee, royalty or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark ;

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

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

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

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

* * * * *

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

(3) The [1][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.

[4][41 A. Notwithstanding anything in section 41, the Central Government may make rules to prescribe the route by which alone timber or other forest-produce may be imported, exported or moved into or from [5][the territories to which this Act extends] across any customs frontier as defined by the Central Government and any rules made under section 41 shall have effect subject to the rules made under this section.] Power of Central Government as to movements of timber across customs frontiers

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1 The word "State" was substituted for the words "Province" by the Adaptation of Laws Order, 1950.

2 The words "the Crown" were substituted for the words "Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3 The word "Government" was substituted for the words "Crown" by Adaptation of Laws Order, 1950.

4 Clause (*hh*) was deleted by Mah. 23 of 1984, s. 2(*a*), with effect from 10th February 1965.

5 These words were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

6 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

7 This section was inserted by the Government of India (Adaptation of Indian Law) Order, 1937.

8 These words were substituted for the words and letters "Part A States and Part C States" by the Adaptation of Laws (No. 2) Order, 1956.

Penalty for breach of rules made under section 41.

42. (*1*) The [1][State] Government] may by such rule prescribe as penalties for the contravention thereof imprisonment for a term which may extend to [2][one year or with fine which may extend to two thousand rupees,] or both.

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

[3][Government] and Forest officers not liable for damage to forest-produce at depot.

43. The [4][Government] shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41 or while detained elsewhere for the purposes of this Act; and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently.

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

44. 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 [4][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 VIII

OF THE 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.

45. (*1*) All timber found adrift, beached, stranded or sunk;

all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and in such areas as the [5][[6][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 rule made under section 51, and may be brought to any depot which the Forest-officer may notify as a depot for the reception of drift timber.

(*3*) The [7][[6][State] Government] may, by notification in the [8][*Official Gazette*], exempt any class of timber from the provisions of this section.

Notice to claimants of drift timber.

46. Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

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1. These words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Law) Order, 1937.
2. The word "State" was substituted for the word "Provincial" by The Adaptation of Laws Order, 1950.
3. These words were substituted for the words "six months or fine which may extend to five hundred rupees" by Mah. 7 of 1985, s. 6.
4. The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
5. These words "Provincial Government" were substituted for the words "Local Government" by these Government of India (Adaptation of Indian Law) Order, 1937.
6. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
7. These words were substituted for the words "Local Official Gazette" by the Government of India (Adaptation of Indian Law) Order, 1937.

47. (*1*) When any such statement is presented as aforesaid, the forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant. Procedure on claim preferred to such timber.

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

(*3*) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the [1][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.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 47, in such other person free from all encumbrances not created by him. Disposal of unclaimed timber.

49. The [1][Government] shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently. Government and its officers not liable for damage to such timber.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made under section 51. Payments to be made by claimant before timber is delivered to him.

51. (*1*) The [2][[3][State] Government] [4][may, by notification in the *Official Gazette*, make rules] to regulate the following matters, namely :— Power to make rules and prescribe penalties.

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

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

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

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

[5][(*1A*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

(*2*) The [2][[3][State] Government] may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

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1. The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
2. These words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.
3. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
4. These words were substituted for the words "may make rules" by Central Act No. 4 of 2005, s.2, Schedule, entry 25.
5. Sub-section (*1A*) was inserted by Central Act No. 4 of 2005, s.2, Schedule, entry 25.

CHAPTER IX

PENALTIES AND PROCEDURE

Seizure of property liable to [confiscation * * *]

52. (*1*) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, [1][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, [2][or the receptacle or vehicle (if any) in which it is contained,] a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

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

Explanation.— For the purposes of this Chapter, the expressions "property of Government" and "property of the State Government" include the property belonging to the Forest Development Corporation of Maharashtra Limited.]

Power to release property seized under section 52

53. Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, [4][vehicles] or cattle [5][under section 52 may subject to section 61G, 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 offence on account of which the seizure has been made.

Procedure on receipt by Magistrate on report of seizure

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

Forest-produce, tools, *etc.* when liable to [7][confiscation]

55. (*1*) All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, [4][vehicles] and cattle used in committing any forest-offence, [8][shall be liable to confiscation].

(2) Such [9][confiscation] may be in addition to any other punishment prescribed for such offence.

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1. These words were substituted for the word "confiscation" by Mah. 7 of 1985, s.(7c).
2. The words "and forfeiture" were deleted by Mah. 21 of 2015, s. 5(*b*).
3. This word was substituted for the word "Carts" by Bom. 25 of 1953, s.2.
4. Sub-section (*1A*) was deleted by Mah. 21 of 2015, s. 3(*a*).
5. These words were inserted by Mah. 7 of 1985, s. 17(*b*)(*i*).
6. This *proviso* and Explanation were added by Mah. 7 of 1985, s. 7(*b*)(*ii*).
7. This word was substituted for the word "carts" by the Bom. 25 of 1953, s. 2.
8. These words, figures and letter were substituted for the words and figures "under section 52, may release", by Mah. 7 of 1985, s. 8.
9. This section was substituted by Mah. 7 of 1985, s. 9.
10. This word was substituted for the word "forfeiture" by Mah. 21 of 2015, s. 6 (*c*).
11. These words were substituted for the words "shall be liable by order of the convicting court to forfeiture", by Mah. 7 of 1985, s. 6(*a*).
12. This word was substituted for the word "forfeiture" by Mah. 7 of 1985, s.6 (*b*).

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

56. 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 [1][confiscated] be taken charge of by a Forest-officer, and, [2][in any other case may, subject to section 61G, be disposed of] in such manner as the Court may direct.

Procedure when offender not known or cannot be found

57. When the offender is not known or cannot be found, [3][the Magistrate may, if he finds that an offence has been committed, but subject to section 61G, order the property in respect of which the offence has been committed, to be [4][confiscated] together with tools, boats,vehicles or cattle and other articles used in committing the offence,] and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same :

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he may produce in support of his claim.

Procedure as to perishable property seized under section 52

[5][**58.** The Forest-officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law, sell any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold and shall report about every such sale to his official superior.]

Appeal from orders under section 55, section 56 or section 57

59. The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Property when to vest in Government

60. When an order for the [6][confiscation] of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all encumbrances.

Saving of power to release property seized

61. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the [7][State] [Government] from directing at any time the immediate release of any property [8][seized under section 52 which is not the property of Government and the withdrawal of any charge made in respect of such property].

Confiscation by Forest-officers of forest produce where forest-offence is believed to have been committed

[9][**61A.** (*1*) Notwithstanding anything contained in the foregoing provisions of this Chapter or any other law, where a forest-offence is believed to have been committed in respect of timber, sandalwood, fire-wood, charcoal or any other notified forest-produce which is the property of the State Government, the officer seizing the property under sub-section (*1*) of section 52 shall, without any unreasonable delay produce it, together with all tools, boats, vehicles and cattle used in committing such offence, before an officer authorised by the State Government in this behalf by notification in the *Official Gazette*, not being an officer below the rank of an Assistant Conservator of Forests (hereinafter referred to as "the authorised officer").

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[1] These words were substituted for the word "forfeiture" by Mah. 21 of 2015, s 7.

[2] These words, figures and letters were substituted for the words "in any other case, may be disposed of" by Mah. 7 of 1985, s.11 (i).

[3] These words were substituted for the portion beginning with the words "the Magistrate may" and ending with the words "to be confiscated" by Mah. 7 of 1985, s. 12.

[4] This word was substituted for the word "forfeited" by Mah. 21 of 2015, s. 8.

[5] This section was substituted by Mah. 7 of 1985, s.13.

[6] This word was substituted for the word "forfeiture" by Mah. 21 of 2015 s. 9.

[7] The words "Provincial Government" were substituted for the words "Local Government"by Government of India (Adaptation of Indian Laws) Order, 1937.

[8] The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[9] These words were substituted for the word and figures "seized under section 52" by Mah. 7 of 1985, s. 15.

[10] These sections were inserted by, Mah. 7 of 1985, s. 16.

(2) The State Government may authorised one or more officers for any local area under sub-section *(1)*.

[1][(3) Where any timber, sandalwood, firewood, charcoal or any other notified forest-produce, which is the property of the State Government, is seized under sub-section *(1)* of section 52, or any such forest-produce is produced before any authorised officer under sub-section *(1)* and he is satisfied that a forest-offence has been committed in respect of such forest-produce, notwithstanding whether or not a prosecution is instituted for the commission of such offence, such authorised officer shall order the forest-produce so seized to be taken charge of by a Forest-officer, and may order confiscation of all tools, boats, vehicles and cattles used in committing such offence.]

(4) [2][*(a)* Where the authorised officer, after passing an order of confiscation under sub-section *(3)*, is of the opinion that it is expedient in the public interest so to do, he may order sale of all confiscated tools, boats, vehicles and cattles.]

(b) Where any confiscated [3]** tools, boats, vehicles and cattle are sold, as aforesaid, the proceeds thereof, after deduction of the expenses of any such [4][sale] or other incidental expenses relating thereto shall, where the order of confiscation made under this section is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

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

61B. *(1)* No order confiscating [3]** tools, boats, vehicles, or cattle shall be made under section 61A except after notice in writing to the person from whom it is seized and considering his objections, if any :

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

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

[5][*(3)* When the offender or the owner of any tool, boat, vehicle or cattle seized under, sub-section *(1)* of section 52 is not known or cannot be found, and the authorised officer is satisfied that the same has been used in committing a forest-offence in respect of timber, fire-wood, sandalwood, charcoal or any other notified forest-produce which is the property of the State Government, notwithstanding anything contained in the foregoing provisions, the authorised officer may pass order in accordance with the provisions contained in section 61A :

Provided that, no such order shall be made until the expiration of a period of thirty days from the date of seizing such property or without hearing the person claiming any right thereto.]

Revision.

61C. Any forest-officer not below the rank of Conservator of Forests specially empowered by the State Government in this behalf by notification in the *Official Gazette* may, *suo motu* call for and examine the record of the order of the authorised officer under section 61A; and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit :

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

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

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1 Sub-section *(3)* was substituted, by Mah. 21 of 2015, s. 10 *(a)*.

2 Clause *(a)* was substituted, by Mah. 21 of 2015, s. 10*(b)*(i).

3 Thes words "property or the" were deleted by Mah. 21 of 2015, *ibid.*, s.10 *(b)*(*ii*)(*I*).

4 This word was substituted for the word "auction" by Mah. 21 of 2015, s.10 *(b)*(*ii*) (*2*).

5 The words "any timber, sandalwood, firewood, charcoal or any others notified forest produce," were deleted by Mah. 21 of 2015, s.11 *(a)*.

6 Sub-section (3) was added by Mah. 21 of 2015, s.11 *(b)*.

Appeal.

61D. (*1*) Any person aggrieved by any order passed under section 61A or section 61C may, within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property and the tools, boats, vehicles and cattle to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the authorised officer or the officer specially empowered under section 61C, as the case may be, to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(*2*) An order of the Sessions Judge under sub-section (*1*) shall be final and shall not be questioned in any Court.

Award of confiscation not to interfere with other punishments.

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

Property etc confiscated when to vest in Government.

[1][**61F.** When an order for confiscation of any property has been passed under section 61A or section 61C, and the period of limitation provided by section 61D for filing an appeal against such order has elapsed, and no such appeal has been preferred or when on such an appeal being preferred, the Appellate Court confirms such order in respect, of the whole or a portion of such property, such property or such portion thereof, or if it has been sold under section 58 or under clause (*a*) of sub-section (*4*) of section 61A, the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.]

Bar of jurisdiction in certain cases.

61G. Whenever any timber, sandalwood, firewood, charcoal or any other notified forest produce which is the property of the State Government, together with any tool, boat, vehicle or cattle used in committing any [2][forest-offence in respect of such property] is seized under sub-section (*1*) of section 52, the authorised officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have, and notwithstanding anything, to the contrary contained in this Act or in the Code of Criminal procedure, 1973 or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have, jurisdiction to make orders with regard to the custody, possession, delivery, disposal or distribution of such property and any tool, boat, vehicle or cattle.]

II of 1974

Punishment for wrongful seizure.

62. [3][(*1*)] Any Forest-officer or Police officer who vexatiously and unnecessarily seize any property on pretence of seizing property liable to [4][confiscation [5][***]] under this Act, shall be punishable with imprisonment for a term which may be extend to six months, or with fine which may extend to five hundred rupees or with both.

[6][(*2*) Any fine so imposed, or any portion thereof, shall, if the convicting court so directs, be given as compensation to the person aggrieved by such seizure].

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

63. 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 (XLV of 1860)—

(*a*) knowingly counterfeit upon any timber or standing tree a mark used by Forest-officer to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfuly 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 may extend to two years, or with fine, or with both.

Power to arrest without warrant.

64. (*1*) [7][Any Forest-officer, Police Officer or Revenue 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 punishable with imprisonment for one month or upward.

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1. Section 61F was substituted, by Mah. 21 of 2015, s.12.
2. These words were substituted for the word "offence" by Mah. 21 of 2015, s.13.
3. This section was renumbered as sub section (*1*) by Mah. 7 of 1985, s.17.
4. These words were substituted for the word " confiscation" by Mah. 21 of 2015, s. 17 (*a*).
5. The word "or forfeiture" were deleted by Mah. 21 of 2015, s.14.
6. This sub-section (*2*) was added by Mah. 21 of 2015, s.17 (*b*).
7. These words were substituted for the words " any Forest Officer or Police Officer" by Mah. 6 of 1961, s.10.

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

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

Power to release on a bond a person arrested

65. Any Forest-officer of a rank not inferior to that of [1][a Ranger, any Police Officer of a rank not inferior to that of Sub-Inspector or any Revenue Officer of a rank not inferior to that of *Mahalkari* or Tahsildar] who, or whose subordinate, has arrested any person under the provisions of section 64, [2][may, subject to and without prejudice to the provisions of section 65A, 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.

Certain offences to be non-bailable

[3][**65A.** Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973,— II of 1974

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

(*b*) The sections and clauses of sections of this Act referred to in clause (*a*) are the following, namely:—

[4][Section 26, clauses (*a*), (*b*), (*d*), (*f*), (*g*), (*h*) and (*i*) of sub-section (*1*) and sub-section (*4*)],

Section 33, clauses (*a*), (*b*), (*c*) (*d*), (*f*) and (*h*) of sub-section (*1*),

Section 42,

Section 63,

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

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

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

Power to prevent commission of offence

66. [5][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

[6][**66A.** Whoever abets any forest-offence shall, if the offence abetted is committed in consequence of abetment, be punished with the same punishment as is provided for such offence.]

Power to try offences summarily

67. [7][Any Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court] may try summarily, under [8][the Code of Criminal Procedure, 1973] II of 1974, any forest-offence punishable with imprisonment for a term [9][not exceeding one year, or fine not exceeding [10][Five thousand rupees], or both, and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial; but notwithstanding anything contained in the said Code, in the case of conviction for any offeence in a summary trial under this section, it shall be lawful for the Magistrate to pass sentence of imprisonment for any term for which such offence is punishable under this Act.]

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1 These words were substituted for the word "Ranger" by Mah. 6 of 1961, s. 11.

2 These words were substituted for the words "may release such person" by Mah. 7 of 1985, s. 18.

3 Section 65A was inserted, by Mah. 7 of 1985, s. 19.

4 These words, figures, brackets and letter were substituted for the words, figures, brackets and letters "section 26" clauses *(a), (b), (f), (g), (h)* and *(i)* of sub section *(1)*, by Mah. 21 of 2015, s.15.

5 These words were substituted for the words "Every Forest Officer and Police Officer" by Mah. 6 of 1961, s. 12.

6 Section 66A was inserted by Mah. 21 of 2015, s. 16.

7 These words were substituted for the words "The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the State Government" by Bom. 23 of 1951, s. 2.

8 These words and figures were substituted for the words and figures "the Code of Criminal Procedure, 1898" by Mah. 7 of 1985, s. 20 *(a)*.

9 These words were substituted for the words " not exceeding six months, or fine not exceeding five hundred rupees or both", by Mah. 7 of 1985, s. 20 *(b)*.

10 These words were substituted for the words "two thousand rupees" by Mah. 21 of 2015, s. 17.

Power to compound offences

[1][68. (*1*) Subject to the provisions of sub-section (*3*), the State Government may, by notification in the *Official Gazette*, empower a Forest Officer—

(*a*) to accept from any person about whom reasonable suspicion exists that he has committed any forest offence, other than an offence specified in [2][sub-section (*4*) of section 26 or] section 62 or section 63, [3][payment of 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 [4][on payment of] the value thereof as named by such officer.

(*2*) On the [5][payment of] such sum of money, or such named value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, siezed shall be released, and no further proceedings, other than those under section 82 where necessary, 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 inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted or agreed to be accepted as compensation under clause (*a*) of sub-section (*1*) shall in no case exceed the sum of [6][five thousand rupees].

Presumption that forest produce belongs to Government

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

CHAPTER X

CATTLE-TRESPASS

Cattle-trespass Act, 1871, to apply

70. Cattle trespassing in a reserved forest or in any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer.

1 of 1871.

Power to alter fines fixed under that Act

71. The [7][[State] Government] may, by notification in the [8][*Official Gazette*], direct that in lieu of the fines fixed under section 12 of the Cattle-trespass Act, 1871, there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit, but not exceeding the following, that is to say :—

1 of 1871.

For each elephant	[9][two hundred rupees]
For each buffalo or camel	[10][two hundred rupees]
For each horse, mare, gelding, pony, colt, filly mule, bull, bullock, cow or heifer.	[11][two hundred rupees]
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid.	[12][one hundred rupees]

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[1] This section was substituted for the original section 68 by Mah. 6 of 1961, s. 13.

[2] These words were inserted by Mah. 21 of 2015, s.18 (*a*)(*I*)(*i*.)

[3] These words were substituted for the words "payment of a sum of money or, at his discretion, an undertaking in writing to pay a sum of money", by Mah. 21 of 2015, s.18 (*a*)(*I*)(*ii*).

[4] These words were substituted for the words "on payment of, or at his discretion, on acceptance of an undertaking in writing to pay", by Mah. 21 of 2015, s.18(*a*)(*2*).

[5] These words were substituted for the words "payment of, or on acceptance of an undertaking in writing to pay", by Mah. 21 of 2015, s.18(*b*)

[6] These words were substituted for the words "five hundred rupees", by Mah. 21 of 2015, s.18(*c*)

[7] The words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[8] The word "State" was substituted for the wrod "Provincial" by the Adaptation of Laws Order, 1950.

[9] These words were substituted for the words "Local Official Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

[10] These words were substituted for the words, "ten rupees" by Mah. 21 of 2015 s.19 (*a*).

[11] These words were substituted for the words "two rupees" by Mah. 21 of 2015, s. 19(*b*).

[12] These words were substituted for the words "one rupee", by Mah. 21 of 2015, s.19 (*c*).

[13] These words were substituted for the words "fifty nine paise," by Mah. 21 of 2015, s.19 (*d*).

CHAPTER XI

OF FOREST-OFFICERS

[1][State] Government] may invest Forest-officers with certain powers

72. (*1*) The [1][2][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 power 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 [3][the Code of Criminal Procedure, 1973] and II of 1974

(*d*) power to hold an inquiry into forest-offences, 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.

Forest-officers deemed public servants

73. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860

Indemnity for acts done in good faith

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

Forest-officers not to trade

75. Except with the permission in writing of the [1][[State] Government], no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside [4][the territories to which this Act extends.]

CHAPTER XII

SUBSIDIARY RULES

Additional powers to make rules

76. The [1][2][State] Government] may make rules.—

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

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

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

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

Penalties for breach of rules

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

Rules when to have force of law

78. [5][*1*] All rules made by the [1][2][State] Government] under this Act shall be published in the [6][*Official Gazette*] and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

[7][*2*] All rules made by the State Government under this Act shall be laid for not less than thirty days before each House of the State Legislature as soon as possible after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid, or the session immidiately following and publish in the *Official Gazette*.

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1 The words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

2 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3 These words and figures were substituted for the words and figures "the Code of Criminal Procedure, 1898, by Mah. 7 of 1985, s.21.

4 These words were substituted for the words and letters "Part-A States and Part-C States" by the Adaptation of Laws (No. 3) Order, 1956.

5 Section 78 was renumbered as sub-section (*1*) of that section by Mah. 6 of 1961, s.15.

6 These words were substituted for the words "Local Official Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

7 Sub-section (*2*) was inserted by Mah. 6 of 1961, s.15.

CHAPTER XIII

MISCELLANEOUS

Persons bound to assist Forest-officers and Police-officers.

79. (*1*) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in such forest, and every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the [1][Government] or who receives emoluments from the [1][Government] for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police-officer or not—

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

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

and shall assist any Forest-officer or Police-officer demanding his aid—

(*c*) in preventing the commission in such forest of any forest-offence ; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

(*2*) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

(*a*) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub-section (*1*);

(*b*) to take steps as required by sub-section (*1*) to extinguish any forest fire in a reserved or protected forest ;

(*c*) to prevent, as required by sub-section (*1*) any fire in the vicinity of such forest from spreading to such forest; or

(*d*) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Management of forests the joint property of Government and other persons.

80. (*1*) If the 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 [2][[State] Government] may either—

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

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

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

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1. The word "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

2. The words "Provincial Government" were substitute for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3. The words "State" was substituted for the words "Provincial " by the Adaptation of Laws Order, 1950.

4. These words were substituted for the word "Local Official Gazette" by the Government of India (Adaptation of Indian Laws) Order, 1937.

Power of Government to apply provisions of this Act to certain lands of Government or local authority.

[1][**80-A.** The State Government may, by notification in the *Official Gazette*, declare that any of the provisions of this Act shall apply to all or any lands on the banks of canals or the sides of roads which are the property of the State Government or a local authority and thereupon such provisions shall apply to such lands accordingly.]

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

81. 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 [2][3][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 [2][3][State] Government].

Recovery of money due to Government.

82. All money payable to the Government under this Act, or under rule made under this Act, or on account of the price of any forest-produce or of expenses incurred in the execution of this Act in respect of such produce [4][* * *] 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.

Lien on forest-produce for such money.

83. (*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 [5][Government].

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

84. Whenever it appears to the [2][3][State] Government] that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894. 1 of 1894.

Recovery of penalties due under bond.

85. [6][(*1*)] When any person, in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recoverd from him in case of such breach as if it were an arrear of land- revenue. IX of 1872.

[7][(*2*) If any question arises—

(*a*) whether there has been a breach of any of the conditions of such bond or instrument,

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

(*c*) as to the person or persons liable to pay such sum,

---

1 This section was inserted by Bom. 24 of 1955, s. 6.

2 The words "Provincial Government" were substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

3 The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4 The words and figures "or on account of compensation or value of property agreed to be paid under section 68" were deleted by Mah. 21 of 2015, s.20.

5 The word "Government" was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

6 Section 85 was re-numbered as sub-section (*1*) of that section by Bom. 10 of 1956, s. 2.

7 This sub-section was added by Bom. 10 of 1956, s. 2.

the question shall be referred to and, after giving notice to the person concerned and after considering his objections (if any), be decided by an officer, not below the rank of a [1][Sub-Divisional Forest Officer], authorised by the State Government in this behalf. The person aggrieved by the decision of such officer may, within a period of sixty days from the date of such decision, appeal to the State Government or such other appellate authority as the State Government may appoint in this behalf. The decision of such officer, subject to an appeal to the appellate authority, and the decision of the appellate authority on such appeal, shall be final.]

[2][85A. *Saving for rights of Central Government.*—Nothing in this Act shall authorise a Government of any State to make 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].

86. [*Repeals*]—Repealed by s. 2 and Sch. of the Repealing and Amending Act, 1948 (2 of 1948).

THE SCHEDULE

[Repealed by s. 2 and Sch. of the Repealing and Amending Act, 1948 (2 of 1948).]

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[1] The words "Sub-Divisional Forest Officer" were substituted for the words "Divisional Forest Officer" by Bom. 26 of 1957, s. 2.

[2] This section was substituted by the Adaptation of Laws Order, 1950.

Maharashtra Government Publications can be obtained from—

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AND THE RECOGNISED BOOK SELLERS

ANNEXURE 4.04

RNI No. MAHENG /2009/35528
Reg. No. MH/MR/South-344/2014-16

महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ६, अंक ३४] मंगळवार, ऑगस्ट १९, २०१४/श्रावण २८, शके १९३६ [पृष्ठे ३, किंमत : रुपये २७.००

असाधारण क्रमांक ९४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि वित्त व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

OFFICE OF THE GOVERNOR OF MAHARASHTRA

Raj Bhavan, Malabar Hill, Mumbai 400 035, dated the 19th August 2014.

Preamble

No. RB/TC/e-11019(15)(2014)/Notification-3/Bamboo-MFP/741.—The following notification issued by the Governor of Maharashtra is published for general information :—

WHEREAS under sub-paragraph (1) of Paragraph 5 of the Fifth Schedule of the Constitution, the Governor may, by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to the exceptions and modifications specified in the notification ;

AND WHEREAS the Provisions of the Panchayats (Extension to the Scheduled Areas Act), 1996 is an Act of self empowerment of the village community which seeks to protect the customary law, social and religious practices, and traditional management practices of community resources ;

AND WHEREAS as per the provisions of Section 4(m) (ii) of The Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996 the appropriate Panchayats and the Gram Sabhas are to be endowed specifically with the ownership of minor forest produce :

AND WHEREAS the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 has defined Minor Forest Produce to mean "forest produce specified in the Schedule appended to this Chapter" ;

AND WHEREAS the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act , 2006 has provided a wider and comprehensive definition of Minor Forest Produce ;

AND WHEREAS the definition of minor forest produce under the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 has been found to be not comprehensive and failed to take into account some of the minor forest produce recognized under the subsequent The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act , 2006, thus denying the fruits of ownership over many MFPs to the Scheduled Area Gram Sabhas ;

AND WHEREAS the above anomaly has led to denial of livelihood opportunities to village communities in the Scheduled Areas, primarily the members of the Scheduled Tribes ;

AND WHEREAS Article 46 of the Constitution of India casts duty on the State to promote with special care, the educational and economic interests of Scheduled Tribes ;

AND WHEREAS the Governor of Maharashtra has decided, for reasons outlined above, that the scope of the minor forest produce needs to be redefined to ensure economic upliftment and empowerment of the Gram Sabhas ;

NOW, THEREFORE, in exercise of the powers conferred by sub- paragraph (1) of Paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Maharashtra hereby makes the following notification :—

NOTIFICATION

CONSTITUTION OF INDIA.

In exercise of the powers conferred by sub-paragraph (1) of Paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Maharashtra hereby directs that the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 and the Indian Forest Act, 1927, in its application to the State of Maharashtra, shall apply to the Scheduled Areas with the following modifications :—

PART I

MODIFICATIONS TO THE MAHARASHTRA TRANSFER OF OWNERSHIP OF MINOR FOREST PRODUCE IN THE SCHEDULED AREAS AND THE MAHARASHTRA MINOR FOREST PRODUCE (REGULATION OF TRADE) (AMENDMENT) ACT, 1997

In the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997,—

(*i*) in section 3,—

(*a*) for clause (*a*), the following clause shall be substituted, namely :—

"(*a*) " minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or Kendu leaves, medicinal plants and herbs, roots, tubers and the like ";

(*b*) clause (*c*) shall be deleted ;

(*ii*) in section 4,—

(*a*) In sub-section (*1*), after the word " Panchayat " the words " and Gram Sabha " shall be inserted ;

(*b*) in sub-section (*3*), for the words " State Government " the words " Rural Development Department of the State Government " shall be substituted ;

(*iii*) in section 5,—

(*a*) for the word "Panchayats" at both the places where it occurs, the words "Panchayats and Gram Sabhas" shall be substituted ;

(*b*) to sub-section (*1*), the following proviso shall be added, namely :—

" Provided that while finalising such management plan or the Rules, the suggestions made by the Panchayats and Gram Sabha about traditional sustainability and conservation practices and equitable management of such minor forest produce shall be suitably incorporated." ;

(*c*) sub-section (*2*) shall be deleted;

(*iv*) in section 7, sub-section (*2*) shall be deleted;

(*v*) the Schedule shall be deleted.

PART II

MODIFICATIONS TO THE INDIAN FOREST ACT, 1927, IN ITS APPLICATION TO THE STATE OF MAHARASHTRA

In the Indian Forest Act, 1927, in its application to the State of Maharashtra, in section 2, in clause (7), the words " bamboos, stumps, brushwood and canes " shall be deleted.

K. SANKARANARAYANAN,
Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

VIKAS CHANDRA RASTOGI,
Secretary to Governor.

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY SHRI PARSHURAM JAGANNATH GOSAVI, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004, EDITOR : SHRI PARSHURAM JAGANNATH GOSAVI.

ANNEXURE 4.05

रजिस्ट्री सं० डी० एल०—(एन)04/0007/2003—18 REGISTERED NO. DL—(N)04/0007/2003—18

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 1
PART II — Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 5] नई दिल्ली, सोमवार, जनवरी 8, 2018/पौष 18, 1939 (शक)
No. 5] NEW DELHI, MONDAY, JANUARY, 8, 2018/PAUSHA 18, 1939 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 8th January, 2018/*Pausha* 18, 1939 (*Saka*)

The following Act of Parliament received the assent of the President on the 5th January, 2018, and is hereby published for general information:—

THE INDIAN FOREST (AMENDMENT) ACT, 2017

No. 5 OF 2018

[*5th January,* 2018.]

An Act further to amend the Indian Forest Act, 1927.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Indian Forest (Amendment) Act, 2017. Short title and commencement.

(*2*) It shall be deemed to have come into force on the 23rd day of November, 2017.

2. In the Indian Forest Act, 1927, in section 2, in clause (*7*), the word "bamboos" shall be omitted. Amendment of section 2 of Act 16 of 1927.

Ord. 6 of 2017.

3. (*1*) The Indian Forest (Amendment) Ordinance, 2017 is hereby repealed. Repeal and savings.

16 of 1927.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Indian Forest Act, 1927, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Act.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

CORRIGENDA

In the MENTAL HEALTHCARE ACT, 2017 (10 OF 2017) as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 10, dated the 7th April, 2017,—

Page No.	Line(s)	*For*	*Read*
2	20	"sub-section (*1*) of section 80"	"sub-section (*1*) of section 73"
4	6	"clause (*x*)"	"clause (*y*)"
6	16	"clause (*a*) of sub-section (*1*) of section 91"	"clause (*a*) of sub-section (*1*) of section 82"
6	25	"section 103"	"section 94"
10	15 and 16	"clause (*e*) of sub-section (*4*)"	"cloause (*e*) of this sub-section"
20	10	":clause (*q*)"	"clause (*r*)"
30	31	"section 85"	"section 77"
43	4	"sub-section (*5*)"	"sub-section (*6*)"
47	29 and 30	"sub-clause (*ii*) of clause (*f*) of sub-section (*1*) of section 2"	"sub-clause (*ii*) of clause (*g*) of sub-section (*1*) of section 2"
47	31 and 32	"clause (*w*) of sub-section (*1*) of section 2"	"clause (*x*) of sub-section (*1*) of section 2"
48	14	"manner"	"the manner"
48	15	"a State"	a State under sub-section (*3*) of section 73"
48	16 and 17	"clause (*e*) of sub-section (*2*) of section 82"	"clause (*e*) of sub-section (*2*) of section 74"
49	16	"confirm under sub-section (*6*) of section 103"	"conform under sub-section (*7*) of section 103"
49	25	"manner"	"the manner"
49	39	"provisions"	"the provisions"
50	1	"manner"	"the manner"
50	3 to 5	-	*Omitted.*
50	6	"clause (*n*)"	"clause (*m*)"
50	8	"clause (*o*)"	"clause (*n*)"
51	5	"14 of 1897,"	"14 of 1987."

UPLOADED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI–110002
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MANOJ KUMAR Digitally signed by MANOJ KUMAR Date: 2018.01.08 21:56:06 +05'30'

ANNEXURE 4.06

GOVERNMENT OF MAHARASHTRA
AND FOREST DEPARTMENT

Bombay Forest Rules 1942

THE BOMBAY FOREST RULES, 1942

[Modified up to.....]

G. N., R. D., No. 4335/39, dated 1st October 1942 (B. G., Pt. IV-A, p. 408)

Amended by G. N., A. & F. D., No. 4960/45471-I, dated 3rd November 1952.

Amended by G. N., A. & F. D., No. 4960/51488-I, dated the 13th December 1952.

Amended by G. N., A. & F. D., No. WLP. 1853-I, dated 19th November 1953.

Amended by G. N., A. & F. D., No. FNG. 1054/9486-I, dated 12th March 1955.

Amended by G. N., A. & F. D., No. TMR. 1354/118959-E, dated 1st November 1955.

Amended by G. N., A. & F. D., No. MFP. 2455/1040(a)-I, dated 8th February 1956.

Amended by G. N., A. & F. D., No. FNG. 1054-I, dated 2nd March 1956.

Amended by G. N., A. & F. D., No. FNG. 1057/250898-I, dated 16th January 1958.

Amended by G. N., A. & F. D., No. FDM. 2356/170987-I, dated 22nd December 1958 (B. G., 1959, Pt. IV-A, p. 10).

Amended by G. N., A. & F. D., No. FNG. 1058/36907-VI-I, dated 12th September 1960 (M. G., Pt. IV-A, p. 282).

Amended by G. N., A. & F. D., No. TMR. 1058/23622-E, dated 7th October 1961 (M. G., Pt. IV-A, p. 762).

Amended by G. N., A. & F. D., No. FDM. 2361/13666-II-I, dated 23rd March 1962 (M. G., Pt. IV-A, p. 429).

Amended by G. N., A. & F. D., No. MFP. 2161/18663-II-I, dated 10th May 1962 (M. G., Pt. IV-A, p. 560).

Amended by G. N., R. & F. D., No. FNG. 1067/27853-Z, dated 23rd December 1969 (M. G., 1970, Pt. IV-A, p. 2).

In exercise of the powers conferred by sections 26, 32, 41, 42, 51 and 76 of the Indian Forest Act, 1927 (XVI of 1927), and of all other powers enabling it in this behalf, and in supersession of all previous rules made in this behalf, the Government of Bombay is pleased to make the following rules:— Ss. 26, 32, 41, 42, 51 & 76.

CHAPTER I

PRELIMINARY

1. *Short title and extent.*—These rules shall be called the Bombay Forest Rules, 1942, and shall apply to [1][the State of Bombay, excluding the transferred territories].

2. *Interpretation.*—In these rules, there is anything repugnant in the subject or context,—

(*a*) "Act" means the Indian Forest Act, 1927;

[2][(*b*) "Divisional Forest Officer" includes a Sub-Divisional Officer, in charge of an independent Sub-Division;]

---

1 Subs. by G. N. of 22-12-1958.

2 Subs. by G. N. of 23-3-1962.

[Price Rs. 0.00 Ps.]

(*c*) with respect to reserved or protected forests under the management of the Revenue Department, "Conservator of Forests", "Divisional Forest Officer" and "Range Forest Officer" shall mean respectively the "Collector", "Prant Officer" and "Mamlatdar or Mahalkari" in whose jurisdiction such forests lie;

(*d*) the expression "protected animal" means an animal to which the provisions of the Wild Birds and Animals Protection Act, 1912, apply;

(*e*) "Section" means a section of the Act; and

(*f*) all words and expressions used but not defined in these rules shall have the meanings assigned to them in the Act.

CHAPTER II

PROTECTION OF RESERVED FORESTS FROM FIRE

[Section 26(*1*)(*b*)]

3. *Kindling, etc., of fire on roads or paths adjoining or passing through reserved forests prohibited.*—Except at such places as may from time to time be notified locally by the Divisional Forest Officer, no person shall kindle any fire or leave any fire burning upon any public or private road or path which adjoins or passes through a reserved forest but does not form part of such forest.

4. *Precautions to be taken in making ash-manure near a reserved forest.*—No person shall ignite materials for making ash-manure in any field within two hundred yards from the boundary of a reserved forest, unless—

(*i*) there is between such boundary and the spot on which such materials are ignited a space at least 25 feet in width which is clear of vegetation capable of carrying fire from such spot to the forest; and

(*ii*) such other precautions, such as employing watchers, are taken as are reasonably necessary to prevent fire from spreading to the forest.

5. *Kindling of fire within 200 yards from a reserved forest prohibited.*—Except for the purposes of making ash-manure, no fire shall be kindled elsewhere than in a place used as a human dwelling or in premises appertaining to such dwelling, within a distance of two hundred yards from the boundary of a reserved forest, without the previous written permission of a Forest officer not lower in rank than a Range Forest officer.

6. *Precautions to be taken in kindling fire beyond 200 yards from a reserved forest.*—No person shall kindle any fire, or leave any fire burning, at any place which is at a distance greater than two hundred yards from the boundary of a reserved forest but from which the fire may by natural means spread to the forest, unless he takes precautions, by clearing a fire-path not less than twenty-five feet in width between such place and such boundary, or by employing watchers or otherwise, to prevent the fire from so spreading.

7. *Partial operation of rules in the rainy season.*—Nothing in the rules in this Chapter shall operate during the period commencing on the 15th June and ending on the 31st October.

CHAPTER III

HUNTING AND SHOOTING, ETC., IN RESERVED AND PROTECTED FORESTS

[Sections 26(*1*) (*i*), 32(*j*) and 76(*d*)]

A. General Rules

8. *Acts prohibited in reserved and protected forests.*—The following acts are prohibited in all reserved and protected forests :—

(*a*) the poisoning of rivers or other waters, the explosion of dynamite or other explosive therein, and the setting of cruives or basket traps for the purpose of killing or catching fish ;

(*b*) the setting of spring guns, snares or traps ;

(*c*) the catching, wounding or killing of—

(*i*) game, other than carnivora, bear or pig, over water, salt-licks, or paths leading directly to water or salt-licks ;

(*ii*) any bird or animal for which a close-time has been prescribed under the Wild Birds and Animals Protection Act, 1912 (VIII of 1912), during the close-time so prescribed ; and

(*iii*) such animals as may from time to time be notified in this behalf by the Conservator of Forests ;

(*d*) shooting from a motor car except in the case of small game, and wild dogs and pigs ; and

(*e*) shooting after sunset and before sunrise, excpet in the case of—

(*i*) small game and wild pigs, and

(*ii*) tigers and panthers, from machans over live or killed ties :

Provided that any of the above acts may be done with the written permission of the Conservator of Forests, or, in the case of snares or traps, of the Divisional Forest Officer.

Note (*1*).—For the purpose of this rule the word "carnivora" includes tiger, panther, wolf, hyena and wild dog; the words "small game" include all game birds and hare; and "reserved and protected forests" include all roads and tracks within such forests.

Note (*2*).—Clause (*c*) (*i*) of this rule does not apply in respect of Nilgai (*Portax picius*) in the Thana, East Khandesh and West Khandesh districts. [1] * * * *

[2][9. *Application of rules 11 to 22.*—The State Government may, by notification in the *Official Gazette*, apply the provisions of rules 11 to 22, with such modifications as it thinks fit, to any reserved or protected forest in any district]

[2][10. *Hunting and shooting prohibited in certain areas except under a licence.*—No person shall, except under a licence granted in this behalf by the Conservator of Forests hunt or shoot in any reserved or protected forest to which the provisions of rules 11 to 22 have been applied under rule 9.]

Explanation.—The term "hunting" used in this Chapter includes tracking for the purpose of discovering the lie of wild animals.

---

[1] Deleted by G. N. of 22-12-1958.

[2] Subs., *ibid.*

11. *Power to refuse or cancel a licence.*—(1) The Conservator of Forests shall have discretion to grant or refuse a licence for hunting and shooting.

(2) The Conservator of Forests may, at any time, cancel any licence for a breach of any provision of the act or these rules, whether committedly by the licensee or by any of his retainers or followers, or for any interference with the work of the forest officers on the part of the licensee or of any of his retainers or followers, which in the opinion of the Conservator is unwarranted; or in the event of fire breaking out in any forest in respect of which the licence has been granted.

(3) *Forest official may accompany the camp of any licensee.*—In any case where the Conservator of Forests or the Divisional Forest Officer thinks it advisable, he may direct that a forest guard or other person shall accompany the camp of any licensee hunting and shooting in a forest, with the object of seeing that these rules are not infringed.

12. *Licence not transferable.*—A licence granted under rule 11 shall not be transferable.

13. *Licence to be produced on demand for inspection.* Every licensee hunting or shooting in any forest to which rules 11 to 17 apply shall, on demand by any Forest, Police or Revenue officer, produce his licence for inspection.

14. *Limitation on putting out ties.*—No licensee shall put out ties at a distance of more than 20 miles from his camp or residence.

Note.—For the purposes of "camp", this rule implies a halt of not less than one night.

15. *Intimation to be given when animals are wounded but not killed.*—When any licensee wounds but fails to kill any animal of the following species, viz., elephant, tiger, panther, bear or bison, he shall forthwith give intimation of such fact either orally or in writing to the nearest round forest officer and shall also send within 24 hours from the time the animal is wounded a report in writing to the Divisional Forest Officer. He shall also notify the fact to the inhabitants of the nearest village.

16. *Licence to be returned on expiry of period.*—On the expiry of the period of the licence, the licensee shall return it to the Conservator of Forests, with an endorsement thereon showing the number and kind, and the horn dimensions in the case of portected animals, or length in the case of carnivora and bear, of all game killed by him.

17. *Privileges of resident hill tribes, etc., not barred.*—Nothing in the rules contained in this Chapter shall be taken to cancel any privilages granted to resident hill tribes unless the Collector by express order wise directs, or to preclude the grant of special permission by the Divisional Forest Officer or the Collector to resident villagers on special occasions.

[Supplementary Rules]

18. *Period and scope of licence.*—(1) Every licence issued under rule 11 shall permit the holder only to hunt and shoot, and shall be valid for a period of one year from the date of its grant, in any reserved or protected forest in the circle or portion of circle by the Conservator of which the licence has been granted, and to which rules 11 to 22 have been made applicable under rule 9, subject to the condition that before it has effect in any forest division in which the licensee does not reside or exercise any jurisdiction, it must be countersigned by the Divisional Forest Officer.

(2) Notwithstanding anything contained in sub-rule (1) the period of a licence to hunt and shoot on the plateau of Matheran and Garbut only shall be limited to one month. The Round Forester, Matheran, may receive the fees mentioned in sub-rule (2) of rule 19 and issue a temporary permit to an applicant for a licence pending receipt of the licence from the Conservator of Forests, Central Circle.

(3) No licensee shall hunt or shoot more than two males of each species of animals specified in the licence. A list of species of such animals shall be prepared for each forest division by the Conservator of Forests.

Note.—This sub-rule does not apply in respect of Nilgai (Portax pictus) in the Thana district.

(4) Wounded game may be pursued into the forests of the division adjoining that for which the licence is valid or into a forest closed under rule 20.

19. *Fees for licences.*—(1) The fee for a licence shall be Rs. 25 for the Northern Circle and Rs. 50 for the Central Circle.

(2) The fee for a licence to hunt and shoot on the plateau of Matheran and Garbut shall be—

(*a*) Rs. 15 for one month in the case of persons who hold no circle licence, and

(*b*) Rs. 7-8-0 for one month in the case of persons who hold a circle licence valid for the Northern [1] * * Circle,

Persons holding a circle licence for the Central Circle shall not be charged any extra fee or be required to take a special licence to hunt and shoot on the above plateau.

(3) Gazetted forest officers travelling on duty are exempted from the payment of fees for licences.

20. *Closing of forests to hunting and shooting.*—(1) The Conservator of Forests may, on the recommendation of the Divisional Forest Officer and the Collector, declare that any particular forest or part of a forest is wholly closed for a term of years or annually for a specified period.

(2) The Conservator of Forests may also prohibit the taking, wounding or killing of any particular species of animals in any specified tract of forest, with a view to the preservation of such species, but any such order shall be subject to revision by the Commissioner.

(3) A licence granted under these rules shall not be valid—

(*a*) in any forest or part of a forest which has been closed under sub-rule (1) during the period it is closed, and

(*b*) in the tract of forest specified in an order made under sub-rule (2) in respect of the species of animals specified in such order :

Provided that gazetted officers whose jurisdiction extends to such forests, or persons holding licences on which the Divisional Forest Officer has endorsed special permission to that effect, may kill pig, tigers and other dangerous or destructive animals in such forests. Such special permission shall not be given for a longer period than one month in any case.

21. *Employment of shikaris.*—A licensee may employ any number of trackers. The Divisional Forest Officer have full discretion to prohibit the employment for tracking, stalking, tying up for carnivora, or conducting drives or beats, of any persons other than those to whom permits to act as "shikaris" have been given by him.

[1] Deleted by G. N. of 22-12-1958.

22. *Shikar cards to be filled in.*—The licensee shall fill in the shikar card in the printed form which a forest guard may present to him, while he is found hunting or shooting in any forest to which rules 11 to 22 apply.

23-39. [1] * * * *

CHAPTER IV

PASTURING OF CATTLE IN RESERVED AND PROTECTED FORESTS

[Sections 26 (*1*) (*d*), 26 (*2*) (*a*), 32 (*i*) and 76 (*d*)]

40. *Pasturing of cattle in forests prohibited except in areas specially assigned and except under a permit.*—No person shall pasture cattle in a reserved or protected forest—

(*a*) except within the areas assigned for such purpose by, or under the orders of the Commissioner or the Conservator of Forest, and

(*b*) without obtaining a permit from a Revenue or Forest Officer which shall be granted on payment of the fee prescribed by the State Government and except in accordance with the conditions subject to which such permit has been granted.

CHAPTER V

CUTTING OF TREES, CULTIVATION, ETC., IN PROTECTED FORESTS

[Sections 32 and 76 (*d*)]

A. [1] * * * *

41-45. [1] * * * * *

B. Thana, Kolaba and Nasik Districts

46. *Rules for protected forests of Thana, Kolaba and Peint.*—The following rules 47 to 50 inclusive apply to the protected forests in the Thana and Kolaba districts and the Peint taluka of the Nasik district. Rule 51 applies to the protected forests in the Thana and Kolaba districts only.

47. *Definitions.*—In rules 48 to 51—

(*a*) the word "tree" includes all ground shoots which grow into trees, such as *kuda, kudi, pethari* and *chera,* but does not include bushes; and the word "bush" shall be deemed to include all ground shoots which do not grow into trees such as *kervand, ukshi, phangli, dhanti* and *nirgudi;*

(*b*) the word "injaili" refers to trees excluding those of the kinds mentioned against the district or taluka concerned in clause (*a*) of Schedule C hereto annexed;

(*c*) the word "cultivator" includes—

(*i*) all persons who personally cultivate the soil, whether as tenants or in their own rights;

(*ii*) all landlords resident in a village and holding land therein, whether they cultivate the soil personally or through tenants;

but does not include non-resident landlords.

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[1] Deleted by G. N. of 22-12-1958.

48. *No forest produce may be removed from protected forest except by cultivators.*—No forest produce shall be removed from a plot assigned for cultivation in a protected forest or from any trees in such plot except by the authorised cultivator of such plot; and no forest produce shall be removed from any protected forest in a village or from any trees in such protected forest except by a cultivator of that village.

49. *Cutting etc. of trees prohibited save as provided in these rules.*—Save as provided in rules 50 and 51 no person shall in any protected forest cut down, pollard, or lop any tree whatever.

50. *Cultivators may cut down, lop or pollard certain injaili trees subject to restrictions.*—In the protected forest of any village a cultivator of that village may cut down, lop or pollard for his own use any injaili trees other than the fruit trees mentioned against the district or taluka concerned in clause (*b*) of Schedule C hereto annexed in accordance with the following conditions but not otherwise :—

(*a*) in the case of injaili trees 10* feet high or higher—

(*i*) the leading shoot must be permanently preserved along with all shoots from the topmost third of the main stem;

(*ii*) shoots that have taken less than two years to grow may not be touched, only shoots that have taken two years or more to grow may be lopped off;

(*b*) in the case of injaili trees less than 10 feet high—

(*i*) where several stems spring from the same root or stump the best of such stems with all shoots from it shall be left untouched till the stem is 10 feet high, but all other shoots from the root or stump or from the ground within a yard of the untouched stem may be cut down to the ground;

(*ii*) no stem growing singly may be cut or its side shoots lopped, unless it has an untouched stem growing within a yard‡ of it :

Provided that with the previous permission of a revenue officer not lower in rank than a Mamlatdar in the case of protected forests of the districts of Thana and Kolaba, and of a forest officer not lower in rank than a Range Forest Officer in the case of protected forests of the Peint taluka of the Nasik district, such cultivator may cut down for his own use—

(*a*) any injaili tree not useful for tahal or fruit; and

(*b*) any fruit tree and any leading shoot or best stem referred to in clause (*a*) (*i*) and clause (*b*) (*i*) of the conditions mentioned above when in the opinion of such officer such tree, shoot or stem is no longer useful for fruit or tahal.

51. *Trees other than injaili may be cut with permission.*—(1) In the protected forest of any village in the districts of Thana and Kolaba a cultivator of that village may, with the previous permission of a revenue officer not inferior in rank to an Assistant Collector or Deputy Collector, cut down for his own use any tree other than an injaili tree.

(2) The Collector or Prant Officer may, by written order delivered to the patel, authorise the cultivators of a village to cut down the after-growth of teak, blackwood and *tivas* trees, subject to the condition that two leading shoots from each stump with all their branches are left permanently untouched, and may at any time modify such order by withdrawing such authority either from particular cultivators or from all the cultivators or in respect of particular areas.

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* This should be translated in Marathi " 1½ purush ", a purush being the height to which an average man can reach standing.

‡ This should be translated in Marathi " 1½ hat ".

C. Ahmednagar District

52. *Rules for protected forests of certain villages in Akola taluka.*—The following rules 53 to 65 apply to the protected forest in the following villages of the Akola taluka of the district of Ahmednagar, namely :—

(1) Ambit.
(2) Ghatghar.
(3) Kumshet.
(4) Lavali Kotul.
(5) Pachnai.
(6) Panjre.
(7) Samrad.
(8) Shinganwadi.
(9) Shirpunje khurd.
(10) Udadawane.

53. *Lands of certain description may be cleared for cultivation.*—Lands of either of the two following descriptions may be cleared or broken up for cultivation in the said forest subject to the conditions, if any, respectively applicable thereto, viz. :—

(*a*) land the right to cultivate which has been recorded in an enquiry under section 29, or

(*b*) land let for cultivation under a lease which is at the time in force and has been granted under these rules.

54. *Unoccupied assessed land may be let out to resident villagers.*—The unoccupied land in the said forest suitable for cultivation having been divided off by the Survey Department, under the orders of the State Government into fields which bear distinctive numbers and having been measured and assessed by the said Department at a moderate rent, any of the said fields (hereinafter called "numbers") may be let at the rent so assessed to any person who is, and has been for not less than five years previously, a resident of the village in which the number is situate, subject to the conditions contained in these rules.

55. *Lands may be leased by public auction.*—The Divisional Forest Officer may, in his discretion, lease any field on payment of a premium or after holding a public auction.

56. *Lease and counterpart agreement to be executed in each case.*—Every lease granted under these rules shall be in the form in Schedule D, hereto annexed, and shall be executed by such officer as is authorised under the rules in force in this belaf to execute such an instrument. No such lease shall be granted until the intending lessee has executed a counterpart agreement in the form in Schedule E, hereto annexed, bearing an endorsement of the tenor prescribed in the said form signed by the village officers.

57. *Period of lease to be prescribed by State Government.*—Leases shall be granted for such term of years as the State Government may prescribe from time to time.

58. *Rent to be paid in two instlaments.*—The rent due in respect of lands leased under these rules shall be payable in two equal instalments on the 10th December and 10th January, respectively.

59. *Renewal of leases.*—On the expiry of the term of any lease granted under these rules, the lessee shall be entitled to a renewal of the lease for such term and subject to such conditions and the payment of such rent as the State Government shall think fit to prescribe.

60. *Cancellation of leases.*—Every lease granted or renewed under these rules may at any time be cancelled by the Divisional Forest Officer or the Conservator of Forests—

(*a*) if the lessee or any co-sharer of the land held by the lessee is convicted of any offence under section 33 and such conviction is not subsequently reversed or quashed; or

(*b*) if the land included in the lease or any portion of it is subjected, without the previous sanction of the Divisional Forest Officer or of the Conservator of Forests, to any mortgage charge, sub-lease or alienation; or

(*c*) if the land included in the lease or any portion of it is subjected to *dalhi* cultivation; or

(*d*) if any instalment of rent due in respect of the land is not paid, or recovered under section 82, before the close of the revenue year in which it is payable; or

(*e*) if the lessee ceases to be a resident of the village in which the land is situate.

When a lease is cancelled under this rule, it shall be deemed for the purposes of Rule 53 to cease to be in force from such date as shall be fixed in this behalf by the officer cancelling the same.

61. *Appeals.*—An appeal shall lie from any order made by the Divisional Forest Officer under the last preceding rule to the Conservator of Forests. The order of the Conservator of Forests shall be final.

62. *Lessees may be granted concessions to remove forest produce from leased lands.*—No lease granted under these rules shall be deemed to confer upon the lessee any right in or over the trees or other forest produce of the land included in such lease; but subject to a reservation of the right of the State Government at any time to withdraw such concession and to the provisions of Rule 63, the lessee of any land may upon or from the said land—

(*a*) lop trees not being trees which are reserved under section 30, for the purpose of obtaining *rab* for manure;

(*b*) with the written authority of the Divisional Forest Officer cut and remove trees, not being trees reserved, as aforesaid and not exceeding 15 inches in circumference at the base, which, in the opinion of the said officer, impede cultivation;

(*c*) pasture and cut and remove grass for his own cattle, sheep and goats;

(*d*) gather and remove edible fruits and roots;

(*e*) gather and remove dead wood for fuel;

(*f*) quarry or gather and remove stones for his own use for any agricultural or domestic purpose.

63. *Precautions to be taken while lopping trees.*—Lessees exercising the privilege of lopping trees for obtaining *rab* granted by clause (*a*) of the last preceding rule, shall leave uncut a main leading shoot (*shenda*) of each tree which they so lop.

64. *Privileges to be exercised in unoccupied fields by resident villagers.*—Any person permanently residing in any of the said villages may, in any unoccupied field of the protected forest in the village in which he resides, pasture, or cut and remove grass for his own cattle, sheep and goats without licence or payment of any fee.

The State Government may at any time withdraw this concession.

65. *Restrictions on pasturing of cattle or removal of grass.*—Except as provided in Rule 62 and in the last preceding rule, no cattle, sheep or goats may be pastured and no grass may be cut in a protected forest without written authority from the Divisional Forest Officer.

CHAPTER VI

TRANSIT OF FOREST PRODUCE

[Section 41]

A. Forest Passes

66. *Regulation of transit of forest produce by means of passes.*—No forest produce shall be moved into, or from, or within any district of the [1][pre-Reorganisation State of Bombay excluding the transferred territories], except as hereinafter provided, without a pass from some officer or person duly authorised by or under these rules to issue such pass, or otherwise than in accordance with the conditions of such pass or by any route or to any destination other than the route or destination specified in such pass :

Provided that no pass shall be required for the removal—

(*a*) except to a bunder, landing place or railway station—

(*i*) of any forest-produce which is being removed for private consumption by any person in exercise of a privilege granted in this behalf by the State Government, or of a right recognized under the Act, within the limits of a village as defined in the Bombay Land Revenue Code, 1879, in which it is produced,

(*ii*) of twigs, leaves, brushwood and grass intended solely for conversion into ash-manure,

(*iii*) of such small branches as are given gratis from departmental cuttings solely for private consumption,

(*b*) of firewood not exceeding three inches in diameter at the thickest part, grass or leaves, the property of one person or the joint property of two or more persons, which is conveyed in quantities not exceeding one headload once in 24 hours unless it be brought to a bunder, landing place or railway station or to any areas to which the State Government may from time to time declare by notification in the *Bombay Government Gazette* that this exemption shall not extend, or

(*c*) of such forest-produce as may be exempted by the State Government from the operation of the rules in this Chapter by notification in the *Bombay Government Gazette.*

67. *Officers and persons to issue passes.*—(*1*) The following officers and persons shall have power to issue passes under these rules (namely):—

Officers

(*a*) for forest-produce from land which is not included in a reserved or protected forest and is more than ten miles distant from a reserved or protected forest, the revenue patel, or the police patel of the village if the revenue patel is illiterate or village accountant, and

(*b*) for forest-produce from land other than that described in clause (*a*), the Conservator of Forests, the Divisional Forest Officer, the Sub-Divisional Forest Officer or any other officer including a revenue patel, or police patel or village accountant, authorised in this behalf in writing by the Conservator of Forests, Divisional Forest Officer or Sub-Divisional Forest Officer ;

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[1] subs. by G. N. of 22-12-1958.

Other persons

(*e*) for forest-produce owned by any person, such person or his agent, if so authorised in writing by the Conservator of Forests, or by any Divisional Forest Officer or Sub-Divisional Forest Officer specially empowered in this behalf in writing by the Conservator of Forests; provided that such authorization shall specify the period during which it shall remain in force:

Provided that the Conservator of Forests may, in consultation with the Commissioner of Excise, require that for mhowra flowers to be removed from any specified area passes shall be issued only by the local Excise officer not below the rank of a Sub-Inspector.

(2) Any authorization may at any time be cancelled by the officer granting it.

68. *Passes what to contain.*—(1) Every forest pass issued under rule 67 shall specify—

(*a*) the name of the person to whom such pass is granted;

(*b*) the quantity and description of forest-produce covered by it;

(*c*) in the case of forest-produce referred to in clause (*a*) of sub-rule (1) of rule 67, the name of the village and survey number in which it was produced.

(*d*) the places from and to which such forest-produce is to be conveyed;

(*e*) the route by which such forest-produce is to be conveyed, and

(*f*) the period of time for which the pass is to be in force, which shall be calculated as follows:—The day of issue *plus* in the case of transport by a motor vehicle, a day for transit to any point up to 80 miles from the village of origin *plus* an additional day for every additional 80 miles or fraction thereof, and, in the case of any other form of transport, a day for transit to any point up to 15 miles from the village of origin *plus* an additional day for every additional 15 miles or fraction thereof;

[1][Provided that in the case of transport of forest produce by floating in such rivers or portions thereof as the State Government may, by general or special order, specify in this behalf, the time for transit on any such rivers or portions thereof shall be calculated at the rate of one day for every 5 miles or fraction thereof.]

(2) The colour and form of each pass and the sum to be paid in respect of each book of forest passes will be such as may be prescribed by the Chief Conservator of Forests, with the previous sanction of the State Government.

69. *Separate pass for each load.*—No forest pass shall ordinarily cover more than one load, whether such load be carried by a person, an animal or in a vehicle. But the Divisional Forest Officer, subject to the control of the Conservator of Forests, may, whenever he deems fit, order that one pass may cover any number of headloads or animal loads not exceeding 50 and any number of cart loads not exceeding 10 for journeys not exceeding 15 miles from and to the same places and undertaken at one and the same time.

70. *Pass not to be tampered with.*—No alternation shall be made in anything printed or written on any forest pass, except in the matter of route and period and this may only be done by an authorised officer for sufficient reason to be mentioned in the pass.

[1] Added by G.N. of 8-2-1956.

B. Passes issued by private persons

71. *Books of blank passes to be supplied to persons authorised to issue them.*- (1) When the Conservator of Forests or any duly empowered Divisional Forest Officer authorises any person or the agent of any person under clause (*c*) of sub-rule (1) of rule 67 to issue forest passes, he shall furnish such person from time to time with authenticated books of blank passes.

(2) The said person to whom such book is supplied shall pay the sum, if any, fixed under rule 68 (*2*).

(3) No person who has been authorised to issue passes shall issue passes otherwise than in accordance with the conditions of his authorization.

(4) No such person shall charge any fee for any pass issued.

(5) *Counterfoils of used passes to be returned.*—The counterfoils of all used passes shall be returned to the officer from whom the book of passes was received and no fresh pass-book shall be supplied until the counterfoils of all passes previously used have been so returned.

(6) *Counterfoils to be produced for inspection on demand.*—Any person or the agent of any person who has been authorised to issue forest passes under clause (*c*) of sub-rule (1) of rule 67 shall be bound if called upon by any forest officer to produce for inspection or to give up the counterfoils of all passes which have been issued by such person of agent.

(7) *Procedure on cancellation or expiry of authority to issue passes.*—In the event of any authority given under clause (*c*) of sub-rule (1) of rule 67 being at any time cancelled under sub-rule (2) of the said rule or on the expiry of the period specified in such authority, the person whose authority is so cancelled or the person, the period of whose authority has so expired, as the case may be, shall forthwith return to the officer who gave the authority every unused book of forest passes and the unused portion of any such book in his possession, together with the counterfoils of used passes, if any, which he has not already returned, and the said person shall be entitled when he has returned all such unused books or portions thereof and the counterfoils of used passess as aforesaid, to receive a refund of the amount paid by him in respect of every such unused book but no refund shall be allowed in respect of any portion of such book.

(8) *Forest passes issued by private persons when invalid.*—No forest pass issued by any person or by the agent of any person authorised under clause (*c*) of sub-rule (1) of rule 67 to issue forest passes shall have any validity,

(*a*) if such pass is not prepared on a blank form supplied for this purpose under sub-rule (1) of rule 71, or

(*b*) if the same is issued after receipt by such person of an order cancelling the authority to issue such passes, or

(*c*) if the same is issued by such person after the expiry of the period specified in the authority given for the issue of such passes.

C. Forest-produce imported otherwise than by sea

72. *Foreign pass.*—All forest-produce imported into the [1][pre-Reorganisation State of Bombay excluding the transferred territories] otherwise than by sea shall be covered by a foreign pass registered under rule 73, and, in the case of timber exceeding the dimensions mentioned in rule 82 and of scented sandalwood, bear a foreign property mark registered under rule 73.

[1] Subs. by G.N. of 22-12-1958.

73. *Form, etc., of foreign passes must be registered in Conservator's office.*—Every foreign pass must be in a form which, and must be signed by an official whose designation, have been registered in the office of the Conservator of Forests of the Circle into which it is sought to import forest produce thereunder, and every foreign property mark must be of a description which has been registered in the said office:

[1][Provided that, at the request of an official of any State, not below the rank of a Divisional Forest Officer, the forest-produce of such State may be allowed to be imported into this State—

(*a*) if the import of such forest-produce is covered by foreign pass signed by a contractor or his agent whose specimen signature is registered in the office of the Conservator of Forests in charge of the Circle into which the forest-produce is sought to be imported;

(*b*) if the office-stamp of such official (being an official authorised by the State Government of that State to issue books of foreign passes to contractors for the export of forest-produce into another State), affixed to or imprinted on the pass under which the forest-produce is sought to be imported, and

(*c*) if the timber falling within rule 82, and scented sandalwood of any dimension bears a distinguishable private property mark of the owner of such timber or scented sandalwood (being a property mark, description of which has been registered in the office of the Conservator of the Forests, in charge of the Circle into which the forest-produce is sought to be imported).]

74. *Divisional Forest Officer may refuse to register signature.*—In cases under the proviso to rule 73, the Divisional Forest Officer may, for reasons to be recorded in writing, refuse to register the specimen signature of any contractor or his agent.

75. *Imported forest-produce may be conveyed to first depot without a pass under rule 67.*—Any forest-produce which is imported otherwise than by sea may be conveyed within the limits of the [2]pre-Reorganisation State of Bombay excluding the transferred territories] as far as the first depot established under rule 78 without a pass issued under rule 67, if it is covered by a foreign pass registered under rule 73, and if stacked or deposited in any place between such limits and such depot the foreign pass covering the material shall at once be delivered at that depot.

76. *Conservator may direct use of a transit mark for imported timber.*—If the Conservator of Forests shall so direct, no timber exceeding the dimentions mentioned in rule 82 and no scented sandalwood which has been imported as aforesaid shall be moved beyond such first depot, without first having stamped upon it a Government transit mark of such description as the Conservator shall prescribe.

D. Saving of recognised privileges

77. *Saving of recognized privileges.*—Nothing in rules 66 to 76 inclusive shall be deemed to require or to have required the possession of a pass in cases where exemptions from such possession for enjoyment of certain privileges recognised by the State Government have been granted before the passing of these rules.

E. Forest Depots

78. *Depots and their purposes.*—The Conservator of Forests may establish at such places as he shall think fit, depots to which forest-produce shall be taken—

under these rules; or

(*a*) for examination previous to the grant of a pass in respect thereof

1 Added by G.N. of 10-5-1962.
2 Subs. by G.N. of 22-12-1958.

(*b*) for determining the amount of money, if any, payable on account thereof to Government ; and for the payment of any money so found to be due; or

(*c*) in order that any mark required by law or by these rules to be affixed thereto, may be so affixed.

79. *Situation of depots to be published.*—The Conservator of Forests shall make known from time to time by notification in the *Bombay Government Gazette*, and locally in such manner as he deems fit, the name and situation of each depot in his Circle.

80. *Depot to be in charge of an officer.*—Each depot shall be in charge of an officer appointed by or under the orders of the Conservator of Forests without whose permission no forest-produce shall be brought into, stored at, or removed from the depot.

81. *Vessels conveying forest produce by river to call a depot on banks.*—The person in charge of any vessel which carries forest-produce on a river on the banks of which one or more depots established under these rules are situated, shall call and stop his vessel at every such depot which he has to pass, in order that the forest-produce may be examined, if necessary, under the provisions of rule 85 and the person in charge of such vessel shall not proceed with such vessel past any such depot without the permission of the forest officer in charge of such depot.

F.—Property and Transit Marks

82. *Property and transit marks to be affixed to timber exceeding a certain size.*—Except when it is the property of Government, timber exceeding 9 inches in girth at the thickest part and 6 feet in length and scented sandalwood of any dimensions shall not be moved from or within any district of the [Pre-Reorganisation State of Bombay excluding the transferred territories] unless it bears a distinguishable private property mark of the owner of such timber of a description which has been registered in the office of the Conservator of Forests of the Circle or of the Divisional Forest Officer, and also if the Conservator so directs unless it bears a Government transit mark of such description as shall from time to time be prescribed in this behalf by the said Conservator.

83. *Registration of forms of passes or marks.*—The Conservator of Forests or the Divisional Forests Officer shall upon receipt of an application for registration of any form or mark for the purpose of rule 73 or rule 82 enquire into the authenticity of the same, and if he sees no objection tion, shall on payment by the applicant of such fee as shall from time to time be prescribed by the State Government in this behalf, register such form or mark in his office. Every such registration shall hold good for a period of one year only, except in the case of forms and marks [2]* * * * of foreign Governments, the registration of which shall hold good till they are modified or replaced by new forms or marks.

84. *Government marks not to be imitated or effaced.*—No person other than a forest officer whose duty it is to use such marks shall use any property marks for timber identical with, or nearly resembling, any Government transit mark, or any mark with which timber belonging to Government is marked ; and no person shall, while any timber is in transit under a pass issued by any person or by the agent of any person authorised in this behalf under clause (*c*) of sub-rule (1) of rule 67 after, or efface any mark on the same.

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[1] Subs. by G. N. of 22-12-1958.

[2] Deleted, *ibid.*

G. Stoppage in transit

85. *Forest-produce in transit may be stopped and examined by certain officers.*—(1) Forest-produce in transit may be stopped and examined at any place by any forest, police or revenue officer if such officer shall have reasonbale grounds for suspecting that any money which is due to Government in respect thereof has not been paid, or that any forest offence has been or is being committed in respect thereof :

Provided always that no such officer shall vexatiously or unnecessarily delay the transit of any forest-produce which is lawfully in transit, nor vexatiously or unnecessarily unload any such forest-produce, or cause the same to be unloaded for the purpose of examination.

(2) The person in charge of such forest-produce shall furnish to any such officer all the information which he is able to give regarding the same, and if he is removing the same under a pass shall produce such pass, on demand, for the inspection of such officer, and shall not in any way prevent or resist the stoppage or examination of the said forest-produce by such officer.

H. Obstruction of channels

86. *Prohibition of the obstruction of channels or banks of rivers* —No person shall close up or obstruct the channel or any portion of the bank of any river lawfully used for the transit of forest produce, or throw grass, brushwood, branches or leaves into any such river, or do any other act which may cause such river to be closed or obstructed.

87. *Measures to be taken for removal of obstructions.*—(1) Any forest officer not lower in rank than an Assistant Conservator of Forests, may take such measures as he shall at any time deem to be emergently necessary for the prevention or removal of any obstruction of the channel, or of any part of a bank of a river lawfully used for the transit of forest-produce; but any such case which is not emergent shall be reported to the Collector, who may by written notice require the person whose act or negligence has caused or is likely to cause the obstruction, to remove or take steps for preventing the same within a period to be named in such notice, and, if such person fails to comply with such notice, may himself cause such measures to be taken as he shall deem necessary.

(2) The cost reasonably incurred by a forest officer or by the Collector under this rule shall be payable to the State Government by the person whose act or negligence has necessitated the same.

[1][I. Conversion of Timber within certain distance of Forests

88. *Prohibiting conversion of timber within certain distance of forests.*—(1) Within the limits of any reserved or protected forest (whether in charge of the Forests or Revenue Department) or of any land in respect of which a notification under section 4 declaring that it has been decided to constitute such land a reserved forest has been issued, and within one mile of such limits, no person shall establish a saw pit for the cutting or converting of timber or manufacture charcoal without the previous sanction in writing of the Range Forest Officer ; or

(*ii*) Within the limits of any reserved or protected forest, or of any land referred to in clause (*i*) and within twenty miles of such limits, no person shall erect or operate any machinery or saw mill for cutting or converting of timber, without obtaining a licence in that behalf.

1 Subs. by G.N. of 12-9-1960.

(2) Any person desiring to establish a saw-pit or to manufacture charcoal under clause (*i*), or to erect or operate any machinery or saw-mill under clause (*ii*), of sub-rule (1) shall make an application in that behalf to the Range Forest Officer and Divisional Forest Officer, respectively ;

Provided that where within a period of one month from the date of the application the applicant fails to receive the sanction under clause (*i*) of sub-rule (1), the applicant may proceed to establish the saw-pit or to manufeture charcoal, but not so as to contravene any of the provisions of the Act or any rules made thereunder.

(3) On receipt of an application under sub-rule (2) the Range Forest Officer, or as the case may be, the Divisional Forest Officer shall make such inquiry as he deems fit and after satisfying himself on the question whether or not there would be any objection to granting the sanction or licence. applied for having regard to safeguarding the timber in any reserved or protected forest or in any land referred to in sub-rule (1), may grant the sanction or licence in the form in Schedule EE subject to the conditions set out therein, or refuse to grant the sanction or licence.

(4) Every licence granted or renewed under this rule shall, subject to the provision contained in this rule regarding cancellation, be effective for a period not beyond the 31st day of December next following the date of its issue or renewal.

(5) The Divisional Forest Officer may, on application made to him renew the licence issued under sub-rule (3) with effect from the date of its expiry.

(6) An application for renewal of a licence shall be made before the expiry of the period of the licence; and failure to renew will render the licensee liable to punishment for operating the saw mill without a licence.

(7) Notwithstanding anything contained in the foregoing sub-rules, the Divisional Forest Officer may, where he has reason to believe that a licensee is operating the saw mill in contravention of the provision of these rules and the conditions of the licence or the licensee is indulging in activities prejudicial to the interests of forest conservancy, at any time, revoke the licence granted under this rule.

(8) Where a Divisional Forest Officer refuses to issue, or renew, or revokes a licence granted under this rule, he shall do so by an order communicated to the application or holder, as the case may be, giving reasons in writing for such refusal or revocation.

(9) Any person aggrieved by an order made under sub-rule (8), may, within thirty days of the service on him of the order, appeal to the Chief Conservator of Forests who shall decide the appeal after giving such person and Divisional Forest Officer making the order, an opportunity to being heard, and the decision of the Chief Conservator of Forests shall be final.

(10) Nothing contained in this rule shall apply to the ordinary operations of domestic carpentry or to other similar work on a small scale.]

J. Exclusion of local areas from applicability of rules

89. *Local areas to which the rules are not applicable to be published.*— The State Government may by notification in the *Bombay Government Gazette* exempt from the operation of the rules contained in this Chapter any local area specified in such notification.

CHAPTER VII
TREES IN OCCUPIED LANDS
(Sections 41 and 76)

A Preservation, protection and exploitation of reserved and other trees in occupied lands

90. *Reserved trees.*—The expression "**reserved trees**" in this Chapter shall include teak, blackwood, sandalwood, and other trees or their after-growth, the right of Government to which has been reserved under the provisions of the Bombay Land Revenue Code, 1879 or rules made thereunder.

91. *Cutting etc. of reserved trees in occupied lands prohibited except when permitted.*—No person shall cut, lop, or in any away injure, appropriate or remove any reserved tree, or any loppings thereof, which is grown or growing on lands belonging to or in the occupation of private persons; or knowingly or wilfully permit or abet the cutting, lopping, injuring, appropriating or removing of the same by any other person, without having first obtained permission in accordance with the rules in this Chapter.

92. *Purchasers of reserved trees not to be obstructed in cutting and removing them.*—(1) No person shall obstruct any purchaser, lessee or other transferee of the trees mentioned in rule 91, in cutting, lopping, injuring, appropriating or removing such trees when the cutting, lopping, injuring or removing of such trees is done by the purchaser, lessee or transferee or any person acting on his behalf with the previous permission of the Collector of the Conservator of Forests.

(2) *Collector and other officers may assist purchases in cutting and removing reserved trees.*—It shall be lawful for the Collector, any Forest Officer or Police Officer to render assistance to a purchaser, lessee or other transferee of such trees or any person acting on his behalf in the cutting, lopping, injuring, appropriating or removing of the same.

93. *Occupants responsible for preservation of reserved trees.*—Every occupant or holder of land shall be responsible for the due preservation of all reserved trees growing on the land and shall, in the event of an injury to any such tree from whatever cause, as soon as possible report such fact to the nearest local Revenue or Forest Officer.

94. *Royalty to be paid before cutting or removal of reserved trees and permission required for cutting, etc., of sandalwood and certain other timber.* (1) No person shall—

(*a*) cut or remove reserved trees without paying the royalty prescribed by the State Government or value thereof and without obtaining a receipt for such payment passed by a Forest Officer empowered by the Conservator of Forests in this behalf, or

(*b*) without obtaining permission from the Divisional Forest Officer, the grant of which shall be subject to such conditions as the State Government may from time to time prescribe

(*i*) cut or uproot reserved trees or remove timber obtained from reserved or unreserved trees, of the species mentioned in column 2 of the Schedule F hereto annexed in or from the districts or parts of districts mentioned against them in column 3 of the said Schedule,

or

(*ii*) cut or mark timber obtained from reserved or unreserved sandalwood trees or convert the same into powder or oil or in any other manner.

(2) Nothing contained in sub-rule (1) shall be deemed in any way to modify or cancel any order regarding reservation of trees made under the provisions of the Bombay Land Revenu Code 1879, or of the Land Revenue Rules, 1921.

95. *Mode of application for permission to cut and remove trees or timber.*--Every person seeking to obtain permission for cutting or uprooting any trees or removing any timber referred to in rule 94 shall apply in writing to the Divisional Forest Officer. Every such application shall clearly specify the survey numbers, the names of the villages, the name of the taluka and the number and kinds of trees sought to be cut or uprooted or the kind and quality of the timber sought to be removed from each survey number. In case the survey numbers containing the trees or timber are held by a number of persons, a joint application shall be made by all the occupants if however one of the occupants applies for permission, the written consent of the remaining occupants to allow the applicant to cut or uproot the trees or remove the timber shall be appended to the application.

96. *Enquiries to be made by the Divisional Forest Officer and grant of permission.*--On receipt of an application under rule 95, the Divisional Forest Officer shall make such enquiry as he deems necessary regarding the title of the applicant to the trees or timber, and on the conclusion of such enquiry he shall, unless there is any reason to the contrary and subject to any limitations or conditions prescribed under rule 94 by the State Government in this behalf, give the permission in writing applied for :

Provided that in the case of reserved trees the prescribed royalty or value thereof shall be recovered before such permission is granted:

Provided further that permission to cut altergrowth of teak in Varkar lands in the Thana district, the right to which vests in Government, shall not be given unless the trees sought to be cut are required for the genuine agricultural or domestic needs of the applicants or for the benefit of the villagers generally and are not required for sale or barter.

97. *Conditions of the permission to be observed by the applicant.* Every applicant shall be bound by the conditions contained in the permission granted under rule 96. Such permission shall specify *inter alia* the name of the officer whom the permit is to be shown by the applicant prior to the cutting or uprooting of the trees or removal of the timber and the period within which the trees are to be cut or uprooted or the timber is to be removed.

98. *Cutting, etc., to be done after marking.*--On receipt of the permission the applicant shall take it to the officer named therein and shall cut or uproot the trees or remove the timber after they have been marked by that officer with such mark as may be prescribed for the purpose by the Conservator of Forests.

99. *Transit rules in Chapter VI to apply in the matter of removal and conversion.*--The rules in Chapter VI shall apply in the matter of removal and conversion of the timber referred to in this Chapter. The following supplementary rules 100 to 104 shall apply in addition in regard to the conversion and marking of all sandalwood timber referred to in clause (*b*) (*ii*) of rule 94 (1), and rules 105 to 108 shall apply in regard to the conversion of timber obtained from other trees referred to in rule 94.

B. Conversion and marking of sandalwood

100. *Mode of application for permission for conversion or marking of sandalwood.*--An application for the grant of permission for conversion or marking of sandalwood timber under clause (*b*) (*ii*) of rule 94 (1) shall clearly show the source from which the sandalwood timber has been derived and shall be accompanied by documents proving the applicant's title to the same.

101. *Enquiry to be made by the Divisional Forest Officer.*—On receipt of an application under rule 100, the Divisional Forest Officer, after making such enquiries as he deems necessary, regarding the applicant's title to the sandalwood timber, shall, on the conclusion of such enquiries, issue the necessary permission if the timber is found to belong to the applicant.

102. *Conditions to be observed by the applicant.*—The applicant shall be bound by the conditions contained in the permit under rule 101. Such permit shall specify *inter alia* the name of the place or places where and the period within which the conversion of sandalwood shall be carried out.

103. *Private property marks to be registered by dealers in sandalwood.*—Dealers in sandalwood who wish to sell the wood wholesale or retail must get private property marks registered as provided in the rules contained in Chapter VI.

104. *Return of permit.*—On expiry of the period entered in the permit issued under rule 101 it shall be returned to the Divisional Forest Officer.

C. Conversion of trees other than sandalwood

105. *Mode of application for conversion of timber other than sandalwood.*—If the timber obtained from trees other than sandalwood, referred to in rule 94, is sought to be converted at a place to which the provisions of rule 88 are applicable, the applicant shall apply in writing for permission to the Range Forest Officer giving him the particulars as to the place, time and quantity of timber sought to be converted and such other particulars as may be required by that officer.

106. *Enquires to be made by Range Forest Officer and issue of sawing permit.*—On receipt of an application under rule 105, the Range Forest Officer shall make such enquiry regarding the timber to be converted and the place where the saw-pit is to be erected and on satisfying himself as to the source and ownership of the timber to be converted and on seeing that it is not stolen from the forests he shall issue a sawing permit to the applicant.

107. *Conditions to be observed by the applicant.*—The applicant on receipt of the sawing permit shall be bound by the conditions contained therein. Such permit shall specify, *inter alia*, the name of the applicant to whom the permit is given, the place where the saw-pit is to be erected and the period within which the timber is to be converted.

108. *Return of sawing permit.*—On expiry of the period entered in the sawing permit issued under rule 106 the applicant shall return the same to the Range Forest Officer.

CHAPTER VIII

DRIFT AND STRANDED TIMBER

(Section, 51)

109. *Collection of drift and stranded timber and disposal thereafter.*—(1) Any person may collect timber of any of the descriptions set forth in section 45 and, pending the bringing of the same to the proper depot for the reception of drift timber, may keep the same in his own custody, but he shall report his having done so within twenty-four hours to the nearest Forest Officer.

(2) The Forest Officer in charge of the Range in which the timber has been found shall, pending completion of the proceedings under sections 46 to 48, take possession of the timber and unless in his opinion the probable

proceeds of the sale of timber are not likely to exceed the cost incurred on collecting it together with the probable cost of conveying it to a depot appointed for the reception of drift timber, he shall convey the timber to such depot.

110. *Registration of boats for salving and collecting timber.*—Any person may register in the office of the Conservator of Forests one or more boats for use in salving and collecting timber on payment of a fee of one rupee for each boat.

Such registration shall hold good for the period of one year only, but may be repeated from year to year.

[111. *Persons collecting timber entitled to recompense.*—Every person, whether a Forest Officer or not, who collects such timber, shall, regard being had to the amount spent and efforts made by him for such collection, be entitled to receive a recompense—

(1) not exceeding 50 per cent. of the amount realised by Government by sale of such timber after deducting the cost, if any, incurred by Government for such sale and for storage, if the timber collected proves to be the Government property; and

(2) not exceeding 50 per cent. of the estimated value, if the timber collected proves to be the property of any person other than Government.

The amount of such recompense and estimated value shall be determined and paid,—

(*a*) where such amount does not exceed Rs. 500 by such officer, not lower in rank than an Assistant Conservator of Forests, as the State Government may authorise in this behalf, and

(*b*) in any other case, by the State Government.]

112. *When collected timber belongs to private person such persons to pay all costs.*—If the timber collected shall be proved to be the property of any person other than the State Government, such person shall be liable to pay to the State Government under section 50 of the Act the following amounts, viz.:

(1) on account of salving and collecting, the actual amount of recompense paid to the person who collected it;

(2) on account of moving, the actual cost incurred in moving it to the depot for the reception of drift timber;

(3) on account of storing, such fees as shall from time to time be fixed by the Conservator of Forests, with the previous sanction of the State Government for the storing of timber at such depot.

113. *No person other than authorised Forest Officer to mark timber.*—No person other than a Forest Officer authorised in this behalf by the Conservator of Forest shall mark any timber to which the rules in this chapter apply.

CHAPTER IX

POWERS AND DUTIES OF FOREST OFFICERS AND REVENUE OFFICERS

[Section 76 (*a*)]

114. *Commissioner to be chief controlling authority.*—Subject to the control and direction of the State Government, the Chief Controlling Authority in any division in all matters relating to forest administration, except those mentioned in rule 115, shall be the Commissioner.

1 Subs. by G.N. of 7-10-1961.

115. *Duties of Commissioners.*—Except in matters relating to departmental finance, purely technical forest operations, appointment, leave or transfer of establishment, and other matters with which the Chief Conservator is empowered to deal the [1][Commissioners concerned] shall, for the purposes of administration,—

(*a*) issue orders and instructions to Collectors and Conservators;

(*b*) interpret the orders of the State Government where any question arises as to the meaning of such orders;

(*c*) settle all matters in which any difference of opinion arises between the Forest Department and any other department;

(*d*) promote generaly the harmonious working of the Revenue and Forest Departments; and

(*e*) receive, consider and when such reference is necessary refer to the State Government, with their own views in each case, all reports respecting forest matters submitted to them, whether from the Revenue or from the Forest Department.

116. *Collectors to be responsible for forest administration.*—Except in matters relating to purely technical forest operations, the Collector of each district is responsible for forest administration and the Divisional Forest Officers shall be assistants to the Collector and subject to his orders.

117. *Chief Conservator, his powers and duties.*—The Chief Conservator of Forests is the head of the Forest Department and the technical adviser of the State Government in forest matters. He is empowered to deal on his own authority with purely technical questions, such as the operation of sanctioned working plans, fire protection and silvicultural operations generally, and with matters regarding which powers have been delegated to him. In regard to all purely technical matters he will be the controlling authority over the Conservators and in regard to other matters he shall be in the position of adviser, being consulted either by the Commissioner or by the State Government as the case may be.

118. *Powers of Conservators.*—Subject to the other provisions of these rules and subject to the instructions issued by the Chief Conservator from time to time, each Conservator of Forests in his own Circle shall direct all technical forest operations.

119. *Conservators to control Forest-Officers.*—Except in so far as is otherwise directed in orders of the State Government, the departmental control of all Forest-Officers in a Circle vests in the Conservator of Forests of that Circle, subject to the control of the Chief Conservator.

120. *Procedure regarding departmental communications.*—In matters relating to departmental finance or to appointment, transfer or leave of establishment, and in those mentioned in rule 117, as matters to be dealt with by the Chief Conservator, on his own authority, the Conservators shall address all communications to the Chief Conservator. On other subjects they shall address the Commissioner concerned.

121. *Divisional Forest Officers.*—All Divisional Forest Officers and their subordinates shall, in all but purely technical matters, be subordinate to the Collector of the district in which they are serving. Postings, punishments, rewards, leave and transfer of subordinate forest establishment shall be made, awarded or granted by the Divisional Forest Officer subject to the general power of control vested in the Chief Conservator of Forests.

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[1] Subs. by G.N. of 22-12-1958.

122. *Powers of Collector and Divisional Forest Officer regarding local supply, public rights, pastures, etc.*—In all matters relating to supply of forest produce including grass for the domestic and agricultural requirements of the villagers, grazing and the rights and privileges of the people in or in respect of forest, orders shall be issued by the Divisional Forests Officer after approval by the Collector.

The management and control of the pastures and fodder reserves handed over to the Revenue Department vests exclusively in the Collector subject to the orders of the Commissioner and of the State Government. In this respect of the Conservator of Forests and the Divisional Forest Officers are to act in the capacity of consultative officers, advising and giving their opinions on all questions of a technical character that may be referred to them by any of the said authorities.

123. *Forest compartment not to be closed except under the orders of the Collector.* No forest compartment shall be closed, whether for planting or reboisement or for punitive purposes, except under the order or with the approval of the Collector.

This rule does not apply to the closure of compartments in accordance with a duly sanctioned working plan.

124. *Certain cases to be submitted through the Collector - Difference of opinion.*—Subject to any instructions which may be given by the Commissioner orders issued by a Conservator to any Divisional Forest Officer and all correspondence between the Conservator and any such officer on the following subjects shall be forwarded through the Collector who will record such remarks thereon or in matters other than such as are described in rules 117 and 118 give such directions with regard thereto as he thinks fit:—

Working Plans,

Fixing of rates for sale of minor forest produce,

Forest Settlements,

Afforestation and disforestation,

Rights and privileges,

Closure of forest areas in respect of grazing or other privileges,

Enhancement or reduction of grazing fees,

Local supply of fuel grass and grazing,

Rab, dalbi or kumri cultivation,

Annual administration report,

Recovery of forest revenue or outstandings under section 82 and of penalties due under bond under section 85 of the Act,

Supply of fire-arms,

Diaries of Divisional Forests Officers,

Civil suits,

Thefts of Government money

In the event of a difference of opinion between a Collector and the Conservator of Forests, either officer may refer the matter to the Commissioner, who will either dispose of the reference himself, or, if he thinks it necessary, obtain the orders of the State Government.

125. *Order of forest-officers to village-officers to be ordinarily sent through Mamlatdar.*—Orders by forest officers to village-officers shall ordinarily be sent through the Mamlatdar to whom the village-officers are subordinate but may, if urgent, be sent direct: provided that in the latter case a copy of the order shall at the same time be sent to such Mamlatdar as aforesaid.

126. *Forest guards not to leave beat for report to revenue or police officer.* No revenue or police officer shall call a forest guard off his beat, nor shall a forest guard leave his beat in order to report himself to such officer.

127. *Action to be taken when felling of a compartment is delayed beyond due time.*—(1) If it becomes necessary to delay the felling of a compartment beyond the time at which such felling would, according to regular rotation, be due, the Divisional Forest Officer shall, subject to the orders of the Conservator and the Chief Conservator as regards deviations from sanctioned working plans, and with the approval of the Collector when necessary under rule 122, make arrangements for meeting the requirements of villagers in the locality.

(2) For such purpose the villagers may, if necessary, and if no other arrangement is practicable, be permitted to enter the compartment the felling whereof has been so delayed and lop for themselves, under the supervision of a forest subordinate appointed for the purpose by the Divisional Forest Officer, the material to which, but for such delay, they would have been entitled.

CHAPTER X
CONTRACTS
[Sections 76 (*d*) and 85]

128. *Persons entering into contract with Forest-Officers should execute written instrument to perform contract and to pay expenses in case of breach.*—Whoever enters into any contract with any Forest-Officer acting on behalf of the Governor of Bombay, shall if so required by such Forest-officer, bind himself by a written instrument to perform such contract and to pay to such Forest-Officer on behalf of the Governor of Bombay the expenses necessary for or incurred in the execution of any work or thing to be done which he has bound himself but has failed to do.

Explanation.—A person, who makes a written tender for a contract, or who signs the conditions of an auction sale at which he is a bidder, such tender or conditions of sale being on or in a form furnished by a Forest-Officer for that purpose, whereby he—

(*a*) binds himself to perform the contract for which he tenders or bids, in the event of his tender or bid being accepted, or

(*b*) binds himself not to withdraw his tender or bid during the time that may lapse before its acceptance or refusal is communicated to him, shall be deemed to have been required by such Forest-Officer to bind himself as aforesaid, and

in case (*a*) on the acceptance of his tender or bid, or

in case (*b*) on the making of his tender or bid,

to have bound himself accordingly, within the meaning of this rule and any such person need not enter into a separate written instrument for the purpose, unless specially so required by the Forest-Officer with whom he conrtacts.

CHAPTER XI
PENALTIES AND REWARDS
[Sections 42, 51 and 76 (*b*)]

129. *Penalties for breach of certain rules.*—Whoever contravenes the provisions of rules 66, 70, 71 (3) to (7), 72, 75, 76, 80 to 82, 84, 85(2), 86, 88, 102, 104, 105, 107 to 109, or 113 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

130. *Rewards out of fines and confiscations.*—A Conservator of Forests or a Divisional Forest Officer of not less than seven years' service in gazetted rank empowered by the Conservator in this behalf, and in the case of reserved or protected forests handed over to the Revenue Department for management, the Collector of the district may authorise payment by way of reward of such sum as he deems fit out of the fund recovered or the proceeds of property confiscated under the Act, to any person by whose assistance the conviction was obtained or the property liable to confiscation discovered :

Provided that except in any case where the Magistrate otherwise directs, is the aggregate amount of rewards paid under this rule shall not exceed one-half the net proceeds of the fine or confiscation.

SCHEDULES A and B. [1]* * *

SCHEDULE C
[*See* rules 47 (*b*) and 50]

(*a*) Kinds of trees excluded from the term "*injaili*" as defined in rule 47 (*b*)—

(*i*) in the case of the protected forest in the district of Thana :—

1. Teak (*Tectona grandis*),
2. Blackwood (*Dalbergia latifolia*)
3. Sandalwood (*Santalum album*),
4. *Tivas* (*Ougeinia dalbergioides*),
5. *Khair* (*Acacia catechu*);

(*ii*) in the case of the protected forest in the Peint taluka of the Nasik district :—

1. Teak (*Tectona grandis*),
2. Blackwood (*Dalbergia latifolia*),
3. Sandalwood (*Santalum album*),
4. *Tivas* (*Ougeinia dalbergioides*),
5. *Khair* (*Acacia catechu*),
6. *Mhowra* (*Bassia latifolia*),
7. *Hirda* (*Terminalia chebula*),
8. Mango (*Mangifera indica*),
9. Tamarind (*Tamarindus indica*),

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[1] Deleted by G. N. of 22-12-1958.

(*iii*) in the case of the protected forest in the district of Kolaba :—

1. Teak (*Tectona grandis*),
2. Blackwood (*Dalbergia latifolia*),
3. Sandalwood (*Santalum album*),
4. *Khair* (*Acacia catechu*),
5. *Apta* (*Bauhinia racemosa*),
6. *Dhavda* (*Anogerissus latifolia*),
7. *Dhamni* (*Grewia tiliaefolia*),
8. *Shivani* (*Gmelina arborea*),
9. *Jamba* (*Xylia xylocarpa*).

(*b*) Kinds of *injaili* fruit trees referred to in rule 50, which a cultivator shall not cut down, lop of Pollard :—

(*i*) in the protected forest in the district of Thana :—

1. *Hirda* (*Terminalia chebula*),
2. Mango (*Mangifera indica*),
3. *Mhowra* (*Bassia latifolia*),
4. Tamarind (*Tamarindus indica*),

and in addition the thirteen kinds of trees mentioned in clause (*ii*) below;

(*ii*) in the protected forest in the Peint taluka of the Nasik district :—

1. *Alu* (*Vangueria spinosa*),
2. *Ambada* (*Spondias mangifera*),
3. *Awla* (*Phyllanthus emblica*),
4. *Beheda* (*Terminalia belerica*),
5. *Bhokar* (*Cardia myxa*),
6. *Bor* (*Zizyphus jujuba*),
7. *Jambul* (*Eugenia jambolana*),
8. *Kawath* (*Feronia elephantum*),
9. *Phanas* (*Artocarpus integrifolia*),
10. *Tad* palm (*Borassus flabellifer*) except for lopping of leaves for the gather's domestic use for thatching only.
11. *Tembhurni* (*Diospyros melanoxylon*),
12. *Toran* (*Zizyphus inoplii*),
13. *Umbar* (*Ficus glomerata*);

(*iii*) in the protected forest in the district of Kolaba :—

1. *Hirda* (*Terminala chebula*),
2. Mango (*Mangifera indica*),
3. *Mhowra* (*Bassia latifolia*),
4. *Temburni* (*Diospyros melanoxylon*).

SCHEDULE-D

[*See* rule 56]

Form of Lease

To *A. B.*, resident of.....

I, *C. D.* (here inter *the executant's official designation*), on behalf of the Governor of Bombay, hereby grant to you *A. B.*, a lease for.....years, commencing from the.....day of.....19 , of the field No.....in the protected forest of the village of.....in the Akola Taluka of the Ahmednagar District on payment of a annual rent therefor of Rs.....

This lease is granted subject to the provisions of the Indian Forest Act, 1927, and of the rules made thereunder.

Dated the .....day of.....19

(Signed) *C.D.*

SCHEDULE-E

[*See* rule 56]

Form of Counterpart Agreement

To the Governor of Bombay.

I, *A.B.*, inhabitant of.....In the Akola Taluka of the Ahmednagar District, hereby accept the lease of the field No.....in the protected forest of the above village for the term of.....years, commencing on the.....day of.....19 subject to the provisions of Indian Forest Act, 1927, and the rules made under this Act, and I undertake to pay annually Rs.....on account of the rent of the said No.....in the instalments and on the dates prescribed in this behalf in the rules aforesaid.

Dated the.....day of.....19

Written by

(Signed)

Signed by *A.B.* in the presence of –

.....

.....

Endorsement

We, the undersigned, declare that, to the best of our knowledge and from the best information we have been able after careful inquiry to obtain, the person who has executed this agreement is *A.B.* resident of the above-named village of.....and that he has been residing in the said village for a period exceeding five years and is a fit person to be accepted as responsible for the punctual payment of the rent of the land which has been leased to him.

(Signed) *E. F.*, Patel
(Signed) *G. H.*, Accountant, of the above village of.....

[1][SCHEDULE--EE

(*See* rule 88)

Licence to erect/operate machinery/saw mill for cutting or converting of timber

Registered No.

Licence is hereby granted to Shri .....
(In block letters)

..... of .....
(Address)

(hereinafter called "the licensee") to erect machinery / operate saw mill for cutting / converting of timber at.....subject to the provisions of the Indian Forest Act, 1927, in its application to the State of Maharashtra and the rules made thereunder and the following conditions, namely :—

CONDITIONS

This licence shall remain in force for the period commencing on..... and ending on the 19

2. The licensee may erect/operate the machinery/saw-mill required for cutting or converting of timber within 20 miles of*.....at..... (hereinafter referred to as the saw mill).

3. The licensee shall not alter the location of the saw mill without obtaining the prior written permision of the Divisional Forest Officer.

4. The licensee shall maintain such registers and submit such periodical returns as may be directed by the Divisional Forest Officer within whose jurisdiction the saw mill is located.

5. The licensee shall see that—

(*a*) the site of the saw mill including the yards for storage of round timber, sawn timber, and waste wood is enclosed within a fence fitted with proper gates,

(*b*) all the round timber, sawn timber and wood waste is properly stacked, according to the instructions that may be issued from time to time by the supervisory staff so as to facilitate stock taking,

(*c*) timber for sawing or conversion is not accepted unless it bears property mark and is covered by a forest transit pass or other documentary evidence such as a cash receipt from the timber merchant,

(*d*) timber which does not conform to the requirement of clause (*c*) is not accepted for conversion and intimation in respect of such timber is forthwith given to the supervisory guard or the nearest forest officer,

(*e*) the saw mill as well as the timber stored within the premises of the saw mill is open to inspection at all times by any Officer of the Forests Department or by any member of the supervisory staff appointed for this purpose,

(*f*) [2][the licence and the registers maintained under condition 4 are produced] for inspection on demand by any authority aforesaid.

---

* Here specify the forest or land.

1 Ins. by G. N. of 12-9-1960.

2 Subs. by G. N. of 23-12-1969.

6. The licence shall be transferable and where it is transferred, the transfer shall, on transfer of the licence, forthwith inform the Divisional Forest Officer of such transfer and the transferee shall hold the licence for the period specified therein.

Seal of the Forest Officer.

Dated.....day of.....19

Divisional Forest Officer.
(Signature of)]

SCHEDULE--*F*

[*See* rule 94 (1) (*b*) (*i*)]

List of trees in each district which may not be cut or removed without the permission of the Divisional Forest Officer under clause (1) (b) (i) of rule 94

Name of district 1	Species of trees to which rule 94 (1) (*b*) (*i*) applies 2	Areas to which rule 94 (1) applies 3
1. Broach and Panch Mahals	1. Teak 2 Black wood 3. Sandal wood.	Pune districts.
2. Surat 3. Nasik 4. East Khandesh 5. West Khandesh 6. Poona 7. Satara 8. Kolaba	1. Teak 2. Black wood 3. Sandal wood	Whole districts.
* * * *		
12. Thana	1. Teak 2. Black wood 3. Sandal wood 4. *Tivas*, (*Oroxylum indicum*).	Whole district. Talukas coming under the Sanjan and Kalvan Settlements, viz., Vada, Shahapur (including Mokhada Peta), Dahanu (excluding Umbergaon Peta) and part of Mahim.
13. Ahmednagar	1. Teak 2. Black wood 3. Sandal wood 4. Jambul (*Eugenia jambolana*).	Whole district. Occupied lands on the banks of the rivers Mula, Pravara, Mhais and Mhalungi in the Parner, Rahuri, Sangamner and Akola talukas.
*	*	*

Deleted by G. N. of 22-12-1958.

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AND THE RECOGNISED BOOK-SELLERS

ANNEXURE 4.07

NOTIFICATION

Revenue and Forest Department,
Mantralaya, Mumbai- 400 032.
Dated22September, 1999

(Indian Forest Act, 1927)

No. TRS-1095/CR-109/F-6. - In exercise of the powers conferred by clause (d) of section 76 of the Indian Forest Act, 1927 (XVI of 1927); and of all other powers enabling it in this bhalf, and in supersession of the Hyderabad Transit of Foresrt Product (Bombay) Rules, 1958 continued in force by virtue of section 17 of the Indian Forest (Maharashtra Unification and Amendment) Act, 1960 (Mah. VI of 1961) and the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch Areas) Rules, 1960; the Government of Maharashtra is hereby makes the following rules further to amend the Bombay Forest Rules, 1942, as follows: namely :-

1. Short title - These rules may be called the Bombay Forest (Amendment) Rules, 1999.

2. Amendment of Rule 1. - In rule 1 of the Bombay Forest Rules, 1942 for the words " the State of Bombay excluding the transferred territories " the words " the whole of the State of Maharashtra " shall be substituted.

3. Saving .- Notwithstanding the superssession of the Hydrabad Transit of Forest Produce (Bombay) Rules, 1958 and the Bombay Transit of Forest Produce (Vidarabha Region and Saurastra and Kutch Areas) Rules, 1960, anything done or any action taken (including direction issued, authorisations, inquiries, seizures of property made, powers of sanctions given, licences, permissions or passed granted and penalty, punishment incurred in respect of any offence under the rules, any investigation, legal proceeding is continued) by or under the said rules so superseded be deemed to be done or taken under the corresponding provisions of the Bombay Forest Rules, 1942, and shall until altered or amended by anything done or any action taken under the Bombay Forest Rules, 1942, continue in force accordingly.

By order and in the name of the Governor of Maharashtra

Dr. S. K. Khetrapal.
Joint Secretary to Government.

अधिसूचना

महसूल व वन विभाग,
मंत्रालय, मुंबई ४०० ०३२.
दिनांक :- २३ सप्टेंबर १९९९.

भारतीय वन अधिनियम, १९२७.

प्रक्र- क्र.टिआरएस. -१०९५/[illegible]-१०९/फ-६, भारतीय वन अधिनियम १९२७(१९२७ चा सोळा) याच्या कलम ७६ च्या खंड (ड) द्वारे प्रदान करण्यात आलेल्या अधिकारांचा व याबाबतीत महाराष्ट्र शासनास समर्थ करणा-या इतर सर्व अधिकारांचा वापर करुन आणि भारतीय वन (महाराष्ट्र एकीकरण व सुधारणा) अधिनियम, १९६०(१९६१ चा महाराष्ट्र सहा) याच कलम १७ व मुंबई वन उत्पादनाचे वाहतूक (विदर्भ प्रदेश आणि सौराष्ट्र व कच्छ क्षेत्रे) नियम, १९६० याच्या आधारे अंमलात असण्याचे चालू असलेल्या हैद्राबाद वन उत्पादनाचे वाहतूक (मुंबई) नियम, १९५८ चे अधिक्रमण करुन महाराष्ट्र शासन, याद्वारे , मुंबई वन नियम, १९४२ मध्ये आणखी सुधारणा करण्यासाठी पुढील नियम करीत आहे :-

१. संक्षिप्त नाव :- या नियमाला मुंबई वन (सुधारणा) नियम, १९९९ असे म्हणावे.

२.नियम १ ची सुधारणा :- मुंबई वन नियम १९४२ च्या कलम १ मध्ये हस्तांतरीत प्रदेश वगळून मुंबई राज्य या मजकुराऐवजी संपूर्ण महाराष्ट्र राज्य हा मजकूर दाखल करण्यात येईल.

३. व्यावृत्ती :- हैद्राबाद वन उत्पादान वाहतूक (मुंबई) नियम, १९५८ व मुंबई वन उत्पादन वाहतूक (विदर्भ प्रदेश आणि सौराष्ट्र व कच्छ क्षेत्रे) नियम, १९६० यांचे अधिक्रमण केलेले असले तरी ही अशा प्रकारे अधिक्रमण करण्यात आलेल्या उक्त नियमान्वये किंवा नियमांद्वारे करण्यात आलेली कोणतीही गोष्ट किंवा कार्यवाही (दिलेले निदेश, करण्यात आलेली प्राधिकार पत्रे ,चौकशा, मालमत्तेची जप्ती , देण्यात आलेले मंजुरीचे अधिकार, देण्यात आलेली परवापंने, परवानगी किंवा निर्गमित केलेले वाहतूक परवाने व या नियमान्वये कोणत्याही अपराधासंदर्भात दिलेली शास्ती, शिक्षा चालू असलेले कोणतेही अन्वेषण किंवा कायदेशीर कार्यवाही यांसह) मुंबई वन नियम, १९४२ च्या संबंधित तरतुदींन्वये करण्यात आल्याचे समजण्यात येईल आणि मुंबई वन नियम, १९४२ अन्वये करण्यात अलेली कोणतीही गोष्ट किंवा कार्यवाही त्यांच्यात फेरफार किंवा सुधारणा करण्यात येईपर्यंत तदनुसार अंमलात असण्याचे चालू राहील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावांने,

डॉ. सु.कृ.खेतरपाल
शासनाचे सह सचिव.

ANNEXURE 4.08

महाराष्ट्र शासन राजपत्र असाधारण भाग चार-अ, फेब्रुवारी २६, २०१४/फाल्गुन ७, शके १९३५

REVENUE AND FORESTS DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated 25th February, 2014

NOTIFICATION

INDIAN FOREST ACT, 1927.

No. TRS-09/2013/CR-193/F-6.—In exercise of the powers conferred by sections 26, 32, 41, 42, 51 and 76 of the Indian Forest Act, 1927 (XVI of 1927) and of all other powers enabling it in this behalf, and in supersession of the Bombay Forest Rules, 1942, Bombay Protected Forests (Vidarbha Region) Rules, 1958 and the Maharashtra Protected Forests (Marathwada, Konkan and Western Maharashtra) Rules, 1998 made in this behalf, the Government of Maharashtra hereby makes the following rules :—

CHAPTER- I

PRELIMINARY

1. *Short title and extent.—(1)* These rules shall be called the Maharashtra Forest Rules, 2014.

(2) They shall apply to the entire State of Maharashtra.

2. *Definitions.*— In these rules, unless there is anything repugnant in the subject or context,—

(a) "Act" means the Indian Forest Act, 1927 (XVI of 1927);

(b) "Deputy Conservator of Forests" means and includes a Deputy Conservator of Forests, Divisional Forest Officer in charge of a Forest Division, Sub-Divisional Forest Officer-in charge of an Independent Forest Sub-Divisions;

(c) "Chief Conservator of Forests", "Deputy Conservator of Forests" and "Range Forest Officer" means, respectively, the "Divisional Commissioner", "Collector" and "Tahsildar" with respect to the reserved or protected forests under the management of the Revenue Department, in whose jurisdiction such forests lie;

(d) "forest-privilege" means any favour, not being a right, and subject to withdrawal by the State Government anytime, granted to permanent residents of any village by the State Government with regard to pasture or forest-produce in a reserved or protected forest of the village in which they reside or in the neighbourhood to meet their *bona fide* livelihood needs, based on forest produce;

(e) "Schedule" means the Schedule appended with these rules;

(f) "section" means a section of this Act;

(g) "State Government" and "Government" means the Government of Maharashtra;

(h) "weapon" includes ammunition, bows and arrows, explosives, fire arms, hooks, knives, poison, snares and traps and any instrument or apparatus or substance capable of anaesthetizing, decoying, destroying, wounding or killing a wild animal;

(i) "wild animal" means all creatures living in or found in reserved or protected forests, and includes bats, birds, fish, reptiles, amphibians, insects, spiders and all kind of aquatic and wetland fauna;

(j) "Working Plan" includes Management Plan or Working Scheme which is a document of technical nature approved by the State Government or the Central Government or a Competent Authority appointed by the State Government or the Central Government, as the case may be, laying the prescriptions for the scientific management of specified forest area; and

(k) Words and expressions used but not defined in these rules shall have the meanings assigned to them in the Act.

CHAPTER-II

PROTECTION OF RESERVED AND PROTECTED FOREST FROM FIRE

A. Reserved Forests

[Section 26 *(1)(b)*]

3. *Kindling etc. of fire on roads or paths adjoining or passing though reserved forests prohibited.*—Except at such places as may from time to time be notified by the Deputy Conservator of Forests, no person shall kindle any fire or leave any fire burning upon any public or private road or path which adjoins or passes through a reserved forest but does not form part of such forest.

4. *Precautions to be taken in making ash-manure near a reserved forest.*— No person shall ignite materials for making ash-manure in any field within two hundred meters from the boundary of a reserved forest, unless,—

(*i*) there is, between such boundary and the spot on which such materials are ignited, a space, at least twelve meters in width, which is clear of vegetation capable of carrying fire from such spot to the forest; and

(*ii*) such other precautions like employing watchers etc. are taken as are reasonably necessary to prevent fire from spreading to the forest.

5. *Kindling of fire within 200 meters from a reserved forest prohibited.*—Except for the purposes of making ash-manure, no fire shall be kindled elsewhere than in a place used as a human dwelling or in premises appertaining to such dwelling within a distance of two hundred meters from the boundary of a reserved forest without the previous written permission of a Forest-officer not lower in rank than a Range Forest Officer.

6. *Precautions to be taken in kindling fire beyond 200 meters from a reserved forest.*—No person shall kindle any fire or leave any fire burning at any place which is at a distance greater than two hundred meters from the boundary of a reserved forest but from which the fire may, by natural means spread to the forest, unless he takes precautions by clearing a fire path not less than twelve meters in width between such place and such boundary or by employing watchers or otherwise to prevent the fire from so spreading.

B. Protected Forests

[Section 32 *(h)*]

7. *Precautions to be taken in kindling fire beyond the boundary of a protected forest.*— No person shall kindle any fire or leave any fire burning.— at any place beyond the boundary of a protected forest without taking all reasonable precautions to prevent its spreading to any timber lying in such forests or to any tree reserved under clause (*a*) of section 30, whether standing, fallen, or felled, or to any portion of such forest closed under clause (*b*) of the said section 30, or in respect of which exercise of any right of pasture or to forest-produce is suspended under section 33.

C. Exclusion of rainy season from applicability of these rules

8. *Partial operation of rules in rainy season.*—Nothing in the rules in this Chapter shall operate during the period commencing on the 15th June and ending on the 31st October.

CHAPTER-III

HUNTING AND SHOOTING ETC. IN RESERVED AND PROTECTED FORESTS

[Sections 26 *(1)(i)*,32*(j)* and 76 *(d)*]

9. *Acts prohibited in reserved and protected forests.*—(*1*) The following acts are prohibited in all reserved and protected forests :—

(a) the poisoning or polluting of land, rivers, tank or other waters, the explosion of dynamite or other explosives therein or elsewhere, and the setting of cruives or basket traps for the purpose of killing or catching fish or for any other purpose;

(b) tracking for the purpose of discovering the lie of wild animals;

(c) the setting of spring guns, snares, traps or any other such device;

(d) connecting wire with electric transmission lines for any purpose whatsoever;

(e) the driving, bating, poisoning, catching, wounding or killing of any wild animal and every attempt to do so;

(f) damaging or disturbing the eggs, nests or hives of wild animals;

(g) disturbing, poisoning or interfering in any manner whatsoever with the carcass of any wild animal, domesticated animal or cattle;

(h) possessing any class of insecticides, pesticides, inorganic manure or any weapon except in course of discharge of official duty;

(i) trespassing with or permitting to trespass dog or any other domesticated or trained animal capable of frightening, driving, wounding or killing any wild animal;

(*2*) Nothing in this rule shall be deemed to prohibit any act done by permission in writing of the Deputy Conservator of Forests concerned.

(*3*) While exercising the powers vested in the Forest-officer under section 66, if it is not possible for him to chase away or capture the dog or any other domesticated or trained animal referred to in clause (*i*) of sub-rule (*1*) out of the limits of such forest without delay, it shall be lawful for him to kill or cause such trespassing animal to be killed or trapped and removed from forest, by using all means at his disposal at that time, whether or not, said trespassing animal has frightened, driven away, wounded or killed any wild animal within such forest or outside.

CHAPTER IV

Ejoyment of Rights and Privileges in Reserved Forests

[Sections 26 *(2) (a)* and 76 *(d)*]

10. *Regulations for exercise of forest-rights in reserved forests.*— No right shall be exercised in a reserved forest except in accordance with the provisions hereinafter provided in this rule :—

(*1*) The persons specified in the register mentioned in sub-rule (*8*) and members of their households shall be entitled, subject to the conditions stated therein against their names :—

(*a*) to cut for the purpose of fulfillment of *bona fide* livelihood needs of self and family including requirement for construction or repair of their huts, and making agriculture implements for their own use only, all kinds of trees except Teak, blackwood, *anjan, khair, tiwas, babul, mahua, charoli*, *narkya*, mango and mangrove species mentioned at in Sr. No. 14 in part VI of Schedule D;

(*b*) to collect, for firewood for their own use only, dead-wood of all kinds except teak, *tiwas, khair* and all species found in mangroves;

(*c*) subject to the provisions contained in Chapter II of the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997, to gather, for all purposes, such of the forest-produce as shown against their names in the register, specified in Schedule C;

(*d*) to graze their own cattle not exceeding the number shown against their names in the register.

(*2*) All rights in respect of forest-produce and pasture shall be exercised only in such reserved forest or part thereof in respect of which they are continued under the Act, or recognised under any other law for the time being in force, except.—

(a) in such portion of the reserved forest as may be closed by the Deputy Conservator of Forests in consultation with the District Collector for the purpose of reproduction and improvement in accordance with the provisions of a Working Plan.

(b) during the period from the 15th June to the 15th October.

(*3*) While cutting of trees and removal of forest-produce from reserved forest the following shall be observed, namely :—

(a) no trees of any size growing within ten meters of either side of a road or twenty meters of either edge of bank of any water course shall be cut;

(b) no trees of any size growing on slopes of more than 20° (degrees) shall be cut;

(c) no trees of any size belonging to species which produce edible fruits shall be cut;

(d) all trees to be felled shall be cut flush with the ground;

(e) no trees shall be girdled or pollarded;

(f) in bamboo clumps, no culm under one year of age shall be cut, and in each clump atleast 8 culms over one year of age shall be retained;

(g) all bamboo culms shall be cut within 30 cm. from ground level;

(h) no root of any tree shall be dug up; or

(i) except with the permission in writing by the Range Forest Officer duly authorized by the Deputy Conservator of Forests in this behalf, no forest- produce shall be removed from forest between sunset and sunrise.

(*4*) Every right holder shall be supplied by the Forest Department with a Pass-Book in the form specified in Schedule A, bearing a serial number and showing his name with address, nature and extent of rights to which he is entitled annually or periodically including description of the reserved forest in terms of *gat* or survey number and compartment number or part thereof over which each right is exercisable.

(*5*) Before going into the forest with a view to exercise his right, every holder of right shall obtain from the Range Forest Officer concerned or from a Forest-officer duly authorized by the Deputy Conservator of Forests in this behalf a permit in the form specified in Schedule B, which latter shall be bound to supply to him without payment of any fee or payment of such fee as may be specified by the State Government, from time to time.

(*6*) The description of forest-produce and the quantity to be obtained in exercise of the said right in accordance with the permit under sub-rule (5) shall be entered in the Pass-Book supplied to the right holder under sub-rule (4) every time immediately at the time of issue of permit by the officer issuing the permit; and in no case, whatsoever, the total quantity of forest-produce actually brought from the forest shall exceed the quantity mentioned in the permit and the Pass-Book.

(*7*) The transit of all forest-produce obtained under this rule in exercise of rights shall be regulated by the rules mentioned in Chapter VII.

(*8*) A register in the form specified in Schedule C, shall be kept by the Deputy Conservator of Forests showing village-wise, the names of all the persons entitled to the enjoyment of the rights together with the name of father and spouse, caste, name of the community e.g. name of the Scheduled Caste, Scheduled Tribe or Other Traditional Forest Dweller etc. to which he belongs, nature and extent of rights, conditions, if any, imposed on the exercise of right, and description of the reserved forest specifying definitely, according to the boundary-marks erected or otherwise, the limit of the forest including *gat* or survey number and compartment number or part thereof over which the right is exercisable under these rules. Such register shall be corrected up to date atleast once in every twelve months.

(*9*) The Collector on recommendation of the Deputy Conservator of Forests, notwithstanding any other action under the Act or these Rules that may be taken in this regard, may suspend for a period, not exceeding twelve months, the exercise of any right on being satisfied that it is being abused or is in violation of any of the provisions of this rule or that it leads to an offence under section 79.

(*10*) The Pass-Book and Permit issued under sub-rule (4) and sub-rule (5), respectively, shall be non-transferable; any right holder, fraudulently transferring his Pass-Book or Permit to another person, shall be dealt with in accordance with sub-rule (9).

Explanation.—The rights to be exercised under this rule include the Community Forest Rights confirmed in Annexure – III of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, and incorporated in the relevant Government records including in the record of rights, and published in accordance with sub-rules (f) and (g) of rule 8, respectively, of these Rules.

11. *Rule 10 to apply to forest-privileges.*— A separate register in accordance with sub-rule (8) of rule 10 shall be maintained in respect of the persons enjoying any forest-privilege, and all the provisions contained in rule 10 shall, *mutatis mutandis*, apply to such forest-privileges.

12. *Bar on conferring of forest-privileges.*—No new forest-privilege except with the order of the State Government shall be conferred in a reserved forest.

CHAPTER V

Pasturing of Cattle in Reserved and Protected Forests

[Sections 26 *(1) (d)*, 26 *(2) (a)*, 32 *(i)* and 76 *(d)*]

13. *Pasturing of cattle in forests prohibited except in areas specially assigned and except under a permit.*—No person shall pasture cattle in a reserved or protected forest,—

(a) except within the areas assigned for such purpose by or under the orders of the Divisional Commissioner or the Chief Conservator of Forests, and

(b) without obtaining a permit from a Revenue or Forest-officer or a person duly authorized in that behalf by the Deputy Conservator of Forests which shall be granted without payment of fee or on payment of fee as may be specified by the State Government, from time to time, and except in accordance with the conditions subject to which such permit has been granted.

14. *Pasture by goats and sheep in reserved forests prohibited.—(1)* Except with the specific orders of the State Government issued in this behalf with due regards to the safety and the maintenance of forests in perpetuity, and subject to the conditions which may be imposed, no permit under rule 13 shall be granted for pasturing sheep in any reserved forest or portion thereof or any area notified under section 4 of the Act, unless the area has been earmarked by the State Government for the purpose and demarcated on the ground.

(*2*) No permit under rule 13 shall be granted for pasturing goat in any reserved forest or portion thereof or in any area notified under section 4 of the Act.

CHAPTER VI

Regulation etc. for Felling of Trees in Protected Forests

[Sections 32 and 76 *(d)*]

15. *Non-Application of this Chapter.*—Nothing in this Chapter shall apply to forest-produce on an occupied area of village in a protected forest.

16. In this Chapter unless the context otherwise requires :—

(*1*) "Closed" means the portion of a protected forest that may be declared closed by the State Government under section 30;

(2) "Protected Forest" means the tract of land declared to be Protected Forest in accordance with the provisions of section 29;

(*3*) "right" includes any right recognised by law and recorded in Government records in accordance with the procedure laid down in relevant laws for the time being in force.

(*4*) In respect of Protected Forests in charge of Revenue Department, for the purposes of this Chapter, Deputy Conservator of Forests shall be read as Collector and Range Forest Officer shall be read as Tahsildar.

17. *Part of Protected Forest to be set aside for exercise of rights and privileges and for management.*—The Deputy Conservator of Forests in consultation with the Collector, and in case of the Protected Forests in charge of Revenue Department, the Collector shall, from time to time, set aside :—

(1) the areas of suitable size in a protected forest containing forest-produce for the exercise of rights and privileges by the right and privilege holders of that village of which such protected forest forms part thereof, or in the neighbourhood, and

(2) a compact areas capable of producing timber and other forest produce of importance for management by the State Government.

18. *Cutting of trees for manufacture of charcoal prohibited.*—No trees of any species whatsoever shall be cut, removed or burnt in any protected forest for the purpose of manufacturing charcoal, except with the prior permission in writing of the Deputy Conservator of Forests.

19. *Cutting trees without permission prohibited.*—Subject to the provision of rules 20 and 21, no trees of the species mentioned in Schedule D shall be cut without the prior permission in writing of the Deputy Conservator of Forests.

20. *Cutting of any tree prohibited in certain cases.*—No trees in a protected forest,—

(*1*) of any size growing within ten meters of either side of a road or twenty meters of either edge of bank of any water course therein shall be cut :

Provided that, no such permission shall be necessary for cutting small branches up to 5 centimeter in diameter at the cut end of *babul* and other thorny trees or thorny shrubs;

(*2*) of any size growing on slopes of more than 20° (degrees) therein shall be cut;

(*3*) of any size belonging to species which produce edible fruits shall be cut;

(*4*) of the species included in the Schedule D shall be cut except where it is mature, over mature, dead, injured beyond recovery or otherwise silviculturally available.

Explanation.—Silviculturally available trees means trees available for felling in pursuance of any recognised silvicutural operation for making conditions favourable in the forest for reproduction of tree species of choice or for the adequate growth of the remaining trees or the forest crop, or both.

21. *Felling of trees.*— In a protected forest—

(*1*) all trees felled shall be cut flush with the ground;

(*2*) no tree shall be girdled or pollarded;

(*3*) subject to the provisions of rule 17, in an area in which trees have been marked in accordance with the provisions of a Working Plan for felling in the following working season, all such trees marked, and in other areas, trees not being trees which are reserved under section 30 or included in Schedule D, may be lopped for the purpose of obtaining *rab* or manure, provided that the main leading shoot (*shenda*) of each tree so lopped shall be left uncut;

(*4*) (*a*) in bamboo clumps, no culm under one year of age shall be cut, and in each clump atleast eight culms over one year of age shall be retained;

(*b*) all bamboo culms shall be cut within 30 cm. from ground level;

(*5*) except with the permission in writing by the Range Forest Officer duly authorized by the Deputy Conservator of Forests in this behalf, no root of any tree shall be dug up;

(*6*) except with the permission in writing by the Range Forest Officer duly authorized by the Deputy Conservator of Forests in this behalf, no forest produce shall be removed from forest between sunset and sunrise.

22. *Regulation of forest-produce in transit.*— The transit of all forest-produce obtained in accordance with the provisions of this Chapter shall be regulated by the rules mentioned in Chapter VII.

23. *Removal of forest-produce not to exceed permitted quantity and is subject to availability.*— The Deputy Conservator of Forests in consultation with the Collector, shall by order declare a protected forest to be open to persons of the village in which the protected forest is situated or in the neighbourhood for the purpose of exercising their rights and privileges. Thereafter, such persons residing in such village subject to the provisions of section 161 to 167 of Chapter X of the Maharashtra Land Revenue Code, 1966 or of any other law for the time being in force, cut and remove for their own use only (and not for sale, barter or gift) such forest-produce not exceeding such quantity as is set out in the *Nistar Patrak* prepared under section 161 of the Maharashtra Land Revenue Code, 1966 or in Annexure–III of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 and incorporated in the relevant Government records including record of rights or the reduced quantity as may be determined by the Deputy Conservator of Forests in consultation with the Collector, when the total quantity of the forest-produce available, as assessed annually in advance by him, is not enough to meet the full requirements of such persons.

24. *Setting fire prohibited.*—No person shall set fire to any portion of a protected forest or shall set fire in the vicinity of a protected forest so as to cause damage to any forest-produce laying in such forest whether standing, fallen, felled or otherwise found therein.

25. *Right and privilege holders to extinguish and prevent occurrence of forest fires.*—All persons, who are permitted to remove forest-produce according to these rules shall inform the nearest Forest-officer of the occurrence of any fire, and shall themselves take steps, whether or not so required by any Forest- officer:-(*a*) to extinguish any forest fire of which he has knowledge, and(*b*) to prevent by any lawful means in his power any fire in the vicinity of such forest from spreading to such forest.

26. *Sale or barter of forest produce prohibited.*—No forest- produce obtained from a protected forest as a matter of privilege shall either be sold or bartered away.

27. *Provision with regard to cutting and removing grass.*—Any person permanently residing in any village may, from the protected forest of the village in which he resides cut and remove grass for his own cattle, sheep and goats without license or permit or payment of any fee: Provided that, the State Government may, at any time, withdraw this concession.

28. *Closure of area under reproduction.*—Except for removal of grass by head-loads, all plantations or the areas which are otherwise brought under reproduction in a protected forest shall be declared closed for a period of ten years which may extend to twenty years from the first day of April of the year in which the plantation is proposed to be done or the area is proposed to be brought under reproduction in any other manner.

29. *Restriction on pasturing by goats and sheep.*—Except with the specific orders of the State Government and subject to conditions which may be imposed, pasturing by sheep and goats shall be prohibited outside the area earmarked for the purpose.

30. *Breaking of land prohibited.*— The breaking of land for whatsoever purpose shall be prohibited in any protected forest.

CHAPTER VII

Transit of Forest Produce

[Section 41]

A. Forest Passes.

31. *Regulation of transit of forest-produce by means of passes.*—(*1*) No forest-produce shall be moved into or from or within any District of the State except as hereinafter provided without a pass from some officer or person duly authorized by or under these rules to issue such pass, or otherwise than in accordance with the conditions of such pass or by any route or to any destination other than the route or destination specified in such pass :

Provided that, no pass shall be required for the removal,—

(*a*) except to a bunder, landing place, or railway station—

(*i*) of any forest-produce which is being removed for his private consumption by a person in exercise of a forest-privilege, or of a right recognised under the Act or any other law for the time being in force, within the limits of a village in which it is produced,

(*ii*) of any forest-produce which is being removed, for his private consumption to meet *bona fide* livelihood needs by a person in exercise of a forest-privilege, or of a right recognised under the Act or any other law for the time being in force, from a reserved forest not falling within the limits of any village into the limits of a village in which he permanently resides, if accompanied by the permit supplied to him under sub-rule (5) of rule 10.

(*iii*) of any forest-produce which is obtained from lands not belonging to Government and the same is being removed within the limits of the village in which it was produced, provided that, prior intimation in writing is given to the Range Forest Officer concerned,

(*iv*) of twigs, leaves, brushwood and grass intended solely for conversion into ash-manure, or

(*v*) of such small branches as are given from departmental cuttings solely for private consumption.

(*b*) of branch-wood not exceeding ten centimeters in girth at the thickest part to be used as firewood, grass or leaves, the property of one person or the joint property of two or more persons which is conveyed in quantities not exceeding one head-load once in twenty-four hours unless it be brought to a bunder, landing place or railway station or to any areas to which the State Government may from time to time declare by notification in the *Official Gazette*, that this exemption shall not extend.

(*c*) of any timber, which is sawn on all its sides by machine in a saw mill lawfully under operation, is accompanied by a cash memo, receipt, tax invoice or any other document issued by the owner of that saw mill or his authorised agent having the name of the said saw mill as well as its licence number clearly printed on it and contains description of the timber including name of species and size-wise quantity that is being removed together with the name and complete address of the person to whom the timber is being sent, date and place of issue, name and signature of the said saw mill owner or his authorised agent, as the case may be; and where such sawn timber being so removed exceeds two meters in length with the sum of width and thickness exceeding fifteen centimeters , bears identification code which is specific to that saw mill and has been allotted by the Deputy Conservator of Forests concerned or property mark duly registered under rule 47 in his office, as the case may be, for the purpose.

(*d*) of any forest-produce which is the property of the State Government and is being moved under the authority of the Government; or

(*e*) of such forest-produce as may be exempted by the State Government from the operation of the rules in this Chapter by notification in the *Official Gazette*.

(*2*) In respect of any forest-produce for which no pass is required under sub-rule (*1*), at the option of the owner of the forest-produce or the owner of the saw mill where the timber is sawn, as the case may be, forest pass may be issued in accordance with the provisions of this Chapter.

Explanation.—For the purpose of this rule, the expression,- *(1)* "Limits of a village" means the limits of a village as defined and notified under the Maharashtra Land Revenue Code, 1966. *(2)* "Village" includes a town or city and all the land falling in a village, town or city. *(3)* "Property of the State Government" includes the property of the Forest Development Corporation of Maharashtra Limited.

32. *Officer and person to issue passes.*—(*1*) Following officers and persons shall have power to issue passes under these rules, namely :—

Officers.

(*a*) The Chief Conservator of Forests, the Deputy Conservator of Forests, the Assistant Conservator of Forests or any other officer as may be authorized in this behalf, in writing, by the Chief Conservator of Forests or the Deputy Conservator of Forests shall have power to issue passes under these rules :

Provided that , the passes in respect of timber or any other forest-produce derived from the following species, namely :—

(*i*) Acacia catechu (*khair* tree),

(*ii*) Dalbergia latifolia (Rosewood tree),

(iii) Mangrove Species,

(iv) Narkya (Amrita tree),

(v) Santalam album (*sandal* tree), and

(vi) Red sanders (*Rakt chandan*),shall be issued under the seal and signature of the concerned Assistant Conservator of Forests.

(b) The passes in respect of timber exceeding eight cubic meters or small wood exceeding twenty cubic meters of stacked volume of the following species, namely :—

(i) Adina cardifolia (*Haldu*),

(ii) Artocarpus integrifolia (Jack fruit),

(iii) Hardwickia binata (*Anjan*),

(iv) Madhuca laifolia (*Mahua*)

(v) Mangifera indica (*Amba*),

(vi) Ougeinia dalbergioidies (*Tiwas*),

(vii) Pterocarpus marsupium (*Bija*),

(viii) Syzigium cumini (*Jambhul*),

(ix) Tamarindus indica (*Chinch*),

(x) Tectona grandis (*Teak*),

(xi) Terminalia chebula (*Hirda*),

(xii) Terminalia paniculata (*Kinjal or Kindal*),

(xiii) Terminalia tomentosa (*Ain* or *saja*),shall not be issued without prior approval of an officer not below the rank of Assistant Conservator of Forests.

Explanation.—The expression "small wood" means all timber not exceeding twenty-five centimeters girth at the thickest part and two meters length.

(*c*) The passes in respect of any species of bamboo exceeding One Notional Ton shall not be issued without prior approval of the concerned Assistant Conservator of Forests duly authorised in this behalf by the Chief Conservator of Forests or the Deputy Conservator of Forests.

Explanation.— The expression "One Notional Ton" means as many numbers of pieces of bamboo whose sum of the lengths is equal to two thousand running meters.

Other persons.

(*d*) for forest-produce owned by any person, such person or his agent, if so authorized in writing by the Chief Conservator of Forests, or by Deputy Conservator of Forests specially empowered in this behalf in writing by the Chief Conservator of forests, provided that, such authorization shall specify the period during which it shall remain in force :

Provided that, the Chief Conservator of Forests may, in consultation with the Commissioner of Excise, require that for *mahua* flowers to be removed from any specified area, passes shall be issued only by the local Excise-officer not below the rank of a Sub-Inspector.

(*2*) Any authorization may at any time be cancelled by the officer granting it or by his official superior.

33. *Passes what to contain.*—(*1*) Every forest pass issued under rule 32 shall specify—

(a) the name of the person to whom such pass is granted;

(b) the quantity and description of forest-produce covered by it;

(c) in the case of timber or any forest-produce referred to in clauses (*a*) and (*b*) of sub-rule (*1*) of rule 32, the name of the village and survey number in which it was produced;

(d) the places from and to which such forest-produce is to be conveyed;

(e) the route by which such forest-produce is to be conveyed, and

(f) the period of time for which the pass is to be in force, which shall be calculated as follows:—The day of issue *plus* in the case of transport by a motor vehicle, a day for transit to any point up to one hundred and twenty kilometers or fraction thereof, and in the case of any other form of transport, a day for transit to any point up to twenty-four kilometers from the village of origin *plus* an additional day for every additional twenty-four kilometers or fraction thereof: Provided that, in the case of transport of forest-produce by floating in such rivers or portions thereof as the State Government may, by general or special order specify in this behalf, the time for transit on any such rivers or portions thereof shall be calculated at the rate of one day for every eight kilometers or fraction thereof :

Provided further that, the person in charge of the forest-produce in transit, when directed, shall stop and report at every such forest check post which he has to pass, in order that the forest-produce may be examined. (*2*) The colour and form of each pass and the sum to be paid in respect of each book of forest passes will be such as may be specified by the Principal Chief Conservator of Forests (Head of the Forest Force) with the previous sanction of the State Government.

34. *Separate passes for each load.*—No forest pass shall ordinarily cover more than one load whether such load be carried by a person, an animal or in a vehicle. However, the Deputy Conservator of Forests, subject to the approval of the Chief Conservator of Forests, may, whenever he deems fit, order that one pass may cover any number of head-loads or animal loads not exceeding fifty and any number of cart loads not exceeding ten for journeys not exceeding twenty-four kilometers from and to the same places and undertaken at one and the same time.

35. *Pass not to be tampered with.*—No alternation shall be made in anything printed or written on any forest pass except in the matter of route and period and this may only be done by an authorized officer for sufficient reason to be mentioned in the pass.

B. Passes issued by private persons.

36. *Books of blank passes to be supplied to persons authorized to issue them.*— (*1*) When the Chief Conservator of Forests or any duly empowered Deputy Conservator of Forests authorizes in respect of a forest-produce owned by any person or the agent of any such person under clause (*d*) of sub-rule (*1*) of rule 32 to issue forest passes, he shall furnish such person from time to time with authenticated books of blank passes.

(*2*) The said person to whom such book is supplied shall pay the sum, if any, fixed under sub-rule (*2*) of rule 33.

(*3*) No person who has been authorised to issue passes shall issue passes otherwise than in accordance with the conditions of his authorization.

(4) No such person shall charge any fee for any pass issued.

(5) Counterfoils of all used passes shall be returned to the officer from whom the book of passes was received and no fresh Pass Book shall be supplied until the counterfoils of all passes previously used have been so returned.

(*6*) Any person or the agent of any person who has been authorized to issue forest passes under clause (*d*) of sub-rule (*1*) of rule 32 shall be bound if called upon by any Forest-officer to produce for inspection or to give up the counterfoils of all passes which have been issued by such person or agent.

(*7*) In the event of any authority given under clause (*d*) of sub-rule (*1*) of rule 32 being at any time cancelled under sub-rule *(2)* of the said rule or on the expiry of the period specified in such authority, the person whose authority is so cancelled or the person, the period of whose authority has so expired, as the case may be, shall forthwith return to the officer who gave the authority every unused book of forest passes and the unused portion of any such book in his possession, together with the counterfoils of used passes, if any, which he has not already returned. Thereafter, the said person shall be entitled to receive a refund of the amount paid by him in respect of every such unused book but no refund shall be allowed in respect of any portion of such book.

(*8*) No forest pass issued by any person or by the agent of any person authorized under clause (*d*) of sub-rules (*1*) of rule 32 to issue forest passes shall have any validity,—

(*i*) if such pass is not prepared on a blank form supplied for this purpose under sub-rule (*1*) of rule 36, or

(*ii*) if the same is issued after receipt by such person of an order cancelling the authority to issue such passes, or

(*iii*) if the same is issued by such person after the expiry of the period specified in the authority given for the issue of such passes.

C. Forest-produce moved into the State otherwise than by sea.

37. *Pass of other States.*— All forest-produce moved into the State of Maharashtra otherwise than by sea from other States shall be covered by a pass of that State registered under rule 38, and in case of timber exceeding the dimensions mentioned in rule 47 and of scented sandalwood or any wood of such other species of any size as may be notified by the State Government in *Official Gazette*, from time to time (hereinafter referred to as the "notified species"), bear a property mark of that State registered under rule 38.

38. *Form, etc. of passes of other States must be registered in the office of Chief Conservator of Forests.*—Every pass of other States must be in a form which, and must be signed by an official whose designation, have been registered in the office of the Deputy Conservator of Forests of the Division into which it is sought to move forest-produce thereunder. Every property mark of that State must be of a description which has been registered in the said office :

Provided that, at the request of an officer of any State, not below the rank of a Deputy Conservator of Forests, the forest-produce of that State may be allowed to be moved into the State of Maharashtra,—

(*a*) if such forest-produce is being moved in the State of Maharashtra is covered by a pass of the concerned State, signed by a contractor or his agent whose specimen signature is registered in the office of the Deputy Conservator of Forests in charge of the Division into which the forest-produce is sought to be moved into ;

(*b*) if the office-stamp of such officer (being an officer authorized by the State Government of the concerned State to issue books of such passes to contractors for moving the forest-produce into other State), affixed to or imprinted on the pass under which the forest-produce is sought to be imported; and

(*c*) if the timber falling within rule 47 or where timber is sawn and exceeds two meters in length with the sum of width and thickness exceeding fifteen centimeters, bears property mark duly registered which is specific to that person or saw mill and has been registered in the office of the Deputy Conservator of Forests concerned under rule 47 for the purpose, and scented sandalwood or wood of such other notified species of any dimension, bears a distinguishable private property mark of the owner of such timber or scented sandalwood or any wood of notified species (being a property mark, description of which has been registered in the office of the Deputy Conservator of Forests in charge of the Division into which the forest-produce is sought to be moved into).

39. *Deputy Conservator of Forests may refuse to register signature.*—In cases under the proviso to rule 38, the Deputy Conservator of Forests may, for reasons to be recorded in writing, refuse to register the specimen signature of any contractor or his agent.

40. *Forest- produce moving into State of Maharashtra may be conveyed to first depot without a pass under proviso to rule 38.*—Any forest-produce moving into the State of Maharashtra may be conveyed within the limits of this State as far as the first depot established under rule 43 without pass issued under rule 32, and if it is covered by a pass of other State registered under rule 38, and if stacked or deposited in any place between such limits and such depot, the pass of other State covering the material shall at once be delivered at that depot.

41. *Chief Conservator of Forests may direct use of a transit mark for timber being moved into State of Maharashtra.*—If the Chief Conservator of Forests so directs, no timber exceeding the dimensions mentioned in rule 47 or scented sandalwood or any wood of notified species which has been moved into the State of Maharashtra as aforesaid shall be moved beyond such first depot without first having stamped upon it a Government transit mark of such description as the Chief Conservator of Forests shall specified.

D. Saving of recognized privileges.

42. *Saving of recognized privileges.*— Nothing in rules 31 to 41 (both inclusive) shall be deemed to require or to have required the possession of pass in cases where exemptions from such possession for enjoyment of certain privileges recognised by the State Government have been granted before the publication of these rules.

E. Forest Depots.

43. *Depots and their purpose.*— The Chief Conservator of Forests may establish at such places as he deems fit, depots to which forest-produce shall be taken—*(a)* for examination, previous to the grant of a pass in respect thereof under these rules; *(b)* for determining the amount of money, if any, payable on account thereof to Government; and for the payment of any money so found to be due; or *(c)* in order that any mark required by law or by these rules to be affixed thereto, may be so affixed.

44. *Situation of depots to be published.*— The Chief Conservator of Forests shall make known from time to time by notification in the *Official Gazette,* and locally in such manner as he deems fit, the name and situation of each depot in his Jurisdiction.

45. *Depot to be in- charge of an officer.*— Each depot shall be in-charge of an officer appointed by or under the orders of the Chief Conservator of Forests without whose permission no forest-produce shall be brought into, stored at, or removed from the depot.

46. *Vessels conveying forest-produce by river to call a depot on banks.*— The person in charge of any vessel which carries forest-produce on a river on the banks of which one or more depots established under these rules are situated, shall call and stop his vessel at every

such depot which he has to pass, in order that the forest-produce may be examined, if necessary, under the provisions of rule 50 and the person in charge of such vessel shall not proceed with such vessel pass any such depot without the permission of the Forest-officer in charge of such depot.

F. Property and Transit Marks.

47. *Property and transit marks to be affixed to timber exceeding a certain size.*—Except when it is the property of Government, timber exceeding twenty-five centimeters in girth at the thickest part and two meters in length, and scented sandalwood or any wood of notified species of any dimensions shall not be moved from or within any District of the State of Maharashtra unless it bears a distinguishable private property mark of the owner of such timber of a description which has been registered in the office of the Deputy Conservator of Forests, and also if the Deputy Conservator of Forests so directs, unless it bears a Government transit mark of such description as, shall from time to time, be specified in this behalf by the said Deputy Conservator of Forests.

48. *Registration of forms of passes or marks.*— The Deputy Conservator of Forests shall upon receipt of an application for registration of any form or mark for the purpose of rule 38 or rule 47 inquire into the authenticity of the same and if he sees no objection, shall, on payment by the applicant of such fee specified by the State Government in this behalf, register such form or mark in his office. Every such registration shall hold good for a period of one year only, except in the case of forms and marks of other Governments, the registration of which shall hold good till they are modified or replaced by new forms or marks.

49. *Government marks not to be imitated or effaced.*— No person other than a Forest-officer, whose duty it is to use such marks, shall use any property marks for timber identical with, or nearly resembling, any Government transit mark, or any mark with which timber belonging to Government is marked; and no person shall, while any timber is in transit under a pass issued by any person or by the agent of any person authorized in this behalf under clause (*d*) of sub-rule (*1*) of rule 32, alter or efface any mark on the same.

G. Stoppage in transit.

50. *Forest-produce in transit may be stopped and examined by certain officer.*— (*1*) Forest-produce in transit may be stopped and examined at any place by any forest, police or revenue officer if such officer shall have reasonable grounds for suspecting that any money which is due to Government in respect thereof has not been paid, or that any forest offence has been or is being committed in respect thereof :

Provided that, no such officer shall vexatiously or unnecessarily delay the transit of any forest-produce which is lawfully in transit, nor vexatiously or unnecessarily unload any such forest-produce, or cause the same to be unloaded for the purpose of examination.

(*2*) The person in charge of such forest-produce shall furnish to any such officer all the information which he is able to give regarding the same, and if he is removing the same under a pass shall produce such pass, on demand, for the inspection of such officer and shall not in any way prevent or resist the stoppage or examination of the said forest-produce by such officer.

H. Obstruction of channels.

51. *Prohibition of obstruction of channels or banks of rivers.*— No person shall close up or obstruct the channel or any portion of the bank of any river lawfully used for the transit of forest-produce or throw grass, brushwood, branches or leaves into any such river, or do any other act which may cause such river to be closed or obstructed.

52. *Measures to be taken for removal of obstructions.*— (*1*) Any Forest-officer not below the rank of a Range Forest Officer, may take such measures as he shall, at any time, deem to be emergently necessary for the prevention or removal of any obstruction of the channel, or of any part of a bank of a river lawfully used for the transit of forest-produce; but any such case which is not emergent shall be reported to the concerned Sub-Divisional Officer of the Revenue Department, who may, by written notice require the person whose act or negligence has caused or is likely to be caused the obstruction, to remove or take steps for preventing the same within a period to be mentioned in such notice, and, if such person fails to comply with such notice, may, himself cause such measures to be taken as he shall deem necessary.

(2) The cost reasonably incurred by a Forest-officer or by the concerned Sub-Divisional Officer of the Revenue Department under this rule shall be payable to the State Government by the person whose act or negligence has necessitated the same.

I. Conversion of Timber within certain distance of Forests.

53. *Prohibiting conversion of timber within certain distance of forest.*—

(1) (i) Within the limits of any reserved or protected forests (whether in charge of the Forest or Revenue Department) or of any land in respect of which a notification under section 4 declaring that it has been decided to constitute such land a reserved forest has been issued, and within two kilometers of such limits, no person shall establish a saw pit for cutting or converting of timber or manufacture charcoal without the previous sanction in writing of the Range Forest Officer; or

(ii) Within the limits of any reserved or protected forests, or of any land referred to in clause (i) and within fifty kilometers of such limits, no person shall erect or operate any machinery or saw mill for cutting or converting of timber that includes its peeling and chipping, without obtaining a licence in that behalf.

(2) Any person desiring to establish a saw-pit or to manufacture charcoal under clause (i), or to erect or operate any machinery or saw-mill under clause (ii) of sub-rule (1) shall make an application in that behalf to the Range Forest Officer and Deputy Conservator of Forests, respectively :

Provided that, where within a period of one month from the date of the application the applicant fails to receive the sanction under clause (i) of sub-rule (1), the applicant may proceed to establish the saw-pit or to manufacture charcoal, but not so as to contravene any of the provisions of the Act or any rules made thereunder.

(3) (i) On receipt of an application under sub-rule (2) the Range Forest Officer, or as the case may be, the Deputy Conservator of Forests shall make such inquiry as he deems fit and after satisfying himself on the question whether or not there would be any objection to grant the sanction or license applied for, having regard to safeguarding the timber in any reserved or protected forest or in any land referred to in sub-rule (1), may grant the sanction or license in the form specified in Schedule E subject to the conditions set out therein or refuse to grant the sanction or licence :

Provided that, if the State Government is satisfied having regard to the facts and circumstances in any case or class of cases and the need for conservation of forests, that additional conditions are required to be included in any licence or class of licences, the State Government may, by order, direct that such additional conditions as may be specified in the order shall be included in the license to be granted by the Deputy Conservator of Forests.
(ii) The State Government may, for the reasons to be recorded, at any time direct the Deputy Conservator of Forests to grant new licence under this rule, in any case where it is satisfied that such grant of license is necessary to remove the hardship to any applicant or in public interest.

(4) Every license granted under this rule shall,—

(a) subject to the provisions contained in this rule regarding suspension or revocation, not remain valid beyond the 31st day of December next following the date of its issue, unless it is renewed;

(b) require renewal, after which the same shall remain valid till the 31st day of December next following the date of such renewal;

(c) be transferable,—

(i) by sale, mortgage, lease, exchange, gift or will;

(ii) by inheritance;

(iii) by partition or dissolution; and

(iv) by operation of law,

Subject to the condition that, description of the cutting or sawing machine shall not change, and the size and number shall not exceed the size and number mentioned in the licence as a result of such transfer :

Provided that, where the licence is transferred, the transferor or the transferee shall, on transfer of licence, forthwith inform the Deputy Conservator of Forest of such transfer in writing together with related documents of transfer and the fees

prescribed for such transfer under this rule; and the transferee shall, subject to the provisions contained in this rule regarding renewal, suspension or revocation, hold the licence for the period specified therein.

(*d*) The licensee may, at his option and at anytime, register name of an adult nominee in the licence who shall be responsible for the operation of saw mill in the event of his death or grave illness till such time, the transfer, subject to the condition stated in sub-clause (*c*) takes effect.

(*e*) In the event of partition, dissolution or otherwise, on the request of the licensee or as a consequence of a process of law, it shall be lawful for the Licensing Authority to split the original licence by issuing separate licenses for one or more cutting or sawing machine, subject to the condition that description, size and total number of the cutting or sawing machines as mentioned in the original licence proposed to be split shall remain the same.

(*5*) The Deputy Conservator of Forests may, on application made to him renew the licence issued under sub-rule *(3)* with effect from the date of its expiry.

(*6*) (*a*) An application for renewal of a license shall be made to the Deputy Conservator of Forests before the expiry of the validity of the licence but not earlier than one month including the date of expiry, and subject to the provisions of this rule, the licence shall be renewed by him without reasonable delay :

Provided that, failure on the part of licensee to make aforesaid application before the expiry of the validity of the licence will render him liable to be dealt with in accordance with section 68 for operating the cutting or sawing machine without a licence.

(*b*) After making the application for the renewal of licence before the expiry of its validity, the applicant or the licensee shall not be liable for any action unless an order is communicated to him under sub-rule (*8*) giving reasons in writing for refusal of the licence.

(*c*) No licence to erect or operate any machinery or saw mill under clause (*ii*) of sub-rule (*1*) shall be granted and no renewal of a licence issued under sub-rule (*3*) shall be done, unless the applicant or the licensee, as the case may be, pays the licence fee of one thousand rupees or the renewal fees at the rate of seven hundred and fifty rupees per cutting or sawing machine to be installed or installed in the saw mills. The licensee shall pay entire renewal fee in advance in one installment.

(*d*) No relocation of any cutting or sawing machine having a valid licence to any other location in the State shall be done except with the prior permission of the Deputy Conservator of Forests when the relocation is to be done within the Forest Division, Chief Conservator of Forests in-charge of the Circle when the relocation is within the Circle, and that of the Principal Chief Conservator of Forests (Head of Forest Force), Maharashtra State, Nagpur, when the relocation is to be done in another Circle :

Provided that, no relocation of a cutting or sawing machine shall be permitted to a place which is less than ten kilometers away from the boundary of a reserved or protected forest except where the saw mill is already located at a place which is less than ten kilometers away from the boundary of such forests and the relocation is being done within the limits of the same Municipal Corporation or Municipality, or within the limits of the same village.

Explanation.— For the purpose of this clause, the distance by road of nearest reserved or protected forest (other than area under lawful non-forestry use or under mangroves), measured at the time of according permission for the relocation of the saw mill, shall be taken into consideration.

(*e*) (*i*) Any person aggrieved by the decision taken under clause (*d*) by the Deputy Conservator of Forests may, within thirty days from the date of communication of such decision to him, appeal to the Chief Conservator of Forests and Chief Conservator of Forests shall, after giving an opportunity to the appellant and the Deputy Conservator of Forests of being heard, pass such order as he may deem fit and the same shall be final.

(*ii*) Any person aggrieved by the order of the Chief Conservator of Forests under clause (*d*) may, within thirty days from the date of communication of such decision to him, appeal to the Principal Chief Conservator of Forests (Head of Forest Force), Maharashtra State, Nagpur, and who shall, after giving an opportunity to the appellant and the Chief Conservator of Forests of being heard, pass such order as he may deem fit, and the same shall be final.

(*iii*) Where Principal Chief Conservator of Forests (Head of Forest Force), Maharashtra State, Nagpur has taken the decision under clause (*d*), the person aggrieved may, within thirty days from the date of communication of the decision to him, appeal to the State Government which shall, after giving an opportunity to the appellant and the Principal Chief Conservator of Forests (Head of Forest Force), Maharashtra State, of being heard, pass such order as it may deem fit, and the same shall be final.

(*f*) Where it is shown to the satisfaction of the licensing authority that the original licence granted under sub-rule (*3*) has been lost, torn or defaced before the expiry of the period of such licence, a duplicate of such licence shall be granted to the licensee on payment of a fee of rupees seven hundred and fifty only.

(*g*) For the purposes below, the fees respectively mentioned against each of them shall be charged as follows :—

(1) for transfer of licence to another person	Rs. 3000 ;
(2) for the relocation of saw mill	Rs. 5000 ;
(3) for transfer of licence to another person together with relocation to other place	Rs. 7500.

(*7*) Notwithstanding anything contained in the foregoing sub-rules, the Deputy Conservator of Forests may, where he has reason to believe that a licensee is operating the saw mill in contravention of the provisions of these rules and the conditions of the licence or the licensee is indulging in activities prejudicial to the interests of forest conservancy, at any time, suspend the licence for a period not exceeding twelve months or revoke the licence granted under these rules without prejudice to any other action which may be or may have been taken under the Act or these rules for such contravention.

(*8*) Where a Deputy Conservator of Forests refuses to issue or renew, or suspends or revokes a licence granted under this rule, he shall do so by an order communicated to the applicant or the licensee, as the case may be, giving reasons in writing for such issuance, refusal, suspension or revocation:

Provided that, no order shall be passed without giving a reasonable opportunity to the applicant or the licensee, as the case may be, of being heard.

(*9*) Any person aggrieved by the order made under sub-rule (*8*), may, within thirty days from the date of communication of such order to him, appeal to the Chief Conservator of Forests, who shall decide the appeal after giving such person and the Deputy Conservator of Forests making the order, an opportunity of being heard and the decision of the Chief Conservator of Forests shall be final.

(*10*) Nothing contained in this rule shall apply,—

(*a*) to the ordinary operations of domestic carpentry or to carpentry units using hand saw or circular saw of not more than twelve inches diameter or any other tool which are not involved in sawing or processing of round timber exceeding twenty-five centimeters girth at the thickest part and undertake re-sawing operations of sawn timber for or without value addition;

(*b*) to conversion of bamboos;

(*c*) to secondary conversion that amounts to slicing of timber, already sawn in a saw-mill lawfully in operation under this rule, by using any tool, implement, or machine whether hand or power driven as an ancillary activity within the premises of that saw mill; or

(*d*) to erection or operation of any cutting or sawing machine, subject to prior intimation to the Deputy Conservator of Forests, for cutting or conversion of timber by a Department of Government of India or the State Government within the premises owned or controlled by it.

J. Exclusion of local areas from applicability of rules.

54. *Local areas to which rules are not applicable to be published.*— The State Government, may by notification in the *Official Gazette* exempt from the operation of the rules contained in this Chapter any local area specified in such notification.

CHAPTER VIII

CONVERSION OF TIMBER OF CERTAIN SPECIES

(Sections 41 and 76)

A. Special provisions for conversion of timber of sandalwood and timber of notified species.

55. *Cutting, conversion of sandalwood without permission prohibited.*— No cutting or fashioning of timber obtained from sandalwood trees or obtained from notified species, or conversion of the same into powder or oil or into any other form shall be done without prior permission of the Chief Conservator of Forests concerned.

56. *Mode of application for permission for conversion of sandalwood.*— An application for the grant of permission under rule 55 for conversion of sandalwood timber or that of notified species shall clearly show the source from which the sandalwood timber or the timber of notified species, as the case may be, has been derived and shall be accompanied by documents proving the applicant's title to the same.

57. *Enquiry to be made by Chief Conservator of Forests.*— On receipt of an application under rule 56, the Chief Conservator of Forests after making such inquiries as he deems necessary regarding the applicant's title to the sandalwood timber or the timber of notified species, as the case may be, shall, issue necessary permission if the timber is found to be belonging to the applicant.

58. *Conditions to be observed by applicant.*— The applicant shall be bound by the conditions contained in the permit issued under rule 57. Such permit shall specify *inter alia* the quantity of sandalwood or the timber of notified species to be converted, the name of the place or places where and the period within which the conversion shall be carried out.

59. *Private property marks to be registered by dealers in sandalwood and timber of other notified species.*— Dealers in sandalwood or in timber of any notified species who desire to sell the timber in wholesale or retail shall get private property marks registered as provided in the rules contained in Chapter VII.

60. *Return of permit.*— On expiry of the period entered in the permit issued under rules 57, it shall be returned to the Chief Conservator of Forests.

B. Conversion of timber other than sandalwood and that of notified species in saw-pits.

61. *Mode of application for conversion of timber other than sandalwood and timber of notified species.*— If the timber obtained from trees other than sandalwood and notified species is sought to be converted at a place to which the provisions of rule 53 are applicable, the applicant shall apply in writing for permission to the Range Forest Officer concerned, giving him the particulars as to the place, time and quantity of timber sought to be converted and such other particulars as may be required by that officer.

62. *Enquires to be made by Range Forest Officer and issue of sawing permit.*— On receipt of an application under rule 61, the Range Forest Officer shall make such enquiry regarding the timber to be converted and the place where the saw-pit is to be erected and on satisfying himself as to the source and ownership of the timber to be converted is not illegally obtained from the forests, he shall issue a sawing permit to the applicant.

63. *Conditions to be observed by applicant.*— The applicant on receipt of the sawing permit shall be bound by the conditions contained therein. Such permit shall specify *inter alia* the quantity of timber to be sawn, name of the applicant to whom the permit is given, the place where the saw-pit is to be erected and the period within which the timber is to be converted.

64. *Return of sawing permit.*— On expiry of the period entered in the sawing permit issued under rule 62 the applicant shall return the same to the Range Forest Officer.

Explanation .— In this Chapter the term "notified species' refers to the same species that are notified under rule 37 by the State Government.

CHAPTER IX

DRIFT AND STRANDED TIMBER

(Section 51)

65. *Collection of drift and stranded timber and disposal thereafter.*— (*1*) Any person may collect timber of any of the descriptions set forth in section 45 and, pending the bringing of the same to the proper depot for the reception of drift-timber, may keep the same in his own custody, but he shall report his having done so within twenty four hours to the nearest Forest-officer.

(2) The Forest-officer in charge of the range in which the timber has been found shall, pending completion of the proceedings under sections 45 to 47, take possession of the timber and unless in his opinion the probable proceeds of the sale of timber are not likely to exceed the cost incurred on collecting it together with the probable cost of conveying it to a depot appointed for the reception of drift timber, he shall convey the timber to such depot.

66. *Registration of boats for salving and collecting timber.*— Any person may register in the office of the Chief Conservator of Forests one or more boats for use in salving and collecting timber on payment of a fee of one hundred rupee for each boat. Such registration shall hold good for the period of one year only but may be renewed from year to year.

67. *Person collecting timber entitled to recompense.*— Every person whether a Forest-officer or not, who collects such timber, shall, regard being had to the amount spent and efforts made by him for such collection be entitled to receive a recompense,—

(*1*) not exceeding 50 per cent. of the amount realized by the Government by sale of such timber after deducting the cost, if any, incurred by the Government for such sale and for storage, if the timber collected proves to be the Government property; and

(2) not exceeding 50 per cent. of the estimated value, if the timber collected proves to be the property of any person other than the Government.

The amount of such recompense and estimated value shall be determined and paid,—

(a) where such amount does not exceed fifty thousand rupees by such officer, not below the rank of a Deputy Conservator of Forests, as the State Government may authorize in this behalf, and

(b) in any other case, by the Principal Chief Conservator of Forests (Head of Forest Force), Maharashtra State.

68. *When collected timber belongs to private person such persons to pay all costs.*— If the timber collected shall be proved to be the property of any person other than the State Government, such person shall be liable to pay to the State Government under section 50 of the Act the following amounts that is to say :—

(*1*) on account of salving and collecting, the actual amount of recompense paid to the person who collected it;

(2) on account of moving, the actual cost incurred in moving it to the depot for the reception of drift timber;

(*3*) on account of storing, such fees as shall, from time to time be fixed by the Chief Conservator of Forests with the prior sanction of the Principal Chief Conservator of Forests (Head of Forest Force) for the storing of timber at such depot.

69. *No person other than authorized Forest-officer to mark timber.*— No person other than Forest-officer authorized in this behalf by the Chief Conservator of Forests shall mark any timber to which the rules in this Chapter apply.

CHAPTER X

POWERS AND DUTIES OF FOREST OFFICER AND REVENUE OFFICER.

[Section 76 (a)]

70. *Principal Chief Conservator of Forests (Head of Forest Force), his powers and duties.*— (*1*) The Principal Chief Conservator of Forests (Head of Forest Force) shall be the head of the Forest Department and the technical advisor to the State Government in all matters relating to forest and Wild Life.

(*2*) He is empowered to deal on his own authority with technical questions such as the operation of sanctioned working plans, fire protection and silvicultural operations generally, and with matters regarding which powers have been specifically delegated to him.

(*3*) In regard to all technical and professional matters he will be the controlling authority over the Principal Chief Conservators of Forests, Additional Principal Chief Conservators of Forests, and Chief Conservators of Forests and he shall be an advisor on policy matters for the State Government and provider of guidance on forestry matters to the Divisional Commissioners, as the case may be.

71. *Powers of Chief Conservator of Forests.*— Subject to various provisions of these rules and subject to the instructions issued by the Principal Chief Conservator of Forests (Head of Forest Force) from time to time, each Chief Conservator of Forests in his own Circle shall be responsible for directing all technical forestry operations.

72. *Chief Conservators of Forests to control Forests-officers.*— Except in so far as is otherwise contained in the orders of the State Government, the departmental control over all Forests-officers in a Circle vests in the Chief Conservators of Forests of that Circle subject to the control of the Principal Chief Conservator of Forests (Head of Forest Force).

73. *Procedure regarding departmental communications.*— In matters relating to departmental finance or to appointment, transfer or leave of establishment, and those mentioned in rule 70, as matters to be dealt with by the Principal Chief Conservator of Forests (Head of Forest Force) on his own authority, the Chief Conservators of Forests shall address all communications to the Principal Chief Conservator of Forests (Head of Forest Force).

74. *Deputy Conservator of Forests.*— All Assistant Conservators of Forests and subordinate personnel shall, in all administrative and technical matters, work under the Deputy Conservator of Forests subject to the general power of control vested in the Chief Conservator of Forests and the Principal Chief Conservator of Forests (Head of Forest Force).

75. *Powers of Collector and Deputy Conservator of Forests regarding local supply, public rights, pastures, etc.*— *(1)* In all matter relating to supply of forest-produce including grass for the domestic and agricultural requirements of the villagers, grazing and the rights and privileges of the people in or in respect of forests, orders shall be issued by the Deputy Conservator of Forests in consultation with the Collector concerned.

(*2*) The management and control of the pastures and fodder reserves handed over to the Revenue Department vests exclusively in the Collector subject to the orders of the Divisional Commissioner and of the State Government. In this respect, the Chief Conservator of Forests and the Deputy Conservator of Forests are to act in the capacity of consultative officers advising and giving their opinions on all questions of a technical character that may be referred to them by any of the said authorities.

76. *Forest compartment not to be closed except under the orders of the Collector.*— No forest compartment shall be closed for planting or reboisement or for punitive purposes, except under the order or with the approval of the Collector concerned.

This rule shall not apply to the closure in accordance with the provisions of a Working Plan in respect of such compartments where no rights exist.

77. *Certain cases to be informed to Collector.*— Subject to any instructions which may be given by the Government in this behalf, the Collector shall be kept informed by the Deputy Conservator of Forests on following subjects as and when necessary :—

(i) Sanction of Working Plans,

(ii) Forest settlements,

(iii) Constitution of Reserve Forests and Protected Forests,

(iv) Rights and privileges and fixation of grazing fees,

(v) Closure of forest areas in respect of grazing or other privileges,

(vi) Annual Administration Report,

(vii) Recovery of forest revenue or outstanding under section 82, and of penalties due under bond under section 85 of the Act,

(viii) Supply of fire-arms,

(ix) Civil suits,

(x) Thefts of Government money,

(xi) Assistance of Police and Revenue officers in enforcing the provisions of the Act.

78. *Order of Forest-officer to village-officer to be ordinarily sent through Tahsildar.*— Orders by Forest-officers to village-officer shall ordinarily be sent through the Tahsildar to whom the village-officers are subordinate. In case of exigency, the orders may be sent directly to the village-officer and the copy of the same may be sent to the Tahsildar concerned.

79. *Forest guards not to leave beat for report to Revenue or police officer.*— No revenue or police officer shall call a forest guard off his beat, nor shall a forest guard leave his beat in order to report himself to such officer.

80. *Action to be taken when felling of a compartment is delayed beyond due time.*— *(1)* If it becomes necessary to delay the felling of a compartment beyond the time at which such felling would, according to regular rotation, be due, the Deputy Conservator of Forests shall, subject to the orders of the Chief Conservator of Forests and the Principal Chief Conservator of Forests (Head of Forest Force) as regards deviations from sanctioned Working Plans, and in consultation with the Collector when necessary under rule 75, make arrangements for meeting the requirements of villagers in the locality.

(2) For such purpose the villagers may, if necessary, and if no other arrangement is practicable, be permitted to enter the compartment the felling whereof has been so delayed and lop for themselves under the supervision of a forest subordinate appointed for the purpose by the Deputy Conservator of Forests, the material to which, they would have been entitled to under normal circumstances.

CHAPTER XI

Contacts

[(Sections 76 (d) and 85]

81. *Persons entering into contract with Forest-officers execute written instrument to perform contract and to pay expenses in case of breach.*— Whoever enters into any contract with any Forest-officer acting on behalf of the Governor of Maharashtra, shall, if so required by such Forest-officer, bind himself by a written instrument to perform such contract and to pay to such Forest-officer acting on behalf of the Governor of Maharashtra the expenses necessary for or incurred in the execution of any work or thing to be done which he has bound himself but has failed to do.

Explanation.— A person, who makes a written tender for a contract, or who signs the conditions of an auction sale at which he is a bidder, such tender or conditions of sale being on or in a form furnished by a Forest-officer for that purpose, whereby he—

(a) binds himself to perform the contract for which he tenders or bids, in the event of his tender or bid being accepted, or

(b) binds himself not to withdraw his tender or bid during the time that may lapse before its acceptance or refusal is communicated to him, shall be deemed to have been required by such Forest-officer to bind himself as aforesaid, and

(*i*) in case (a), on the acceptance of his tender or bid, or

(*ii*) in case (b), on the making of his tender or bid,

to have bound himself accordingly, within the meaning of this rule and any such person need not enter into a separate written instrument, for the purpose, unless specially so required by the Forest-officer with whom he contracts.

CHAPTER XII

PENALTIES AND REWARDS

[Sections 42, 51 and 76 (b)]

82. *Penalties for breach of certain rules.*— *(1)* Whoever contravenes the provisions of rules 10, 31, 35, 36 *(3)* to *(7)*, 37, 40, 41, 45 to 47, 49, 50 *(2)*, 51, 53, 58, 60, 61, 63 to 65 or 69 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

(2) The penalties double of those mentioned in sub-rule *(1)* may be inflicted in cases, as may be applicable, where the offence is committed after sunset and before sunrise and also in cases where it is committed after preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence.

83. *Rewards out of fines and confiscations.*— A Chief Conservator of Forests or a Deputy Conservator of Forests empowered by the Chief Conservator of Forests in this behalf, and in the case of reserved or protected forests under the management of the Revenue Department, the Collector of the district may authorize payment by way of reward of such sum as he deems fit out of the fund recovered or the proceeds of property confiscated under the Act, to any person by whose assistance the conviction was obtained or the property liable to confiscation discovered :

Provided that, except in any case where the Magistrate otherwise directs, the aggregate amount of rewards paid under this rule shall not exceed one-half of the net proceeds of the fine or confiscation.

84. *Saving.*—Subject to provisions contained in these rules regarding suspension or revocation, the saw mill licenses renewed under the previous Rules superseded by these rules, shall continue to remain legally valid for the period they have been already renewed.

Explanation.— A person, who makes a written tender for a contract, or who signs the conditions of an auction sale at which he is a bidder, such tender or conditions of sale being on or in a form furnished by a Forest-officer for that purpose, whereby he—

(a) binds himself to perform the contract for which he tenders or bids, in the event of his tender or bid being accepted, or

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SCHEDULE A

[*See* rule 10(4)]

Maharashtra Forest Department

PASS BOOK OF RIGHTS OR PRIVILEGES*

In Reserved Forests

Passport size photo duly attested by Chairman or Secretary ofJoint Forest Management Committee.

Pass Book No:—

Name of Forest Division :— District :—

Name of the Right Holder :— Taluka :—

(alongwith spouse if any) Village :—

Right holder's ID No :— Village Panchayat :—

Sr. No.	Compartment Number or Survey Number or Gat Number or in which Rights allowed	Type of forest-produce permitted to be collected and removed annually	Quantity or Number annually permitted	Date of collection	Quantity or Number collected from the forest area	Balance (4-6)	Initials of the authorized forest officer
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

1. Above form shall be filled on the basis of the rights continued under clause (*c*) of sub-section (*2*) of section 15 of the Indian Forest Act, 1927 or confirmed in Annexure-III under rule 8 (*h*) with regard to title to Community Forest Rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Rules, 2007 or under any other law or privileges granted by the State Government. The exercise of these rights shall be subject to the conditions specified.

2. A copy of this Pass-Book shall be maintained as a register in the Division Office and shall be updated regularly.]

* Strike off which is not applicable.

SCHEDULE B

[*See* rule 10(5)]

Maharashtra Forest Department

Permit to exercise Rights or Privileges*

In Reserved Forests.

Name of Division :—

Name of Range :—

(Forest Department Copy)

[Rights or Privilege to be exercised subject to Rule 10]

Name of the Right or Privilege holder :-

ID No :—

Sr. No.	Compartment No. or Survey Number or Gat Number	Type of forest-produce allowed under this permit	Quantity or Number	Date
(1)	(2)	(3)	(4)	(5)

CUT HERE

(Right or Privilege holder's copy of permit)

[Right or Privilege to be exercised subject to rule 10]

Name of the Right or Privilege holder :—

I D No :-

Sr. No.	Compartment No. or Survey Number or Gat Number	Type of forest-produce allowed under this permit	Quantity or Number	Date
(1)	(2)	(3)	(4)	(5)

Signature or Thumb impression of the Right or privilege holder

Signature of issuing, Forest-officer.

* Strike off which is not applicable.

SCHEDULE C

[*See* rule 10(8)]

(To be kept in Division Office)

Maharashtra Forest Department

Register of Rights or Privileges*
in Reserved Forests.

Name of Division :—

Name of Range :—

Name of District:—

Name of Taluka:—

Name of Village:—

Name of Village Panchayat :—

Sr. No.	Right holder's ID Code	Name of Right holder alongwith name of father or spouse	Schedule Caste or Schedule Tribes, other Traditional Forest Dwellers or others	Nature of Rights	Survey Number or Gat Number or Compartment Number on which rights to be exercised (alongwith description of Boundaries)	Quantity annually permitted	Condition (if any)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

1. Separate registers shall be maintained for Rights as well as Privileges.
2. Updating of this statement shall be done at least once in a year.

*Strike off which is not applicable

SCHEDULE D

(*See* rule 19)

Part-I

Statement showing the species for the entire State of Maharashtra.

Sr. No. (1)	Local name (2)	Botanical name (3)
1	Am, Amba, Mango	*Mangifera indica*
2	Kowha, Arjun Sadada	*Terminalia arjuna*
3	Awala, Awali, Avali	*Phyllanthus emblica*
4	Ain, Sadada, Saja	*Terminalia alata*
5	Bel	*Aegle marmelos*
6	Bijasal,Bija	*Pterocarpus marsupium*
7	Bhokar, Shelute, Lasora	*Cordia myxa*
8	Chandan,Sandal wood	*Santalum album*
9	Ghont,Ghatbor	*Zizyphus xylopyra*
10	Haldu, Hed	*Haldina cordifolia*
11	Karra, Hirda	*Terminalia chebula*
12	Khair	*Acacia catechu*
13	Karanji, Karanj	*Pongamia pinnata*
14	Kawit (Kaith), Kavath	*Feronia elephantum.*
15	Moh, Mowhva, Moha	*Madhuca latifolia*
16	Palas	*Butea frondosa (syn. Butea monosperma)*
17	Sag, Sagwan (Teak)	*Tectona grandis*
18	Shisham (Rosewood)	*Dalbergia latifolia*
19	Sindi, Shindhi	*Phoenix sylvestrix*
20	Khamar (Sewan), Shivan	*Gmelina arborea*
21	Dumer, Umbar	*Ficus recemosa*
22	Barbanyan, Vad	*Ficus bengalensis*
23	Gindol, Kulu, Kandol, Kadai	*Sterculia urens*
24	Surya, Jambha	*Xylia xylocarpa*

Part-II

Statement showing the species common to Vidarbha and Konkan regions.

Sr. No. (1)	Local name (2)	Botanical name (3)
1	Behera, Behada	*Terminalia bellirica*
2	Bhilawa, Biba	Semicarpus anacardium
3	Jamun, Jambhul	Syzygium cumini
4	Kusum (Koshimb)	Schleichera oleosa
5	Tinsa, Tiwas	Ougeinia delbergioides Syn. Ougoinia oojensis

Part-III

Statement showing the species common to Vidarbha and Western Maharashtra regions including Marathwada region.

Sr. No. (1)	Local name (2)	Botanical name (3)
1	Anjan	Hardwickia binata
2	Neem	Azadirachta indica
3	Pipal, Peempal	Ficus religiosa
4	Sitaphal	Annona squamosa
5	Tendu	Diospyros melanoxylon

Part-IV

Statement showing the species common to Konkan and Western Maharashtra regions including Marathwada region.

Sr. No. (1)	Local name (2)	Botanical name (3)
1	Bamboo	Dendrocalamus strictus
2	Behada	Terminalia bellerica
3	Bor	Ziziphus jujuba Syn. mauritiana
4	Char, Charoli	Buchnania lanzan
5	Chinch	Tamarindus indica
6	Dhaman	Grevia tiliaefolia
7	Dhavda	Anogeissus latifolia
8	Dikemali	Gardenia lucida
9	Kalam, Kalamb	Mitragyna parviflora
10	Pandhara khair, Kanti, Khair (son/ pandhara)	Acacia feruginea
11	Sawar	Bombax malabarica/ ceiba Syn. Salmalia malabarica.

Part-V

Statement showing the species exclusively in Vidarbha region.

Sr. No. (1)	Local name (2)	Botanical name (3)
1	Achar, Char	Buchanania lanzan
2	Babul	Acacia arabica
3	Bamboos	
4	Bhirra	Chloroxylon swietenia
5	Imali	Tamarindus indica
6	Kadam	Anthocephalus cadamba
7	Palms	
8	Rohan	Soymida fabrifuga
9	Semal	Bombax malabaricum
10	Toon	Cedrela toona

Part-VI

Statement showing the species exclusively in Konkan region.

Sr. No. (1)	Local name (2)	Botanical name (3)
1	Ashi, Ai	Moringa tinctoria
2	Apta	Bauhinia recemosa
3	Asana	Bridelia retusa
4	Bhor-Jambul	Ammania baccifera
5	Bava, Bhava	Cassia fistula
6	Chera	Erinocarpus nimmognus
7	Fanas	Artocarpus integrifolia.
8	Kaju	Anacardium occidentale
9	Kharshing	Stereospermum xylocarpum
10	Khavas	Sterculia colorata
11	Kokam, Ratambi	Garcinia indica
12	Kura	Ixora parviflora (Syn. Ixora arborea)
13	Lokhandi	Ixora nigricans
14	Mangrove species locally known as *kharfuti* or *khazan* or *Tiwar* or *Kandal*	(i) Acanthus ilicifolius- Shore purslane (ii) Acrostichum aureum-Mangrove fern (iii) Aegiceras corniculatum- River mangrove. (iv) Avicennia marina- Grey mangrove (v) Avicennia officinalis -Grey mangrove (vi) Bruguiera cylindrica -Orange mangrove (vii) Bruguiera gymnorhiza -Broad leaf orange mangrove (viii) Ceriops tagal -Spur mangrove (ix) Cynometra iripa -Wrinkled Pod mangrove (x) Dolichandrone spathacea -Mangrove Trumpet Tree (xi) Excoecaria agallocha-Milky mangrove (xii) Heritiera littoralis -Looking Grass mangrove (xiii) Kandelia candel (xiv) Lumnitzera racemosa (xv) Rhizophora apiculata -Red mangrove (xvi) Rhizophora mucronata- Red mangrove (xvii) Sonneratia alba -Mangrove apple (xviii) Sonneratia apetala -Mangrove Apple (xix) Sonneratia caseolaris (xx) Xylocarpus granatum -Cannonball mangrove.
15	Mokha	Schrebera swietenioides
16	Nana	Lagerstroemia microcarpa

(1)	(2)	(3)
17	Nandruk	Ficus retusa
18	Pangara	Erythrina indica Syn. Murraya paniculata
19	Phasi	Dalbergia paniculata
20	Raktarohida	Maba nigrescene
21	Ritha	Sapindus emarginata
22	Shemal	Odina wodier Syn. Lannea coromandelica.
23	Shenkhair	Acacia siamia Syn. Linnea coromandelica
24	Shendri or Kamala	Mellotus phillipinensis
25	Tembhurni, Tendu	Diospyros melanoxylon
26	Tetu	Oroxylum indicum
27	Toddy plant	Borasus flabellifer

Part-VII

Statement showing the species exclusively in Western Maharashtra including Marathwada region.

Sr. No. (1)	Local name (2)	Botanical name (3)
1	Bhendi	Thespesia populanea
2	Gorakh chinch	Adansonia digitata
3	Hingan	Balanities roxburghii
4	Hiwar	Acacia leucophloea
5	Kashid	Cassia siamea
6	Kajarba, nirmali	Strychnos potatorum
7	Kanchan	Bauhinia malabarica
8	Khair (lal)	Acacia chundra
9	Kinhi	Albizzia procera
10	Kumbha	Careya arborea
11	Lokhandi	Ixora nigricuns
12	Medsing	Dolichandrone falcuta
13	Maharukh	Ailanthus excelsa
14	Murmati	Acacia emburnea
15	Pangara, Mandar	Erythrina indica
16	Ritha	Sapindus smarginata
17	Salai	Boswellia serrata
18	Shammi, Soundal	Prosopis spicigera
19	Vedi Babhul	Prosopis juliflora

SCHEDULE 'E'

(*See* Rule 53 of the Maharashtra Forest Rules, 2014)

Passport size Photo of the Licensee be pasted here

License No. : .....

ID No. : .....

LICENCE TO ERECT OR OPERATE MACHINERY OR SAW MILL FOR CUTTING OR CONVERTING TIMBER

License is hereby granted to Shri / Smt. .....,

(Full name in BLOCK LETTERS)

son / daughter / wife* of .....

proprietor/partner/director/karta of HUF* of .....

..... resident of

(write full residential address) .....

.....

.....

(hereinafter referred to as licensee) to erect machinery or operate saw mill for cutting and converting of timber at following address :—

(*a*) Address of the saw mill.—

(*i*) Name of the saw mill .....

(*ii*) Plot number or survey Number .....

(*iii*) Name of locality .....

(*iv*) Name of city / town / village .....

(*v*) Taluka and District with PIN Code .....

(vi) Telephone Nos. : Land line ..... Mobile .....

(*b*) The saw mill is surrounded by :

(*i*) To the East .....

(*ii*) To the West .....

(*iii*) To the South .....

(*iv*) To the North .....

---

* Strike off which is not applicable

subject to the conditions as follows :—

Conditions

1. This license shall remain in force for the period commencing on ..... and ending on the ..... .

2. The licensee may erect and operate machinery of the following description required for cutting or converting of timber in the saw mill :

Sr. No.	Description of machine (kind of saw *i.e.* horizontal, vertical, circular, other machinery)	Size	Number
(1)	(2)	(3)	(4)

3. The licensee shall not alter the location of the saw mill without obtaining the prior written permission of the Deputy Conservator of Forest concerned.

4. The licensee shall maintain such registers and submit such periodical returns as may be directed by the Deputy Conservator of Forest within whose jurisdiction the saw mill is located.

5. The licensee shall ensure that —

(*a*) the site of the saw mill including the yards for storage of round timber, sawn timber and waste wood is enclosed within a fence with proper gates.

(*b*) all the round timber, sawn timber and wood waste is properly stacked according to the instructions that may be issued from time to time by the supervisory staff so as to facilitate verification.

(*c*) timber for sawing or conversion is not accepted unless it bears property mark and is covered by a forest transit pass or other documentary evidence such as a cash receipt, tax invoice etc.

(*d*) timber which does not confirm to the requirement of clause (*c*) is not accepted for conversion and intimation in respect of such timber is forthwith given to the supervisory Forest Guard or the nearest Forest-officer.

(*e*) the saw mill as well as the timber stored within the premises of the saw mill shall remain available for inspection at all times by any officer of the Forest Department or by any member of the supervisory staff appointed for this purpose.

(*f*) the license and the registers maintained under condition 4 above are produced for inspection on demand by any authority aforesaid.

(*g*) the saw mill shall not be operated between sunset and sunrise without a valid written permission from the Licensing Authority. However, in case the saw mill licensee feels that the saw mill is required to be operated during this period in order to complete customer's urgent work or for any other reason, then he shall apply in advance in writing to the Licensing Authority and obtain his advance written permission. He shall also note the time and date of operating the saw mill during the said period in the Remarks Column of the Register to be maintained in the saw mill :

Provided that, for the saw mills situated within the limits of any Municipal Corporation or Municipality, it will be sufficient for the licensee to give advance information to the concerned Range Forest Officer and the Licensing Authority in respect of the dates and the timings during which he intends to operate the saw mill between sunset and sunrise.

6. The licence shall be transferable in terms of the provisions contained in clause (*c*) of sub-rule (*4*) of rule 53 of Maharashtra Forest Rules, 2014.

Dated : .....
Place : .....

Seal of the Deputy Conservator of Forest

(Name and signature)
Deputy Conservator of Forest
..... Forest Division.

Name, age, address and Telephone No. of the nominee of licensee, if any,

Dated : .....
Place : .....

(Name and signature)
Deputy Conservator of Forest
..... Forest Division.

By order and in the name of the Governor of Maharashtra,

SANJEEV GAUR,
Joint Secretary to Government

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RNI No. MAHBIL/2009/31733

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-अ

बर्ष ५, अंक ८६ (३)] गुरुवार, ऑगस्ट १, २०१९/श्रावण १०, शके १९४१ [पृष्ठे २६, किंमत : रुपये १५.००

असाधारण क्रमांक १९३

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने केंद्रीय अधिनियमांन्वये तयार केलेले
(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

महसूल व वन विभाग
मादाम कामा मार्ग, हुतात्मा राजगुरू चौक,
मंत्रालय, मुंबई ४०० ०३२, दिनांक १ ऑगस्ट २०१९

अधिसूचना

भारतीय वन अधिनियम, १९२७.

क्रमांक एस-१०/२०१६/प्र.क्र.१३३/फ-३.—भारतीय वन अधिनियम, १९२७ (१९२७ चा १६) कलम २६, ३२ व ७६ मधील शक्ती आणि इतर सर्व शक्तींचा वापर करून, महाराष्ट्र शासन, महाराष्ट्र वन नियमावली, २०१४ यात सुधारणा करण्यासाठी याद्वारे, खालील नियम करीत आहे :—

१. या नियमांना महाराष्ट्र वन (सुधारणा) नियमावली, २०१९ असे म्हणावे.

२. महाराष्ट्र वन नियमावली, २०१४ (यात यापुढे जिचा निर्देश "मुख्य नियमावली" असा केला आहे) याच्या नियम १० मधील उप-नियम (१०) मधील स्पष्टीकरण वगळण्यात येईल.

३. मुख्य नियमांच्या प्रकरण-सहा नंतर, पुढील प्रकरण समाविष्ट करण्यात येईल :—

" प्रकरण (VI - अ) "

अनुसूचित जमाती व इतर पारंपरिक वन निवासी (वन हक्कांची मान्यता) अधिनियम, २००६ च्या तरतुदींन्वये वन हक्कांची नोंद करणे आणि वनजमिनीचे वळतीकरण करणे (कलम २६ व ३२)

३०- ए व्याख्या : (१) या प्रकरणाच्या व त्यात निर्दिष्ट केलेल्या अनुसूचीच्या प्रयोजनार्थ, संदर्भानुसार अन्यथा दुसरा अर्थ आवश्यक नसेल तर,—

(अ) "जिल्हास्तरीय समिती" याचा अर्थ वन हक्क अधिनियमाच्या कलम ६ च्या उप-कलम (५) अन्वये गठित केलेली जिल्हास्तरीय समिती, असा आहे ;

(ब) "वन हक्क अधिनियम" याचा अर्थ, अनुसूचित जमाती व इतर पारंपरिक वन निवासी (वन हक्कांची मान्यता) अधिनियम, २००६ (२००७ चा २), असा आहे.

(२) या प्रकरणात व यात निर्दिष्ट केलेल्या अनुसूचीत वापरलेले परंतु यात व्याख्या न केलेल्या शब्द व शब्दप्रयोग यांना, वन हक्क अधिनियमात अनुक्रमे जो अर्थ नेमून देण्यात आला असेल तोच अर्थ असेल.

३० - बी वनहक्क अधिनियमाखालील वन हक्कांची नोंद करणे .— नियम १० व ३० यांमध्ये काहीही अंतर्भूत असले तरी वनहक्कधारकाच्या बाबतीत जेव्हा वन हक्क अभिलेखास जिल्हास्तरीय समितीकडून अंतिमत: मान्यता दिली जाते तेव्हा, अशा प्रकरणांमध्ये वनहक्क अधिनियमाच्या तरतुदींन्वये वनजमिनीमध्ये मान्य केलेले आणि निहित केलेले वन हक्क या प्रकरणात अंतर्भूत केलेल्या तरतुदी अनुसार नोंदविण्यात येतील व परिरक्षित करण्यात येतील.

३० - सी वैयक्तिक वनहक्कांची नोंदवही .—उप वनसंरक्षक हा, वनहक्क अधिनियमाच्या तरतुदींन्वये जिल्हास्तरीय समितीने वन जमिनीतील कोणत्याही व्यक्तींच्या बाबतीत मान्य केलेल्या व निहित केलेल्या सर्व वनहक्कांचा तपशील अंतर्भूत असणाऱ्या अनुसूची-एफ मध्ये दिलेल्या नमुन्यात "वैयक्तिक वनहक्कांची नोंदवही" ठेवतील.

३० - डी सामूहिक वन हक्कांची नोंदवही .— उप वनसंरक्षक हा, वन हक्क अधिनियमाच्या तरतुदींन्वये जिल्हास्तरीय समितीने वन जमिनीतील सामूहिक वन हक्क म्हणून व्यक्तींच्या, गटाच्या बाबतीत मान्य केलेल्या व निहित केलेल्या सर्व वन हक्कांचा तपशील अंतर्भूत असणाऱ्या अनुसूची-जी मध्ये दिलेल्या नमुन्यात "सामूहिक वन हक्कांची नोंदवही" ठेवतील.

३० - इ स्वत: लागवड करण्याच्या वन हक्कांचा वापर करण्याबाबतची नोंदवही .— वनपरिक्षेत्र अधिकारी हा, स्वत: किंवा इतर कोणत्याही दुय्यम अधिकाऱ्यामार्फत लागवडीच्या प्रत्येक हंगामामध्ये स्वत: लागवड करण्याच्या वन हक्काच्या वापराचे नियमितपणे संनियंत्रण करतील.

आणि अनुसूची-एच मध्ये दिलेल्या नमुन्यात "स्वत: लागवड करण्याच्या वन हक्कांचा वापर करण्याबाबतच्या नोंदवही मध्ये" निरीक्षणे नोंदवतील. वन परिक्षेत्र अधिकारी, लागवडीच्या प्रत्येक हंगामामधील वन हक्कांचा वापर करण्याबाबतचा सर्वसमावेशक अहवाल उप वनसंरक्षकांकडे सादर करतील.

३० - एफ वन हक्काच्या अमान्य केलेल्या दाव्यांची नोंदवही .— उप वनसंरक्षक हा, वनहक्क अधिनियमाच्या तरतुदींअन्वये अमान्य केलेल्या वन हक्कांच्या सर्व दाव्यांचा तपशील अनुसूची-आय मध्ये दिलेल्या नमुन्यात "वन हक्क अमान्य केलेल्या दाव्यांची नोंदवही" ठेवतील.

३० - जी वन हक्क अभिलेखाच्या प्रती देणे :— उप वनसंरक्षक याच्या दर्जापेक्षा कमी दर्जा नसलेल्या प्रभारी वन अधिकाऱ्यांने याबाबतीत अशाप्रकारे प्राधिकृत केलेले असेल तर, वन परिक्षेत्र अधिकारी किंवा लेखापाल किंवा वनपालाच्या दर्जापेक्षा कमी दर्जाची नसलेली कोणतीही व्यक्ती, या नियमांमध्ये विहित केलेल्या नोंदवह्यांमध्ये ठेवल्याप्रमाणे वेळोवेळी अद्ययावत केलेल्या नोंदीनुसार अनुसूची-जे मध्ये दिलेल्या नमुन्यातील "वनहक्कांचे दस्ताऐवज" कोणत्याही वन हक्कधारकास, त्याच्या लेखी अर्जावरून देईल. वन हक्कांचे दस्तऐवज, एका वित्तीय वर्षात पाच प्रतींपर्यंत, विनामूल्य देण्यात येतील.

३०—एच वारसाहक्काने वनहक्कांचे हस्तांतरण आणि त्याबाबतची फेरफार नोंदवही .— (१) जर या प्रकरणामध्ये विहित केलेल्या नोंदवह्यांपैकी कोणत्याही नोंदवहीत नोंद केलेल्या कोणत्याही वन हक्कांचे वनहक्क अधिनियमाच्या तरतुदींनुसार वारसाहक्काने हस्तांतरण करावयाचे असेल तर, वन हक्कांचा वारसाहक्क असणारी व्यक्ती, त्या वनांच्या प्रभारी वन परिक्षेत्र अधिकाऱ्यांकडे वारसा हक्काच्या दाव्यास पुष्टी देणाऱ्या, ग्रामसभेने संमत केलेल्या ठरावासह लेखी अर्ज करील. वन हक्कांच्या फेरफाराच्या आदेशासाठी अर्ज, संबंधित प्राधिकृत सहायक वन संरक्षकाकडे पाठविण्यात येईल.

(२) मुख्य वनसंरक्षक / वनसंरक्षक त्या वन विभागामध्ये असे फेरफार आदेश संमत करण्यासाठी त्या वन विभागात सेवा बजावणाऱ्या एका किंवा अधिक सहायक वन संरक्षकांना प्राधिकृत करू शकतील.

(३) वन हक्कांच्या फेरफाराच्या सर्व आदेशांची अनुसूची-के मध्ये दिलेल्या नमुन्यातील "वैयक्तिक वन हक्काच्या फेरफाराची नोंदवही" यामध्ये किंवा, यथास्थिती, अनुसूची-एल मध्ये दिलेल्या नमुन्यातील "सामूहिक वन हक्कांच्या फेरफाराची नोंदवही" यामध्ये नोंद करण्यात येईल.

(४) या नियमांनुसार ठेवण्यात झालेल्या नोंद वह्यांमधील संबंधित नोंदी उक्त नोंदवह्यांमध्ये वन हक्क उत्तराधिका-यांची नावे आणि इतर संबंधित तपशील समाविष्ट करण्यासाठी फेरफार आदेशांनुसार रितसर अद्यावत करण्यात येतील.

३० - आय फेरफार नोंदीमधील दुरुस्त्या .— न्यायालयीन आदेश किंवा उत्तराधिकार प्रमाणपत्र मिळाल्यावर न्यायालयीन आदेशानुसार किंवा उत्तराधिकार प्रमाणपत्रानुसार फेरफार नोंदीमध्ये तत्परतेने दुरुस्ती करण्यात येईल.

३० - जे अपील .— या नियमान्वये सहायक वन संरक्षकाने संमत केलेल्या फेरफार आदेशाद्वारे व्यथित झालेल्या कोणत्याही व्यक्तीस, उप वनसंरक्षकाकडे अपील करता येईल.

३० - के राखीव व संरक्षित वनांच्या नोंदवहीचा अविभाज्य भाग .— या प्रकरणान्वये ठेवलेल्या वन हक्क नोंदवह्यांना ह्या वन विभागाने ठेवलेल्या राखीव व संरक्षित वनांच्या नोंदवहीचा अविभाज्य भाग असल्याचे समजण्यात येईल.

३० - एल सुखसुविधांसाठी वन जमिनीचे वळतीकरण (अन्य वापर) .— उप वनसंरक्षक हा, अनुसूची-एम मध्ये दिलेल्या नमुन्यातील "वन हक्क अधिनियमाखालील सुखसुविधांसाठी वळती केलेल्या वन जमिनींची नोदवही" ठेवील, ज्यात वनहक्क अधिनियमाच्या कलम ३ च्या उप कलम (२) च्या तरतुदीनुसार वन जमिनीच्या वळतीकरणाचा तपशील नोंदवण्यात येईल.

३० — एम वन (संवर्धन) अधिनियम, १९८० अन्वये वन जमिनीचे वळतीकरण करणे .— उप वनसंरक्षक हा, अनुसूची-एन मध्ये दिलेल्या नमुन्यातील "वन (संवर्धन) अधिनियम, १९८० अन्वये वळती केलेल्या वन जमिनीची नोंदवही" ठेवील, ज्यात वन (संवर्धन) अधिनियम, १९८० (१९८० चा ६९) याच्या तरतुदीनुसार वन जमिनीच्या वळतीकरणाचा तपशील नोंदविण्यात येईल.

४. मुख्य नियमांच्या अनुसूची-अे मधील तक्त्या खालील परिच्छेद १ ऐवजी पुढील परिच्छेद दाखल करण्यात येईल :—

"१ सदर प्रपत्र, भारतीय वन अधिनियम, १९२७ (१९२७ चा १६) याच्या कलम १५ च्या उप-कलम (२) च्या खंड (क) अन्वये पुढे चालू करण्यात आलेल्या हक्कांच्या किंवा राज्य शासनाने मंजूर केलेल्या कोणत्याही सवलतींच्या आधारे भरण्यात येईल. या हक्कांचा किंवा सवलतींचा वापर त्यांसाठी विनिर्दिष्ट केलेल्या शर्तींना अधीन राहून करण्यात येईल."

५. मुख्य नियमावलीच्या अनुसूची-ई नंतर पुढील अनुसूची जादा दाखल करण्यात येतील :—

अनुसूची एफ

(नियम ३० सी पहा)

वैयक्तिक वनहक्कांची नोंदवही

जिल्हा _____ वन विभाग _____

तालुका _____ वन परिक्षेत्र _____

अ. क्र. (१)	गाव (किंवा जवळचे गाव) भारतीय सर्वेक्षण पत्रिकेचा क्रमांक १:५०,००० परिमाण. (२)	वनक्षेत्राचे नियतक्षेत्र कायदेशीर दर्जा आणि स्थल निर्देश (वन खंड/ गट/ सर्वे क्र.) (३)	वनहक्काच्या मान्यतेचा आदेश क्रमांक व दिनांक (४)	वनहक्क धारकाचे नाव व १३ अंकी संकेतांक (५)	अनुसूचित जमाती/इतर पारंपारिक वन निवासी (६)	मंजूर केलेल्या वनहक्कांचे क्षेत्र (हेक्टर) (७)

प्रयोजन तपशील अटी व शर्ती आणि शेरे (८)	क्षेत्राचा कोपरा अक्षांश व रेखांश आणि उभी असलेली झाडे (संख्या) (९)	वन सर्व्हेक्षकाची दिनांकासह स्वाक्षरी (१०)	सहायक वन संरक्षकाची दिनांकासह स्वाक्षरी (११)	वन हक्कांच्या फेरफार नोंदवहीतील फेरफार क्रमांक व दिनांक ; आणि नोंद क्रमांक (१२)	उत्तराधिकारी हक्क धारकाचे नाव (नावे), क्षेत्रामधील कोणताही बदल, असल्यास, त्यासह आणि फेरफार आदेशाचा गोषवारा (१३)	फेरफारांची नोंद केलेल्या अधिकाऱ्याची दिनांकासह स्वाक्षरी (१४)

द्वारे पडताळणी केली (नियत कालिकपणे) :

उप वन संरक्षकाची स्वाक्षरी, दिनांक व नाव.

टिप .— उप वनसंरक्षक हा जिल्हा स्तरीय समितीने मान्यता दिलेले वन हक्क, भूमि-अभिलेख विभागाने सीमांकित केलेल्या हद्दी आणि संदर्भाधीन वनक्षेत्राची सीमा व मान्यता दिलेल्या वन हक्कांचे क्षेत्र दर्शविणारे भू-संकेतांकित नकाशे (डिजिटल स्वरुपातील तसेच यथोचितरित्या अधिप्रमाणित केलेली त्यांची मुद्रित प्रत) यांचा अंतर्भाव असलेल्या आधारभूत दस्तऐवजांचा सर्वसमावेशक अभिलेख देखील ठेवतील. या अभिलेखामध्ये, तद्नंतरचे फेरफार आदेश आणि वृक्ष गणना यादी जिच्यामध्ये प्रत्येक प्रगणित वृक्षांच्या प्रजाती, छातीच्या उंचीवरील गोलाई (जमिनीच्यावर १.३७ मीटर) आणि सर्वसाधारण स्थिती यांचा समावेश असेल, यांचा देखील अंतर्भाव असेल.

अनुसूची जी

(नियम ३० डी पहा)

सामूहिक वनहक्कांची नोंदवही

जिल्हा _____ वन विभाग _____

तालुका _____ वन परिक्षेत्र _____

अनु-क्रमांक	गाव (किंवा जवळचे गाव) भारतीय सर्वेक्षण पत्रिकेचा क्रमांक १:५०,००० परिमाण.	वन क्षेत्राचे नियतक्षेत्र, कायदेशीर दर्जा व स्थल निर्देश (वनखंड / गट/ सर्व्हे भूमापन क्रमांक)	वन हक्क मान्यतेचा आदेश क्रमांक व दिनांक	वन हक्क धारकाचे नाव व त्याचा १३ अंकी संकेतांक	अनुसूचित जमाती/इतर पारंपरिक वन निवासी	मंजूर केलेल्या वन हक्कांचे क्षेत्र (हे.आर).
(१)	(२)	(३)	(४)	(५)	(६)	(७)

प्रयोजन, तपशील, अटी व शर्ती आणि शेरे	क्षेत्राचा कोपरा अक्षांश आणि रेखांश आणि उभी असलेली झाडे (संख्या)	वन सर्वेक्षकाची दिनांकासहित स्वाक्षरी	सहायक वन संरक्षकाची दिनांकासहित स्वाक्षरी	वन हक्कांच्या फेरफार नोंदवहीमधील फेरफार क्रमांक व दिनांक, आणि नोंद क्रमांक	असल्यास क्षेत्रामधील बदलासह उत्तराधिकारी हक्कधारकाचे नाव (नावे) आणि फेरफार आदेशाचा गोषवारा	फेरफाराची नोंद केलेल्या अधिकाऱ्याची दिनांकासहित स्वाक्षरी.
(८)	(९)	(१०)	(११)	(१२)	(१३)	(१४)

द्वारे पडताळणी केली (नियतकालिकपणे) :

उप वनसंरक्षकाची स्वाक्षरी, दिनांक व नाव.

टिप .— उप वनसंरक्षक, जिल्हास्तरीय समितीने मान्यता दिलेल्या वन हक्कांच्या, सीमांकित केलेल्या हद्दी व संदर्भाधिन वन क्षेत्राची सीमा क्षेत्र दर्शविणारे भू-संकेतांकित नकाशे (डिजिटल स्वरुपातील तसेच यथोचितरित्या अधिप्रमाणित केलेली त्यांची मुद्रित प्रत) आणि मंजूर केलेले वनहक्क क्षेत्र यांचा अंतर्भाव असणाऱ्या आधारभूत दस्तऐवजांचा सर्वसमावेशक अभिलेख देखील ठेवतील. या अभिलेखामध्ये, तद्नंतरचे फेरफार आदेश आणि छातीच्या उंचीवरील गोलाई - १५ से.मी. किंवा अधिक असलेल्या सर्व झाडांच्या नमुना तत्वावर संयुक्तपणे केलेल्या वृक्ष प्रगणनेच्या यादीचा प्रजाती व गोलाई निहाय गोषवारा यांचा देखील अंतर्भाव असेल.

अनुसूची एच

(नियम ३० इ पहा)

स्वत: लागवड करण्याच्या वनहक्कांचा वापर करण्याबाबतची नोंदवही

जिल्हा _____ वन विभाग _____

तालुका _____ वन परिक्षेत्र _____

अ.क्र. (१)	वर्ष व हंगाम (२)	गाव (किंवा जवळचे गाव) (३)	अनुसूची एफ नोंदवहीचा नोंद क्रमांक (४)	वन क्षेत्राचे नियतक्षेत्र, कायदेशीर दर्जा व स्थल निर्देश (वनखंड / गट/ सर्व्हे भूमापन क्रमांक). (५)	वनहक्क धारकाचे नाव व त्याचा १३ अंकी संकेतांक (६)	मंजूर केलेल्या वनहक्कांचे क्षेत्र (हे.आर) (७)

घेतलेले पीक: स्वत: लागवड केलेले (८)	कोरडवाहू पीक (हे.आर) (९)	सिंचित (हे.आर) (१०)	सिंचनाचे साधन (११)	स्वत: लागवड करण्या-व्यतिरिक्त इतर वापर (१२)	इतर वापराचे क्षेत्र (हे.आर) (१३)	शेरे व कोणतेही असल्यास परिवर्तन (१४)	वनपालाची / वनपरिक्षेत्र लेखापालाची स्वाक्षरी (१५)

द्वारे पडताळणी केली (नियतकालिकपणे) :

वन परिक्षेत्र अधिकाऱ्याची स्वाक्षरी, दिनांक व नाव.

टिप .— वनपरिक्षेत्र अधिकारी, आधारभूत दस्तऐवजांचा सर्वसमावेशक अभिलेख देखील ठेवील.

अनुसूची आय

(नियम ३० — एफ पहा)

वनहक्क अमान्य केलेल्या दाव्यांची नोंदवही

अनुसूचित जमाती व इतर पारंपरिक वन निवासी (वनहक्कांची मान्यता) अधिनियम, २००६ (२००७ चा २) अन्वये अमान्य केलेल्या दाव्यांची नोंदवही.

जिल्हा:- _____ वन विभाग:- _____

तालुका:- _____ वन परिक्षेत्र:- _____

अ. क्र. (१)	गाव (किंवा जवळचे गाव) भारतीय सर्वेक्षण पत्रिकेचा क्रमांक १:५०,००० परिमाण (२)	वन क्षेत्राचे नियतक्षेत्र, कायदेशीर दर्जा व स्थल निर्देश (वनखंड / गट/ सर्व्हे -भूमापन क्रमांक) (३)	वनहक्क मान्यतेचा आदेश क्रमांक व दिनांक (४)	वनहक्कधारकाचे नाव व त्याचा १३ अंकी संकेतांक (५)	अनुसूचित जमाती / इतर पारंपरिक वन निवासी (६)	मंजूर केलेल्या वनहक्कांचे क्षेत्र (हे.आर) (७)

वन सर्वेक्षकाची दिनांकासहित स्वाक्षरी (८)	दावा फेटाळण्याच्या दिनांकास दावेकाराच्या (दावेकारांच्या) कब्जातील क्षेत्र (हे.आर) (९)	दावेकाराने (दावेकरांनी) स्वेच्छेने क्षेत्र सोडल्याच्या नोंदीचा दिनांक (१०)	न्यायालयीन प्रकरणांसह वनांमधून निष्कासित करण्यास सुरुवात केल्याचा दिनांक (११)	सहायक वनसंरक्षकाची दिनांकासहित स्वाक्षरी (१२)	वनांमधून निष्कासन पूर्ण केल्याचा दिनांक (१३)	सहायक वनसंरक्षकाची दिनांकासहित स्वाक्षरी व शेरे (१४)

द्वारे पडताळणी केली (नियतकालिकपणे):

उप वनसंरक्षकाची स्वाक्षरी, दिनांक व नाव.

टीप .— उप वनसंरक्षक हा अनुसूचित जमाती व इतर पारंपरिक वन निवासी (वनहक्कांची मान्यता) अधिनियम, २००६ यान्वये सादर केलेले दावे फेटाळण्याचा आदेश अंतर्भूत असणारे आधारभूत दस्तऐवज आणि संदर्भाधीन वन क्षेत्राची सीमा दर्शविणारे भू-संकेतांकित नकाशे (डिजिटल स्वरूपातील आणि यथोचितरीत्या अधिप्रमाणित केलेली त्याची मुद्रित प्रत) व मंजूर केलेले वनहक्कांचे क्षेत्र यांचा सर्व समावेशक अभिलेख देखील ठेवतील.

अनुसूची — जे

(नियम ३० — जी पहा)

वनहक्कांचे दस्तऐवज

जिल्हा :- _____ वन विभाग :- _____

तालुका :- _____ वन परिक्षेत्र :- _____

गाव किंवा जवळचे _____ नियतक्षेत्र :- _____

गाव :- _____ दिल्याचा दिनांक :- _____

१. वनांचा कायदेशीर दर्जा :	
२. वनांचा स्थल निर्देश (वनखंड/ गट/ सर्व्हे /भूमापन क्रमांक.):	
३. (अ) स्वत: लागवड करण्यासाठी वनहक्कांचे क्षेत्र :	--- हेक्टर.आर / चौरस मीटर.
(ब) वस्तीस्थानासाठी वनहक्कांचे क्षेत्र :	--- हेक्टर. आर / चौरस मीटर.
(क) वनहक्कांचे इतर क्षेत्र : प्रयोजन विनिर्दिष्ट करा:	--- हेक्टर. आर / चौरस मीटर.
(ड) एकूण :	--- हेक्टर. आर / चौरस मीटर.
(इ) वरील ३ (क) मधील वनहक्कांचे प्रयोजन	
४. महाराष्ट्र वन विभागाची मालकी असलेली शासकीय वने :	
५. वनहक्कधारकाचे नाव (नावे) व त्याचा १३ अंकी संकेतांक (दिल्याच्या दिनांकास असल्याप्रमाणे) :	
६. आदेश क्रमांक व दिनांक यान्वये मंजूर केलेले वनहक्क :	
७. अनुसूची — एफ नोंदवहीचा नोंद क्रमांक (सर्व नोंदी):	
८. अनुसूची — जे नोंदवहीचा नोंद क्रमांक (सर्व नोंदी):	
९. इतर भार व हक्क :	
१०. वन विभागाची मालकी असलेल्या उर्वरित वनांच्या वनहक्कांचे क्षेत्र:	

पिकांची नोंद :

वर्ष व हंगाम (१)	घेतलेले पीक : स्वत: लागवड (२)	कोरडवाहू पिके (हे.आर) (३)	सिंचित (हे.आर) (४)	सिंचनाची साधने (५)	स्वत: लागवड करण्याव्यतिरिक्त इतर वापर (६)	इतर वापराचे क्षेत्र (हे.आर) (७)	शेरा व कोणतेही असल्यास परिवर्तन (८)

शिक्का / मोहोर

वन परिक्षेत्र अधिकाऱ्याचे किंवा
प्राधिकृत वन अधिकाऱ्याचे नाव व स्वाक्षरी.

अनुसूची - के

(नियम ३०- एच (३) पहा)

वैयक्तिक वनहक्कांच्या फेरफारांची नोंदवही

जिल्हा :- _____ वन विभाग:- _____

तालुका:- _____ वन परिक्षेत्र:- _____

अ.क्र. (१)	गाव (किंवा जवळचे गाव) भारतीय सर्वेक्षण पत्रिकेचा क्रमांक १:५०,००० परिमाण (२)	वन क्षेत्राचे नियतक्षेत्र, कायदेशीर दर्जा व स्थल निर्देश (वनखंड/ गट/ सर्वे — भूमापन क्रमांक) (३)	वनहक्क मान्यतेचा आदेश क्रमांक व दिनांक (४)	वनहक्कधारकाचे नाव व त्याचा १३ अंकी संकेतांक (५)	अनुसूचित जमाती / इतर पारंपरिक वन निवासी (६)	मंजूर केलेल्या वनहक्कांचे क्षेत्र (हे.आर) (७)

अनुसूची — एफ वनहक्क धारकाच्या नोंदवहीतील अनुक्रमांक (८)	फेरफार आदेश क्रमांक (९)	फेरफार आदेशाचा दिनांक (१०)	उत्तराधिकारी हक्कधारकाचे नाव (हक्कधारकांची नावे) (११)	उत्तराधिकारी हक्कधारकाच्या (हक्कधारकांचे) वनहक्कांचे क्षेत्र (१२)	कोणत्याही असल्यास, कायदेशीर भारांसह फेरफार आदेशाचा गोषवारा (१३)	फेरफार मान्य केलेल्या प्राधिकृत अधिकाऱ्याची दिनांकासहित स्वाक्षरी (१४)

द्वारे पडताळणी केली (नियतकालिकपणे) :

उप वनसंरक्षकाची स्वाक्षरी, दिनांक व नाव :

टीप .— उप वनसंरक्षक, वनहक्कांचे हस्तांतरण करण्याशी संबंधित, असणाऱ्या वारसा हक्क अर्ज, उत्तराधिकार प्रमाणपत्र, ग्रामसभेचा ठराव आणि संबंधित नकाशासह फेरफार आदेश यांसारखे आधारभूत दस्तऐवज यांचा सर्वसमावेशक अभिलेख देखील ठेवतील.

अनुसूची - एल

(नियम ३०- एच (३) **पहा**)

सामुहिक वनहक्कांच्या फेरफारांची नोंदवही

जिल्हा:- _____ वन विभाग :- _____

तालुका:- _____ वन परिक्षेत्र :- _____

अ.क्र. (१)	गाव (किंवा जवळचे गाव) भारतीय सर्वेक्षण पत्रिकेचा क्रमांक १:५०,००० परिमाण. (२)	वन क्षेत्राचे नियतक्षेत्र, कायदेशीर दर्जा व स्थल निर्देश (वनखंड/ गट/ सर्व्हे - भूमापन क्रमांक) (३)	वनहक्क मान्यतेचा आदेश क्रमांक व दिनांक (४)	वनहक्क-धारकाचे नाव व त्याचा १३ अंकी संकेतांक (५)	अनुसूचित जमाती / इतर पारंपरिक वन निवासी. (६)	मंजूर केलेल्या वनहक्कांचे क्षेत्र (हे.आर.) (७)

अनुसूची – एफ वनहक्क-धारकाच्या नोंदवहीतील अनुक्रमांक (८)	फेरफार आदेश क्रमांक. (९)	फेरफार आदेशाचा दिनांक. (१०)	उत्तराधिकारी हक्कधारकाचे नाव (हक्कधारकांची नावे). (११)	उत्तराधिकारी हक्कधारकाच्या (हक्कधारकांच्या) वनहक्कांचे क्षेत्र. (१२)	कोणत्याही असल्यास, कायदेशीर भारांसह फेरफार आदेशाचा गोषवारा (१३)	फेरफार मान्य केलेल्या प्राधिकृत अधिकाऱ्याची दिनांकासहित स्वाक्षरी. (१४)

द्वारे पडताळणी केली (नियतकालिकपणे) :

उप वनसंरक्षकाची स्वाक्षरी, दिनांक व नाव :

टीप .— उप वनसंरक्षक, वनहक्कांचे हस्तांतरण करण्याशी संबंधित, असणाऱ्या वारसा हक्काचा अर्ज, उत्तराधिकार प्रमाणपत्र, ग्रामसभेचा ठराव आणि संबंधित नकाशासह फेरफार आदेश यांसारखे आधारभूत दस्तऐवज यांचा सर्वसमावेशक अभिलेखदेखील ठेवतील.

अनुसूची – एम

(नियम ३०- एल पहा)

अनुसूचित जमाती व इतर पारंपरिक वन निवासी (वनहक्कांची मान्यता) अधिनियम, २००६ (२००७ चा २) अन्वये सुख-सुविधासाठी वळती केलेल्या वन जमिनीची नोंदवही

जिल्हा:- वन विभाग:-

ओळख-पत्र क्रमांक (१)	तालुका (२)	वन परिक्षेत्र (३)	गाव (४)	भूमापन क्र. / गट क्र. (५)	परिवर्तित केलेले क्षेत्र (६)	आदेश क्रमांक व दिनांक (७)	कोणाद्वारे (८)	अभिकरण (९)	प्रयोजन (१०)	शेरा (११)	आद्याक्षर (१२)

द्वारे पडताळणी केली (नियतकालिकपणे):

उप वनसंरक्षकाची स्वाक्षरी, दिनांक व नाव :

अनुसूची — एन

(नियम ३०- एम पहा)

वन (संवर्धन) अधिनियम, १९८० (१९८० चा ६९) अन्वये वळती केलेल्या वन जमिनीची नोंदवही.

जिल्हा: - वन विभाग:-

ओळख पत्र क्रमांक	तालुका	वन परिक्षेत्र	गाव	भूमापन क्र. / गट क्र.	वळती केलेले क्षेत्र	महाराष्ट्र शासन आदेश क्रमांक व दिनांक	केंद्र शासन आदेश क्रमांक व दिनांक	अभिकरण	प्रयोजन	शेरा	आद्याक्षर
(१)	(२)	(३)	(४)	(५)	(६)	(७)	(८)	(९)	(१०)	(११)	(१२)

द्वारे पडताळणी केली (नियतकालिकपणे):

उप वनसंरक्षकाची स्वाक्षरी, दिनांक व नाव :

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

वीरेन्द्र तिवारी,

अपर प्रधान मुख्य वनसंरक्षक,

(मंत्रालय).

REVENUE AND FOREST DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,

Mantralaya, Mumbai 400 032,

dated 1st August 2019

NOTIFICATION

INDIAN FOREST ACT, 1927.

No. S-10/2016/C.R.133/F-3.—In exercise of the powers conferred by sections 26, 32 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following rules further to amend the Maharashtra Forest Rules, 2014, as follows, namely:-

1. These rules may be called the Maharashtra Forest (Amendment) Rules, 2019.

2. In rule 10 of the Maharashtra Forest Rules, 2014 (hereinafter referred to as "the Principal Rules"), in sub-rule *(10)*, an *Explanation* shall be deleted.

3. After CHAPTER VI of the principal Rules, the following CHAPTER shall be inserted, namely:-

"CHAPTER VI-A

RECORDING OF FOREST RIGHTS UNDER THE PROVISIONS OF THE SCHEDULE TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006 AND DIVERSION OF FOREST LAND.

(sec. 26 and 32)

30-A. *Definitions* – (*1*) For the purposes of this Chapter and the Schedules referred therein, unless the context requires otherwise-

(*a*) "District Level Committee" means the District Level Committee constituted under sub-section (*5*) of section 6 of the Forest Rights Act.

(*b*) " the Forests Rights Act" means the Schedule Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007)

(*2*) The words and expressions used in this Chapter and the Schedules referred therein, but not defined herein, shall have the same meanings ad respectively assigned to them in Forest Rights Act.

30-B. *Recording of Forest Rights under the forests Act.*— Notwithstanding anything contained in rules 10 and 30, the forest rights recognized and vested under the provisions of the Forest Rights Act in the forest lands in the cases where the record of forest rights are finally approved by the District-Level Committee on to the holders shall be recorded and maintained as per the provisions contained in this Chapter.

30-C. *Register of Individual Forest Rights.*— The Deputy Conservator of Forests shall maintain a "Register of Individual Forest Rights" in the form provided in the Schedule - F containing details of all forest rights recognized and vested by the District Level Committee on to any person in the forests, lands under the provisions of the Forest Rights Act.

30-D. *Register of the Community Forest Rights.*— The Deputy Conservator of Forests shall maintain a "Register of Community Forest Rights" in Schedule - G containing details of all forest rights recognized and vested by District Level Committee on to group of persons as the community forest rights in the forests lands under the provisions of the Forest Rights Act.

30-E. *Register of Use of Forest Rights of Self-Cultivation.*— The Range Forest Officer, himself or through any other subordinate officers, shall regularly monitor exercise of forest rights of self-cultivation during each cultivation season, and record the observations in a "Register of Use of Forest Rights of Self-Cultivation" in Schedule - H. The Range Forest Officer shall submit comprehensive report on exercise of forest rights during each cultivation season to the Deputy Conservator of Forests.

30-F. *Register of Rejected Claims of Forest Rights.*— The Deputy Conservator of Forests shall maintain a "Register of Rejected claims of Forest Rights" in the form provided Schedule-I containing details of all claims of forest rights rejected under provisions of the Forest Rights Act.

30-G. *Issuing copies of record of forest rights.*— The Range Forest Officer or any person not below the rank of Accountant or Forester, if so authorised in this behalf by an officer in-charge of the forests not below the rank of Deputy Conservator of Forests, shall issue "Document of Forest Rights" in the form of provided in the Schedule - J in accordance with the entries updated, from time to time, as maintained in the registers prescribed in these rules to any holder of forest rights on his application in writing. The Document of Forest Rights shall be issued free of charge upto five copies in a financial year.

30-H. *Transfer of Forest Rights by inheritance and Register of Mutation therefor.*—

(1) If any forest right entered in any of the register prescribed in this Chapter is to be transferred by inheritance as per the provisions of the Forest Rights Act, the person inheriting the forest rights shall make application in writing along with resolution passed by the *Gram Sabha* confirming the claim of inheritance to the Range Forest Officer in charge of the forests. The application shall be forwarded to the concerned authorised Assistant Conservator of Forests for order of mutation of forest rights.

(2) The Chief Conservator of Forest / Conservator of Forests may authorise one or more of the Assistant Conservators of Forests serving in the Forest Division to pass such mutation orders in the Forest Division.

(3) All orders of mutation of forest rights shall be entered in "Register of Mutation of Individual Forest Rights" in the form provided in the Schedule - K or in "Register of Mutation of Community Forest Rights" in the form provided in the Schedule L, as the case may be.

(4) The relevant entries in the registers maintained as per these rules shall be duly updated in conformity with the mutation orders to incorporate names of successor right holders and other relevant details in the said registers.

30-I. *Correction of mutation entries.*— Upon receipt of order of Court or succession certificate, the mutation entries shall be promptly corrected as per the order of the Court or succession certificate.

30-J *Appeal.*— Any person aggrieved by an order of mutation passed by Assistant Conservator of Forest under these Rules may prefer an appeal to the Deputy Conservator of Forests.

30-K. *Integral part of Register of Reserved and Protected Forests.*— The Registers of forests rights maintained under this Chapter shall be considered as an integral part of the Register of Reserved and Protected Forests maintained by the Forest Division.

30-L. *Diversion of Forest land for Amenities.*— The Deputy Conservator of Forests shall maintain a "Register of Forest Land Diverted for amenities under the Forest Rights Act" in the form provided in the Schedule-M wherein the details of diversion of forests land as per the provisions of sub-section *(2)* of section 3 of the Forest Rights Act shall be recorded.

30-M. *Diversion of Forest land under the Forest (Conservation) Act 1980.*— The Deputy Conservator of Forests shall maintain a "Register of Forest Land Diverted under the Forest (Conservation) Act 1980" the form provided in the Schedule - N wherein the details of diversion of forest land as per the provisions of the Forest (Conservation) Act, 1980 (69 of 1980) shall be recorded.".

4. In *SCHEDULE-A* of the principal Rules, for paragraph 1 below the Table, the following shall be substituted, namely :—

"1. Above form shall be filled on the basis of the rights continued under clause *(c)* of sub-section *(2)* of section 15 of the Indian Forest Act, 1927 (XVI of 1927) or any privileges granted by the State Government. The exercise of these rights or privileges shall be subject to the conditions specified therefor".

5. After *SCHEDULE "E"* of the principal rules, the following *SCHEDULES* shall be added, namely :—

" SCHEDULE - F
(*See* rule 30- C)
Register of Individual Forest Rights.

District: _____ Forests Division: _____

Taluka: _____ Range: _____

Sr. No.	Village (or nearest village), Sheet No. of Survey of India 1:50,000 scale.	Beat, legal status and site reference of forest area (Compartment/ Block/ Survey No.).	Order No. and date of approval of Forest Rights.	Name of Forest right holders and 13 Digit code.	Scheduled Tribe / Other Traditional Dweller.	Area of forest rights granted (Ha.).
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Purpose, details, terms and conditions and remarks.	Corner latitude and longitude and standing trees (number) in area.	Signature with date of Forest Surveyor	Signature with date of Assistant Conserva-tor of Forests.	Mutation No. and date; and entry No. in Register of Mutation of Forest Rights.	Name(s) of Successor right holders along with change in area, if any, and abstract of the mutation order.	Signature with date of the officer who made entry of the mutation.
(8)	(9)	(10)	(11)	(12)	(13)	(14)

Verified by (periodically):

Signature, Date and Name of
Deputy Conservator of Forests.

Note: The Deputy Conservator of Forests shall also maintain a comprehensive record of supporting documents containing forest rights granted by the District-Level Committee, boundary demarcation done by the Land Record Department and geo-coded maps (digital and its print out duly authenticated) showing boundary of forest area under reference and area of forest rights granted. This record shall also include copy of subsequent mutation orders, and tree enumeration list containing species, girth at BH (at 1.37 meter above ground) and general condition of each enumerated tree.

SCHEDULE - G
(*See* rule 30- D)
Register of Community Forest Rights.

District: _____ Forests Division: _____

Taluka: _____ Range: _____

Sr. No. (1)	Village (or nearest village), Sheet No. of Survey of India 1:50,000 scale. (2)	Beat, legal status and site reference of forest area (Compartment/ Block/ Survey No.). (3)	Order No. and date of approval of Forest Rights. (4)	Name of Forest right holders and 13 Digit code. (5)	Scheduled Tribe / Other Traditional Dweller. (6)	Area of forest rights granted (Ha.). (7)

Purpose, details, terms and conditions and remarks. (8)	Corner latitude and longitudeand standing trees (number) in area. (9)	Signature with date of Forest Surveyor. (10)	Signature with date of Assistant Conservator of Forests. (11)	Mutation No. and date; and entry No. in Register of Mutation of Forest Rights. (12)	Name(s) of Successor right holders along with change in area, if any, and abstract of the mutation order. (13)	Signature with date of the officer who made entry of the mutation. (14)

Verified by (periodically):

Signature, Date and Name of
Deputy Conservator of Forests.

Note: The Deputy Conservator of Forests shall also maintain a comprehensive record of supporting documents containing forest rights granted by the District-Level Committee, boundary demarcation done and geo-coded maps (digital and its print out duly authenticated) showing boundary of forest area under reference and area of forest rights granted. This record shall also include copy of subsequent mutation orders, and species and girth class wise abstract of tree enumeration list done jointly on sample basis for all trees having 15 centimeter or larger girth at BH (1.37 meter above ground).

SCHEDULE - H
(*See* rule 30- E)
Register of Use of Forest Rights of Self-Cultivation

District: _____ Forests Division: _____

Taluka: _____ Range: _____

Sr. No. (1)	Year and season. (2)	Village (or nearest village). (3)	Schedule F Register's Entry No. (4)	Beat, legal status and site reference of forest area (Compartment/ Block/Survey No.). (5)	Name of Forest right holders and 13 Digit code. (6)	Area of forest rights granted (Ha.). (7)

Crop raised: self cultivation. (8)	Dry Crop (Ha. R). (9)	Irrigated (Ha. R). (10)	Means of Irrigation. (11)	Use other than self-cultivation. (12)	Area of other use (Ha. R). (13)	Remarks and deviations, if any. (14)	Signature of Forester/ Range accountant. (15)

Verified by (periodically):

Signature, Date and Name of
Range Forest Officer.

Note: The Range Forest Officer shall also maintain a comprehensive record of supporting documents.

SCHEDULE - I
(*See* rule 30- F)

Register of Rejected claims under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007).

District :- _____ Forests Division :- _____

Taluka :- _____ Range :- _____

Sr. No.	Village (or nearest village), Sheet No. of Survey of India 1:50,000 scale.	Beat, legal status and site reference of forest area (Compartment/ Block/ Survey No.).	Order No. and date of approval of Forest Rights.	Name of Forest Right Holders and 13 Digit code.	Scheduled Tribe / Other Traditional Dweller.	Area of forest rights granted (ha.).
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Signature with date of Forest Surveyor.	Area (ha.) in possession of claimant(s) on the date of the rejection order.	Date of recording claimant(s) voluntarily leaving area.	Date of starting eviction from the forests including court cases.	Signature with date of Assistant Conserva-tor of Forests.	Date of completing eviction from the forests.	Signature with date and remarks of Assistant Conservator of Forests.
(8)	(9)	(10)	(11)	(12)	(13)	(14)

Verified by (periodically)

Signature, Date and Name of
Deputy Conservator of Forests.

Note : The Deputy Conservator of Forests shall also maintain a comprehensive record of supporting documents containing the order of rejection of the claims submitted under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and geo-coded maps (digital and its print out duly authenticated) showing boundary of forest area under reference and area of forest rights granted.

SCHEDULE – J
(*See* rule 30- G)
Document of Forest Rights

District :- _____ Forests Division :- _____

Taluka :- _____ Range :- _____

Village or the nearest village :- _____ Beat :- _____

Date of Issue :- _____

1. Legal status of forests :-	
2. Site reference of forests (Compartment/ Block/ Survey No.) :-	
3. *(a)* Area of forest Rights for self Cultivation :-	---Ha. R./ sq. meter.
(b) Area of forest Rights for habitation :-	---Ha. R./ sq. meter.
(c) Other area for forest rights: specify the purpose :-	---Ha. R./ sq. meter.
(d) Total :-	---Ha. R./ sq. meter.
(e) Purpose of Forest Rights in 3(c) above	
4. Government Forests owned by Maharashtra Forest Department :-	
5. Forest Right Holder's Name(s) and 13 Digit code (as on date of issue) :-	
6. Forest rights granted *vide* order No. and date :-	
7. SCHEDULE-F Register's Entry No. (all entries) :-	
8. SCHEDULE-J Register's Entry No. (all entries) :-	
9. Other encumbrances and rights :-	
10. Areas of forest rights remain forests owned by the Forest Department :-	

Record of Crops

Year and season (1)	Crop raised: self cultivation. (2)	Dry Crop (Ha. R.). (3)	Irrigated (Ha. R.). (4)	Means of Irrigation (5)	Use other than cultivation. (6)	Area of other usage (Ha. R.). (7)	Remarks and deviations, if any. (8)

Seal

Name and Signature
Range Forest Officer or Authorized Forest Officer.

SCHEDULE - K

[*See* rule 30-H (3)]

Register of Mutation of Individual Forest Rights.

District:- _____ Forests Division:- _____

Taluka:- _____ Range:- _____

Sr. No. (1)	Village (or nearest village), Sheet No. of Survey of India 1:50,000 scale. (2)	Beat, legal status and site reference of forest area (Compartment/ Block/ Survey No.) (3)	Order No. and date of approval of Forest Rights (4)	Name of Forest right holders and 13 Digit Code. (5)	Scheduled Tribe / Other Traditional Dweller (6)	Area of forest rights granted (ha.) (7)

Sr. No. in Register of Forest right holder Schedule –F. (8)	Mutation Order No. (9)	Date of mutation Order (10)	Name of successor right holder(s). (11)	Area of forest rights to successor right holder(s). (12)	Abstract of Mutation order including legal encumbrances, if any. (13)	Signature with date of officer authorized to approve mutation. (14)

Verified by (periodically):

Signature, Date and Name of
Deputy Conservator of Forests.

Note.—The Deputy Conservator of Forests shall also maintain a comprehensive record of supporting documents pertaining to transfer of forest rights such as application for inheritance, succession certificate, resolution of Gram Sabha and the mutation order including relevant map.

SCHEDULE - L

[*See* rule 30- H (3)]

Register of Mutation of Community Forest Rights.

District :- _____ Forests Division :- _____

Taluka :- _____ Range :- _____

Sr. No. (1)	Village (or nearest village), Sheet No. of Survey of India 1:50,000 scale. (2)	Beat, legal status and site reference of forest area (Compartment/ Block/ Survey No.). (3)	Order No. and Date of approval of Forest Rights. (4)	Name of Forest right holders and 13 Digit Code. (5)	Scheduled Tribe / Other Traditional Dweller. (6)	Area of forest rights granted (ha.). (7)

Sr. No. in register of Forest right holder Schedule -F. (8)	Mutation Order No. (9)	Date of Mutation order. (10)	Name of successor right holder(s). (11)	Area of forest rights to successor right holder(s). (12)	Abstract of Mutation Order including legal encumbrances, if any. (13)	Signature with date of officer authorized to approve Mutation. (14)

Verified by (periodically),

Signature, Date and Name of
Deputy Conservator of Forests.

Note.— The Deputy Conservator of Forests shall also maintain a comprehensive record of supporting documents pertaining to transfer of forest rights such as application for inheritance, succession certificate, resolution of Gram Sabha and the mutation order including relevant map.

SCHEDULE – M

[*See* rule 30- L]

Register of Forest Land Diverted for Amenities under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007).

District : - _____ Forests Division :- _____

ID No.	Taluka	Range	Village	Survey No/ Gut No.	Area Diverted	Order No. and Date	By Whom	Agency	Purpose	Remarks	Initial
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Verified by (periodically),

Signature, Date and Name
Deputy Conservator of Forests.

SCHEDULE – N
[*See* rule 30- M]

Register of Forest Land Diverted under the Forest (Conservation) Act, 1980 (69 of 1980).

District : _____ Forests Division : _____

ID No.	Taluka	Range	Village	Survey No/Gut No.	Area diverted	Government of Maharashtra Order No. and Date	Government of India approval No. and Date	Agency	Purpose	Remarks	Initial
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)".

Verified by (periodically)

Signature, Date and Name
Deputy Conservator of Forests.

By order and in the name of the Governor of Maharashtra,

VIRENDRA TIWARI,

Additional Principal Chief Conservator of Forest (Mantralaya).

ANNEXURE 4.09

RNI No. MAHBIL /2009/31733
Reg. No. MH/MR/South-322/2013-15

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-अ

वर्ष ६, अंक १६] शुक्रवार, मे १६, २०१४/वैशाख २६, शके १९३६ [पृष्ठे ८, किंमत : रुपये १५.००

असाधारण क्रमांक ७२

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने केंद्रीय अधिनियमांन्वये तयार केलेले
(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

REVENUE AND FORESTS DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya, Mumbai 400 032
Dated the 13th May, 2014.

NOTIFICATION

INDIAN FORESTS ACT, 1927.

No. ABB. 2010/CR-189/F-9.—Whereas, the forests in the State of Maharashtra are recognized as important source for sustaining life in general and for the livelihood systems of the forest dwellers in particular;

And whereas, it is essential to institutionalize an effective and efficient management regime for conservation and long-term sustainability of forests and natural resources as an essential precondition for sustainability of the village communities whose livelihoods are dependent upon forests;

And whereas, it is imperative to put in place a robust framework for empowerment of Village *Panchayats* and *Gram Sabhas* as informed participants in the forests and natural resource management; with particular reference to communities and areas not covered under PESA or not for communities not eligible for rights under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006.

And whereas, the Government of Maharashtra has, *vide* the Government Notification, Revenue and Forests Department, No. ABB-2010/CR-189/F-9, dated the 5th March 2014, issued in exercise of the powers conferred by sections 26, 28, 30, 32, 34 and 76 of the Indian Forest Act, 1927 (Act No. XVI of 1927), in its application to the State of Maharashtra, made the Maharashtra Village Forests Rules, 2014; and, for the purposes aforesaid, the Government considers it expedient to have modification in the said Rules and to make another rules;

Now, therefore, in exercise of the powers conferred by sections 26, 28, 30, 32, 34 and 76 of the Indian Forest Act, 1927 (Act No. XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in that behalf, and in supercession of the Government Notification, Revenue and Forests Department, No. ABB-2010/CR-189/F-9, dated the 5th March 2014, the Government of Maharashtra hereby makes the following rules, namely:-

1. *Short title, application and commencement.*— (1) These rules may be called the Indian Forests (Maharashtra)(Regulation of assignment, management and cancellation of village forests) Rules, 2014.

(2) They shall apply to part of such reserved forests or protected forests where the rights of the Government to or over any land which has been constituted as a reserved forest or called a protected forest are assigned under the Indian Forests Act, 1927 (Act No.XVI of 1927), in its application to the State of Maharashtra and these rules as village forest to any village community or then Village *Panchayat*.

(3) These rules shall not be applicable to such forests area covered under, or to communities who have already acquired community forest rights under, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007) and to any villages in the Scheduled Areas of the State of Maharashtra where the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (Act No. 40 of 1996) apply:

Provided that, any *Gram Sabha* may, *suo moto*, make a decision, by resolution, to adopt these rules.

(4) They shall come into force on the date of their publication in the *Official Gazette*.

2. *Definitions.*— (1) In these rules, unless the context requires otherwise,—

(*a*) "Act" means the Indian Forest Act, 1927 (Act No.XVI of 1927), as amended in its application to the State of Maharashtra;

(*b*) "the Government" or "the State Government" means the Government of Maharashtra;

(*c*) "the *Gram Sabha*", "*Gram Panchayat*", "*Panchayat*", "*Sarpanch*", "*Upa-Sarpanch*", "Village", "a group of villages", "ward" and "the term of a *Panchayat*" shall have the same meanings as respectively assigned to them in the Village Panchayat Act and in the Scheduled Areas, they shall, as per applicability, conform to the definitions as contained in the Panchayats (Extension to the Scheduled Area) Act, 1996(Act No. 40 of 1996);

(*d*) "the Joint Forest Management Committee" means a committee elected by the *Gram Sabha* to manage and protect village forests as per the orders of the State Government issued in this behalf;

(*e*) "Member-Technical of the *Van Vyavsthapan Samiti*" means a Forest Officer of the rank of Forester, Forest Guard having jurisdiction over the concerned forest area or any other Forest Officer not below the rank of Forest Guard, as may be nominated by the concerned Range Forest Officer for the purpose;

(*f*) "microplan" means the scheme of management of a village forests and natural resources and works ancillary thereof in the village or its hamlet, as the case may be;

(*g*) "the *Van Vyavsthapan Samiti*" or "the Village Forest Management Committee" means a Committee constituted under section 49 of the Village Panchayat Act for the matters related to forests and wildlife management and ancillary thereof in the village or its hamlet;

(*h*) "village forests" means such part of reserved forests or protected forests where the rights of the Government to or over any land which has been constituted as a reserved forest or called a protected forest are assigned under the Indian Forest Act, 1927 (Act No.XVI of 1927), in its application to the State of Maharashtra and these rules;

(*i*) "Village Panchayat Act" means the Maharashtra Village Panchayats Act (III of 1959).

(2) The words and expressions used and not defined in these rules but defined in the Act shall have the same meanings as respectively assigned to them in the Act.

3. *Assignment of village forests.*— (1) The State Government may, by general or special order, assign the rights of the Government to or over any land which has been constituted as a reserved forest or called a protected forest under the Indian Forest Act, 1927 (Act No.XVI of 1927), in its application to the State of Maharashtra and these rules as village forests in the village or its hamlet to any village community or the Village *Panchayat*:

Provided that, assignment of Government's rights to or over any land which has been constituted as a reserved forest or called a protected forest shall in no way abridge rights granted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007) or abridge rights of communities who have already acquired community forest rights under the said Act, or constrain any rights regulated under the provisions of Scheduled Areas of the State of Maharashtra where the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (Act No. 40 of 1996).

(2) The Joint Forest Management Committee, the *Gram Sabha* (including those at hamlet or revenue village level) or the *Gram Panchayat* already engaged in the management and protection of reserved and protected forests in the village either under arrangement established by the Government or otherwise may resolve through *Gram Sabha* expressing its desire to manage, protect and work for improvement of the reserved forests or protected forests, as the case may be, in the village as a village forests and submit its resolution to the Deputy Conservator of Forests of the Division or the Sub-Divisional Forest Officer in charge of independent sub-division. The Village *Panchayat* or *Gram Sabha* may refer to its traditional or customary village forest boundaries in the said resolution.

(3) The Deputy Conservator of Forests or the Sub-Divisional Forest Officer in charge of independent sub-division shall, upon receiving such resolution, make an enquiry into whether or not the concerned village

community or *Gram Panchayat* has, through its current engagement in management and protection of reserved forests or protected forests, as the case may be, in the village has fulfilled the following criteria in the said area, namely:-

(*i*) Zero encroachment;

(*ii*) Positive rate of Natural regeneration;

(*iii*) The percentage of burnt area is not more than 5% in each of the last three years;

(*iv*) Over 60% survival of plantations raised in the said area at the end of their fifth year;

(*v*) Effective implementation of "*charaibandi*" and "*kurhadbandi*".

(4) The Deputy Conservator of Forest or the Sub-Divisional Forest officer in charge of independent sub-division shall record his findings with regard to all the five criteria after the enquiry and in case any at least three are found to have been fulfilled, or if effective natural regenerations been evidenced, shall submit his report along with specific details of the extent of area proposed under assignment and the conditions under which such assignment is proposed to the Chief Conservator of Forests of the concerned circle recommending assignment of the reserved forests or protected forests, as the case may be, in the village as a village forests to the concerned village community or the *Gram Panchayat* under the provisions of the Act and the Chief Conservator of Forests having been satisfied that a village community or the *Gram Panchayat* has fulfilled at least three criteria mentioned in sub-rule (2), shall make the recommendation to the State Government, with his report thereon. While doing so, any other achievement or engagement of the village community or the *Gram Panchayat* in fields of other community programmes and any award bestowed upon it due to its commendable work in those fields may also be mentioned. Priority may be given to assigning all the Joint Forest Management areas as village forests where said villages have received any prize under the *Sant Tukaram Gram Van* Scheme.

(5) In consonance with the assignment order issued by the State Government under sub-rule (1), the Chief Conservator of Forests shall issue the order of assignment of specific rights over the reserved or protected forests, as the case may be, in the village to the village community or the *Gram Panchayat*. In the said order, extent of forest areas and conditions thereof shall also be specified.

4. *Management of Village Forests.*— (1) The village forests assigned to the village community or the *Village Panchayat* shall be managed by a committee called as the *Van Vyavasthapan Samiti* or the Village Forest Management Committee.

(2) The Village Forest Management Committee shall manage village forests with due regard to the relevant provisions of the Panchayats (Extension to the Scheduled Area) Act, 1996 (Act No. 40 of 1996), the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forests Produce (Regulation of Trade) (Amendment) Act, 1997 (Mah. XLV of 1997), the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007), the Indian Forest Act, 1927 (Act No. XVI of 1927), the Wildlife (Protection) Act, 1972 (Act No. 53 of 1972), the Biological Diversity Act, 2002 (Act No. 18 of 2003), the Village Panchayats Act and the rules made there under and any other law for the time being in force.

(3) The nistar rights and supply to local artisan including burud community shall be the first charge on forest produce in the village forest.

(4) The extraction of *Bamboo* in forest assigned to the *Van Vyasthapan Samiti* of Village *Panchayat* shall be in accordance with microplan consistent with working plan. To ensure conservation as well as protection of wildlife and also sustainability of regeneration of *bamboo*, the assigned forest area shall be divided as far as possible in to three parts and each part shall be revisited for extraction after a gap of three years.

(5) In case the extraction exceeds the working plan prescribed yield or is done before the due scheduled gap of three years or if the extraction of immature *bamboo* takes place, the Range Committee shall report it to the Deputy Conservator of Forests, who shall cause a notice to be given to the concerned *Van Vyavasthapan Samiti*, stating clearly the violations. The concerned *Van Vyavasthapan Samiti*, the *Gram Sabha* or the *Gram Panchayat* shall have opportunity to reply to the notice providing any evidence contrary to the notice and also to submit report on changing strategy for managing the village forests to ensure improved conservation outcomes. Only if the Range Committee is satisfied that violations are recurring and that no changed strategy to improve the management has been effectively presented by the *Van Vyavasthapan Samiti*, the rights of Village *Panchayat* with respect to *bamboo* shall be suspended by the Range Committee by giving a reasoned order. The area shall be reverted forthwith to the Forest Department for restoration of normalcy to be certified by the Assistant Conservator of Forest in charge of the said area. The area once restored may subsequently be reassigned to the said village community or *Village Panchayat* again.

5. *Cancellation of Assignment.*— In case of violation of the microplan or working plan prescriptions or of the conditions under which the Government rights have been assigned, or of provisions of these rules or the Act, such assignment may be cancelled by the Chief Conservator of Forests and submitted to the State Government for post fact approval and such village forest shall revert back to the Forest Department for the purpose of management :

Provided that, no cancellation of such assignment shall be ordered unless the Chief Conservator of Forests has served a notice on the *Van Vyavasthapan Samiti* specifying the violation committed and after considering its say in the matter, has come to the conclusion that violations are of serious nature and continuance of such assignment shall not be in the interest of forest conservation. The concerned *Van Vyavasthapan Samiti*, the *Gram Sabha* or the *Gram Panchayat* shall have the opportunity to submit a revised strategy for conserving the village forests and if the Chief Conservator of Forests concludes that the *Van Vyavasthapan Samiti* has shown evidence of capacity to implement the revised strategy effectively, the assignment of village forests may be continued as per new strategy.

6. *Constitution of the Van Vyavsthapan Samiti.*—(1) (*a*) The *Van Vyavsthapan Samiti* may be constituted as a Village Development Committee as per provisions of section 49 of the Village Panchayat Act, as amended, from time to time.

(*b*) The *Van Vyavsthapan Samiti* shall elect its Chairperson as per the provisions of the Village Panchayat Act.

(*c*) The Member-Technical of the *Van Vyavsthapan Samiti* shall be considered equivalent to the Secretary of the *Panchayat* for the purpose of duties, functions and responsibilities assigned to the *Van Vyavsthapan Samiti*. The Member-technical shall render technical advice on matters pertaining to extraction and management of minor forest produce and other forest produce. The Member-technical of the *Van Vyavsthapan Samiti* shall render technical advice on the matters pertaining to the extraction and management of the minor forest produce and other forest produce and shall be jointly responsible along with its other members for any violations of these rules or the legal provisions applicable to the management of the village forests. The *Van Vyavasthapan Samiti* may, with the approval of the *Gram Sabha*, appoint any competent member of the *Gram Sabha* as a Member-Secretary who shall be responsible for keeping the record of the minutes and ensure compliance of the procedures and resolutions taken in the *Van Vyavasthapan Samiti*.

(2) The powers, jurisdiction, functions and procedure for transaction of its business shall be in consonance with the provisions of the Village *Panchayat* Act, and within the framework of general policy framed by the State Government, the *Zilla Parishad* and the *Gram Panchayat* as well as specific directives issued under any scheme implemented through *Van Vyavsthapan Samiti*.

(3) The term of the *Van Vyavsthapan Samiti*, if constituted, shall be coterminous with the term of the Village *Panchayat* :

Provided that, the *Gram Sabha* may dissolve the *Van Vyavasthapan Samiti*, if it finds the evidence of managing the village forests in contravention of the approved micro plan or financial mis-management and, in this event, it may re-constitute the *Van Vyavsthapan Samiti* under section 49 of the Village Panchayats Act.

(4) The Member-Technical shall not be entitled to obtain any pecuniary benefit from the *Van Vyavsthapan Samiti* other than reimbursement of travel expenses while traveling with a team constituted by the *Van Vyavsthapan Samiti* on recommendation of the *Gram Sabha* in connectien with approved study visits or any other works assigned to the visiting team. Prior approval of the concerned Range Forest Officer shall be required for receiving the reimbursement.

7. *Functions of the Van Vyavsthapan Samiti.*— The *Van Vyavsthapan Samiti* shall perform the following functions, namely :—

(*a*) To prepare a 'Ten-year microplan' in consonance with the Working Plan of the landscape and, an 'Annual Implementation Plan' every year for managing the village forests and place the microplan before the *Gram Sabha* for ratification and its approval by the Assistant Conservator of Forests or the Sub-Divisional Forest Officer in charge of independent sub-division and revise it periodically ;

(*b*) To carry out implementation of approved microplan and annual implementation plan ;

(*c*) To prevent destruction of trees and forest resources including surface soil, forest floor, wildlife and habitat conditions in the village forests ;

(*d*) To prevent encroachment in village forests and any use of forest land or forest resources in contravention of the Act and assist the Government in removing the illegal occupations of individuals or group of individuals ;

(*e*) To ensure conservation of wildlife and its habitat in the village forests ;

(*f*) To maintain the integrity of the boundary of village forests ;

(*g*) To manage grazing and use of fodder resources in the forests in accordance with the microplan and other relevant laws, rules and instructions in force ;

(h) To protect village forests from fire in accordance with laws, rules and instructions in force ;

(i) To maintain records, documents and accounts of income and expenditure in such manner as directed by the State Government, and till then as per the Government Resolution, the Revenue and Forests Department, No. FDM-2013/CS.310/F-2, dated the 31st October 2013 ;

(j) To levy and collect entry fee for visiting any part of the village forests from any person other than public representatives, government officials and any other person associated with or authorized by any government agency ;

(k) Any other duty entrusted by *Gram Sabha* in the interest of preventing duplication and multiplicity of village committees ;

(l) To individually as well as collectively ensure protection and conservation of the village forests, and promptly report any forest or wildlife offence to the nearest Forest Officer as required by the relevant Acts, Rules and executive instructions issued from time to time; and the concerned Forest Officer shall be accountable to report to the *Gram Sabha* or the *Van Vyavasthapan Samiti* action taken by the Forest Department to prevent the commission of reported offence ;

(m) To regulate the work of collection and disposal of minor forest produce as per microplan while maintaining a balance between livelihood and self-consumption apart from the interest of the whole village and that of the State at large so that the whole village gets full benefits of collecting minor forest produce thereby contributing to the economic well-being of the villagers ;

(n) To perform such other functions as may be necessary to effectively carry out purposes of the Act and these Rules with due regard to the sustainable management of village forests and in accordance with directives issued by and on behalf of the Government, from time to time ;

(o) To perform duties and functions of the Biodiversity Management Committee within its jurisdiction provided the *Gram Sabha* resolves to entrust *Van Vyavsthapan Samiti* the duties and functions of the Biodiversity Management Committee as per provisions the Biological Diversity Act, 2002 and the rules made there under.

8. *Preparation of microplan.*— A microplan for a period of ten years shall be prepared for the management and protection of a village forests by the *Van Vyavsthapan Samiti*, with the assistance of forest official who is nominated as Member-Technical, in consonance with working plan. The microplan shall be drafted by the committee based on discussions in the *Gram Sabha* meeting called specifically for this purpose after having considered the set of guidelines provided by the State Government for this purpose. The microplan shall be placed before the *Gram Sabha* for its approval. The microplan duly approved by the simple majority of *Gram Sabha*, for which presence of 2/3rd members shall be mandatory. Approved microplan shall then be submitted to the Assistant Conservator of Forests who shall call a meeting of the Range Committee in his presence and after due deliberation at the Range Committee, shall approve the plan after incorporating any suggestions of the Range Committee with any suitable modifications to ensure congruence with sustainable silvicultural practices and coherence with the Working plan in force. If the Assistant Conservator of Forest fails to approve the microplan within one month of its receipt, the microplan shall, on application by the *Van Vyavsthapan Samiti* or *suo motto*, be called by the Deputy Conservator of Forests for necessary processing and giving final approval within one month subject to the legal and statutory compliances in relation to any Court Orders applicable, the Forest Conservation Act, 1980, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007), Wild Life (Protection) Act, 1972 (Act No. 53 of 1972), and the Indian Forest Act, 1927 (Act No. XVI of 1927), required, if any.

9. *Preparation of Annual Implementation Plan.*— The *Van Vyavsthapan Samiti* shall prepare every year an Annual Implementation Plan for the management and development of village forests on the basis of the sanctioned microplan and submit it to the *Gram Sabha*, under intimation to the Range Forest Committee. The *Gram Sabha* shall consider the Annual implementation plan alongwith accounts of the management and benefits received from the management of the forests in the previous year.

10. *Power of the Van Vyavsthapan Samiti.*— On the constitution of the *Van Vyavsthapan Samiti*, it shall exercise the following powers with prior concurrence of the *Gram Sabha* in respect of the assigned village forest, namely :—

(*a*) To defend suits or proceedings against the *Van Vyavsthapan Samiti* and *Gram Sabha* or the *Panchayat* or initiate suits to secure interest of the *Gram Sabha* or *Gram Panchayat* ;

(*b*) To harvest and dispose of minor forest produce, *bamboo*, *tendu* and *apta* in accordance with the microplan. This will be done in accordance with the existing Acts and Rules governing the management and disposal of minor forest produce ;

(*c*) To ensure that the harvesting of forest produce including minor forest produce is done strictly in the manner prescribed in the microplan prepared in accordance with the principles of the working plan and in accordance with the rules formulated by the *Gram Sabha* for sustainable management of forests and to impose penalty for violation as fixed by the Government, from time to time ;

(*d*) To regulate grazing including closure from grazing, impounding of cattle for trespass into the village forests, and to authorize any villager or its member to impound such cattle, sheep and goats found grazing in the closed areas or in contravention of the grazing regulations;

(*e*) To harvest dead trees, if any, marked for cutting for improving the hygiene of the Village Forests in consonance with Working Plan or Microplan and to distribute the harvested material including the out turn from stump cleaning or fashioning to the members of the village for community purposes or their household requirements at the rate decided by the *Gram Sabha*;

(*f*) To propose to the *Gram Sabha* of the hamlet for the declaration of any tree or class of trees as reserved trees as also for closure of an area as prescribed by the provisions of section 30 of the Act. The *Gram Sabha* may declare the same with concurrence of simple majority of members of the *Gram Sabha*;

(*g*) After being duly authorized through specifically passed resolution by two-third majority of the members of the *Gram Sabha*, to harvest trees, timber and firewood as prescribed in the micro-plan with prior intimation in writing to the Deputy conservator of Forests in-charge of the division or the Sub-Divisional Forest Officer in-charge of the sub-division, and dispose of timber and firewood in the manner as deemed fit;

(*h*) To regulate, in the village forest area, the examination of any forest;

(*i*) To prohibit any fresh clearing or breaking of land for cultivation or any other purpose;

(*j*) To prohibit setting of fire in contravention of rules, prescription of the Working Plan or microplan or instructions of the State Government;

(*k*) To prohibit kindling, keeping or carrying of fire and extinguish fire, if any, in the village forests;

(*l*) To prohibit damage to the forests and wildlife therein including felling, girdling, lopping or burning any tree or otherwise damaging any tree;

(*m*) To prohibit hunting, shooting, fishing, poisoning water, setting traps and snares in such forests in contravention of the Act, the Wild Life (Protection) Act, 1972 (Act No. 53 of 1972) and the rules made thereunder;

(*n*) To operationalize seizure of any tool, weapon, vehicle or equipment as well as cattle used in committing any forest or wildlife offence within the village forests;

(*o*) To levy and collect fee for grazing or supply of any minor forest produce as approved by *Gram Sabha*;

(*p*) To make provision for carrying out within the village any other work or measure which is proposed to support conservation of natural resources and promote the health, safety, education, culture, comfort, convenience or social or economic well-being of the inhabitants of the village;

(*q*) To constitute the Beneficiary-level Sub-Committees from amongst the beneficiaries of existing or proposed activities, schemes or utilities as per provisions of section 49A of the Village Panchayat Act;

(*r*) To recommend names from amongst its members to be considered for selection of *Van Patil* or honorary Village Wildlife Warden to the Deputy Conservator of Forests.

11. *Delegation of powers of the Van Vyavsthapan Samiti.*— The *Van Vyavsthapan Samiti* may, with prior concurrence of the *Gram Sabha*, authorize any member of the *Gram Sabha* to exercise the powers and perform the duties of the *Van Vyavasthapan Samiti* in respect of the assigned village forest and thereupon such powers may also be exercised by such member.

12. *Reference of dispute.*— All disputes relating to grazing, illegal collection of minor forest produce, firewood collection, and irregularities in the exercise of forest rights shall be first referred to and considered and resolved by the *Van Vyavasthapan Samiti* with the approval of the *Gram Sabha*. If the *Gram Sabha* is unable to resolve these disputes, then these may be referred to the Range Committee for final adjudication and resolution.

13. *Saving.*— Nothing in these rules shall be deemed to prohibit any activity under a written order or exercise of any right created by grant, or agreement in writing made by or on behalf of the State Government.

14. *Constitution and functions of Range Forest Committee.*— (*1*) There shall be a Range Forest Committee in each range for co ordinating the functions of the *Van Vyavsthapan Samitis* and guiding implementation of the policy directives regarding effective management of the village forests.

(*2*) The concerned Assistant Conservator of Forests shall be the Chairperson and the Range Forest officer shall be Member-Secretary of the Range Forest Committee.

(*3*) A Co-chairperson of the committee shall be elected amongst the members of the *VanVyavsthapan Samitis*.

(*4*) A Sarpanch belonging to the Scheduled Castes or Scheduled Tribes shall be nominated as member of the Range Forest Committee by the *Sabhapati* of the concerned *Panchayat Samiti*.

(5) All Chairpersons and Member-Secretary of all the *Van Vyavsthapan Samitis* shall be *ex-officio* members of the Range Forest Committee.

(6) The Chief Conservator of Forests and the *Gram Sabha* may, by rotation for one year, nominate one person each including members of civil society organisations, not exceeding three in total number, as members of the Range Forest Committee, provided the person is a resident of the concerned district, and had actively participated in activities related to the forest and wildlife conservation.

15. *Functions of the Range Forest Committee.*— The Range Forest Committee shall have the following functions, namely :—

(*a*) To examine and consolidate the Annual Plan for village forests in the Range;

(*b*) To inspect, supervise and verify works done by the *Van Vyavsthapan Samitis*, wherever constituted;

(*c*) To inspect account books and other records maintained by the *Van Vyavsthapan Samitis*, wherever constituted; and take assistance for convergence of ecologically-sound developmental works;

(*d*) To ensure that all the *Van Vyavsthapan Samitis* in the Range are discharging the duties and exercising the powers assigned to them properly, equitably and justly. In case of any default, the Range Forest Committee shall issue an advisory to the concerned *Van Vyavasthapan Samiti* calling upon it to take corrective measures to stop any violations of microplan or financial mis-management. Failure of the *Van Vyavasthapan Samiti* to take corrective steps will result in the Range Committee bringing the said violations to the notice of the intervene and report the matter to the Forest Division Committee;

(*e*) To carry out reconciliation from amongst *Van Vyavsthapan Samiti* with regards to boundaries of assigned village forests, rights to extract minor forest produce, and disputes regarding levy of fines or exclusion from benefits of village forests imposed by the *Van Vyavsthapan Samitis*;

(*f*) To ensure that the microplans of different villages conform to the landscape management principles of the forests;

(*g*) To submit budget proposals in accordance with the instructions issued by the State Government in this behalf or to the Forest Development Agency, if applicable;

(*h*) To discharge such other duties as may be assigned by the State Government or the Forest Development Agency, if applicable.

16. *Constitution of the Forest Division Committee.*— The Forest Division Committee of the concerned forest division or sub-division as constituted by the Chief Conservator of Forests shall serve as mentoring committee at the forest division or sub–division level for guiding the management and development of village forests.

17. *Functions of the Forest Division Committee.*— The Forest Division Committee shall carry out the following functions, directly or through its representatives, namely :—

(*a*) To examine and if necessary provide guidance with respect to the microplan for the village forests and ancillary works and ensure that the landscape management approach is reflected in all the microplans ;

(*b*) To perform such other functions as may be entrusted by the Principal Chief Conservator of Forests.

18. *Constitution and Functions of State Level Committee.*— The State Level Committee of Maharashtra as constituted by the State Government shall serve as the apex committee for guiding the management, development and conservation of village forests.

19. *Procedure for transaction of business of the Committees.*— (*1*) The transaction of business of the Range Forest Committees and Forest Division Committees shall be carried out as follows and as per the directives of the State Government, from time to time, namely :—

(*a*) All the matters which come up before the Committees shall be decided by a majority of the members present and voting. The quorum for a meeting of the committees shall be half of the total number of members of the committee.

(*b*) The Chairperson of the Committee and in his absence, a member duly elected in this behalf by the members present in the meeting, shall preside over the meetings of the Committee.

(*c*) A prior notice of at least fifteen days for the meeting of the Committees shall be given to the members of the concerned Committees.

(*d*) All the decisions of the Committees shall be recorded in minute books to be kept for the purpose.

(*2*) A copy of memorandum of the deliberation and resolutions, if any, of the *Van Vyavasthapan Samiti* shall be kept with the concerned *Gram Sabha*, and minutes shall be ratified by the majority of members present in the *Gram Sabha*. The minutes should also be forwarded to the Range Forest Officer which shall submit it with such remarks as it deems fit to the Deputy Conservator of Forests or Sub-Divisional Forest Officer in charge of independent sub-division.

20. *Funds, Accounts and Audit.*— Funds, Accounts and Audit of the Committees constituted under these rules shall be managed as per the provisions of the law for the time being in the force and as per the directives of the State Government and funding agency, from time to time. Until then the *Van Vyavasthapan Samiti* may follow accounting and auditing process as per the Government Resolution, Revenue and Forests Department, No. FDM-2013/CS.310/F-2, dated the 31st October 2013.

21. *Apportionment and Utilization of Income.*—The income of the *Van Vyavsthapan Samiti* shall be apportioned and utilized in the manner decided by the *Van Vyavsthapan Samiti* within the framework as directed by the State Government, from time to time. Guidelines provided for utilization of income from forest produce applicable to Joint Forest Management Committees may be adopted by the *Gram Sabha*. Upto one third of the income derived from the major forest produce may, with the approval of the *Gram Sabha*, be set aside by the *Van Vyavasthapan Samiti* for regeneration, forests conservation and eco-development activities of the village.

By order and in the name of the Governor of Maharashtra,

PRAVEEN PARDESHI,
Principal Secretary to Government.

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ANNEXURE 4.10

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated 3rd April 1997.

FOREST ACT, 1927.

No. MIS. 1095/CR-579/F-6.—In exercise of the powers conferred by section 67of the Forest Act, 1927 (XVI of 1927) in its application to the State of Maharashtra, and all other powers enabling it in this behalf, the Government of Maharashtra, after consultation with the High Court, hereby specially empowers,—

(*a*) all the Metropolitan Magistrates in the City of Mumbai ;

(*b*) all the Judicial Magistrates, First Class, in all the districts in the State.

For the purposes of section 67 of the said Act.

By order and in the name of the Governor of Maharashtra,

Dr. S. K. KHETARPAL,
Joint Secretary to Government.

शासकीय मध्यवर्ती मुद्रणालय, मुंबई

ANNEXURE 4.11

RNI No. MAHBIL /2009/31733
Reg. No. MH/MR/South-322/2013-15

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार–अ

वर्ष ५, अंक २७] बुधवार, मे २२, २०१३/ज्येष्ठ १, शके १९३५ [पृष्ठे ८, किंमत : रुपये २५.००

असाधारण क्रमांक ६१

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने केंद्रीय अधिनियमांन्वये तयार केलेले
(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

महसूल व वन विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरू चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक २१ मे २०१३

अधिसूचना

भारतीय वन अधिनियम, १९२७.

क्रमांक एस-३०/०२/२०१३/प्र.क्र. २१/फ-६.— ज्याअर्थी, तत्कालीन मुंबई शासनाच्या महसूल विभागाने काढलेली शासकीय अधिसूचना, क्रमांक जी. एन. ४३३५/३९(ड), दिनांक १ ऑक्टोबर १९४२ द्वारे, भारतीय वन अधिनियम, १९२७ (१९२७ चा १६) (यात यापुढे ज्याचा निर्देश "उक्त अधिनियम" असा करण्यात आला आहे) याच्या विविध कलमान्वये वन अधिकाऱ्याने करणे आवश्यक असलेल्या विवक्षित गोष्टी करण्यासाठी विवक्षित अधिकाऱ्यांना नियुक्त करून त्यांना अधिकार प्रदान करण्यात आले होते ;

आणि ज्याअर्थी, शासकीय अधिसूचना, महसूल व वन विभाग, क्रमांक आयएफए-१०६४/७११६८-झेड, दिनांक २२ नोव्हेंबर १९६६ द्वारे विवक्षित वन अपराध अभिसंधानाकरिता उक्त अधिनियमाच्या कलम ६८ च्या पोट-कलम (१) अन्वये वनसंरक्षक, विभागीय वन अधिकारी, उप विभागीय वन अधिकारी आणि वनक्षेत्र अधिकारी यांना अधिकार प्रदान करण्यात आले होते ;

आणि ज्याअर्थी, सन १९७४ मध्ये विधि संस्थापित असलेले आणि विभिन्न वनीकरणाच्या प्रयोजनांसाठी विवक्षित वन जमीन आपल्या प्रशासकीय नियंत्रणाखाली असलेले महाराष्ट्र वन विकास महामंडळ मर्यादित (एफ.डी.सी.एम.लि.) याच्या विवक्षित अधिकाऱ्यांना, शासकीय अधिसूचना, महसूल व वन विभाग, क्रमांक एफडीसी-१९७४/५०३६८-दोन/कार्यासन फ-५, दिनांक ६ ऑगस्ट १९७५ द्वारे उक्त अधिनियमान्वये वन अधिकाऱ्याने जे अधिकार वापरणे आवश्यक आहे, अशा विवक्षित अधिकारांचा वापर करण्यासाठी नियुक्त करण्यात आले होते ;

आणि ज्याअर्थी, महाराष्ट्र राज्यासाठी लागू उक्त अधिनियमांच्या कलम ६१क च्या पोट-कलम (१) च्या प्रयोजनांसाठी, शासकीय अधिसूचना, महसूल व वन विभाग, क्रमांक टीआरएस-१०८३/९१८८२ (दोन)/प्र. क्र. ८७/फ-६, दिनांक ३१ मे १९८५ द्वारे विवक्षित विभागीय वन अधिकारी, उप विभागीय वन अधिकारी, सहायक वनसंरक्षक, संलग्न अधिकारी आणि काष्ठ निष्कासन (लॉगिंग) अधिकारी यांना प्राधिकृत अधिकारी म्हणून अधिकार प्रदान करण्यात आले होते ;

आणि ज्याअर्थी, महाराष्ट्र राज्यासाठी लागू उक्त अधिनियमांच्या कलम ६१ग च्या प्रयोजनांसाठी शासकीय अधिसूचना, महसूल व वन विभाग, क्रमांक टीआरएस-१०८३/९१८८२(तीन)/प्र.क्र. ८७/फ-६, दिनांक ३१ मे १९८५ द्वारे, प्रादेशिक वनवृत्ताच्या प्रभारी वन संरक्षकास अधिकार प्रदान करण्यात आले होते ;

आणि ज्याअर्थी, शासकीय अधिसूचना, महसूल व वन विभाग, क्रमांक एस-३०/१०/२०००/प्र.क्र. ४५६/फ-६, दिनांक २१ एप्रिल २००१ द्वारे, उक्त अधिनियमाच्या कलम ७२ च्या पोट-कलम (१) अन्वये वापरता येण्यायोग्य असलेले अधिकार विवक्षित वन परिक्षेत्र अधिकाऱ्यांकडे विनिहित करण्यात आले होते आणि तसेच, उक्त अधिनियमाच्या कलम ७२ च्या पोट-कलम (१) च्या खंड (क) मधील विनिर्दिष्ट प्रयोजनांसाठी परिमंडळाच्या सर्व प्रभारी वनपालांकडे देखील अधिकार विनिहित करण्यात आले होते ;

आणि ज्याअर्थी, वन विभागाच्या संघटनात्मक संरचनेतील बदल आणि त्यानुषंगाने विवक्षित पदांची होणारी श्रेणीवाढ तसेच, वन अधिकाऱ्यांच्या विवक्षित पदांच्या पदनामात झालेला बदल विचारात घेता, उक्त अधिनियमाच्या विविध कलमान्वये वन अधिकाऱ्याने करणे आवश्यक असलेल्या विवक्षित गोष्टी करण्याकरिता वन विभागाच्या अधिकाऱ्यांना नियुक्त करण्यासाठी आणि त्यांना अधिकार प्रदान करण्यासाठी एक नवीन अधिसूचना काढणे इष्ट आहे.

त्याअर्थी, आता, महाराष्ट्र राज्यासाठी लागू भारतीय वन अधिनियम, १९२७ (१९२७ चा १६) च्या कलमे २, १७, २१, २५, २६ (१) (ग), २६ (२)(क), २६ (४), ३३ (३), ३८, ४४, ४५, ४६, ४७, ५०, ५२, ५३, ५६, ५७, ६१, ६१ क, ६१ ग, ६३, ६४, ६५, ६६, ६८, ७०, ७२, ७९, ८३ आणि ८५ याद्वारे प्रदान करण्यात आलेल्या अधिकारांचा आणि त्याबाबतीत समर्थ करणाऱ्या इतर सर्व अधिकारांचा वापर करून, आणि त्याबाबतीत वेळोवेळी काढलेल्या विद्यमान सर्व उपरोल्लिखित शासकीय अधिसूचनांचे अधिक्रमण करून, महाराष्ट्र शासन याद्वारे,—

(१) पुढील तक्त्यामधील स्तंभ (२) मध्ये नमूद केलेल्या वन विभागातील आणि वन महाराष्ट्र वन विकास महामंडळ मर्यादित (एफ.डी.सी.एम.लि.) यातील अधिकाऱ्यांना स्तंभ (३) मध्ये विनिर्दिष्ट केलेल्या, उक्त अधिनियमाच्या विविध कलमान्वये वन अधिकाऱ्याने करणे आवश्यक असलेल्या कोणत्याही गोष्टी करण्यासाठी नियुक्त करीत आहे :—

तक्ता

अ. क्र. (१)	अधिकारी (२)	कलमे (३)
१	मुख्य वनसंरक्षक, वनसंरक्षक, महाव्यवस्थापक, प्रादेशिक व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित.	६१ग, २६ (४) आणि ३३ (३).
२	मुख्य वनसंरक्षक, महाव्यवस्थापक, प्रादेशिक व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, वनसंरक्षक, उप वनसंरक्षक, विभागीय वन अधिकारी, विभागीय व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, स्वतंत्र उप विभागांचे प्रभारी उप विभागीय वन अधिकारी, सहायक वनसंरक्षक, सहायक व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित.	२१, २६ (४), ३३ (३), ५३, ५६, ५७, ६५, ६८ आणि ७२.
३	मुख्य वनसंरक्षक, महाव्यवस्थापक, प्रादेशिक व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, वनसंरक्षक, उप वनसंरक्षक, विभागीय वन अधिकारी, विभागीय व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, स्वतंत्र उप विभागांचे प्रभारी उप विभागीय वन अधिकारी.	१७, २५, २६ (१) (ग), ३८, ४६, ४७, ५०, ६१ आणि ८३.
४	उप वनसंरक्षक, विभागीय वन अधिकारी, विभागीय व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, स्वतंत्र उप विभागांचे प्रभारी उप विभागीय वन अधिकारी, सहायक वनसंरक्षक, सहायक व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, काष्ठ निष्कासन (लाँगिंग) अधिकारी, आलापल्ली, गडेगाव, नवेगाव, पुसद आणि वर्धा.	६१ क (१)
५	विभागीय वन अधिकारी, विभागीय व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित	४४, ५२, ५३, ६१, ६४, ६५, ६८, ७०, ७२, ७९.
६	वन परिक्षेत्र अधिकारी, वन परिक्षेत्र अधिकारी महाराष्ट्र वन विकास महामंडळ मर्यादित	२६ (४), ३३ (३), ५३, ५६, ५७, ६५ आणि ७२.

(१)	(२)	(३)
७	वनसर्वेक्षक, रेंजर सर्वेक्षक, वनपाल, वनरक्षक (महाराष्ट्र वन विकास महामंडळ मर्यादित यामधील वनपाल व वनरक्षक यांसह).	७२ (१) (क)
८	मुख्य वनसंरक्षक, महाव्यवस्थापक, प्रादेशिक व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, वनसंरक्षक, उप वनसंरक्षक, विभागीय वन अधिकारी, विभागीय व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, स्वतंत्र उप विभागांचे प्रभारी उप विभागीय वन अधिकारी, सहायक वनसंरक्षक, सहायक व्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित, वन परिक्षेत्र अधिकारी, वनपाल, वनरक्षक (महाराष्ट्र वन विकास महामंडळ मर्यादित यामधील वन परिक्षेत्र अधिकारी, वनपाल व वनरक्षक यांसह).	२६ (२)(क), ३४,४४, ४५, ५२, ६३, ६४, ६६, ७० आणि ७९.

स्पष्टीकरण.—वरील तक्त्यातील स्तंभ (२) मध्ये नमूद केलेल्या अधिकाऱ्यांमध्ये, त्यांना समकक्ष असलेल्या, वन विभागाच्या वन्यजीव शाखेतील अधिकाऱ्यांचाही समावेश असेल. उदा. मुख्य वनसंरक्षक यामध्ये मुख्य वनसंरक्षक (वन्यजीव) यांचा समावेश आहे.

(२) (अ) उक्त अधिनियमाच्या कलम ८५ च्या पोट-कलम (२) मध्ये निर्दिष्ट केलेल्या प्रश्नावर निर्णय देण्यासाठी सर्व मुख्य वनसंरक्षक, महाव्यवस्थापक, महाराष्ट्र वन विकास महामंडळ मर्यादित यांना प्राधिकृत करीत आहे.

(ब) उक्त अधिनियमाच्या कलम ८५ च्या पोट-कलम (२) अन्वये प्रधान मुख्य वनसंरक्षक (वन बल प्रमुख), महाराष्ट्र राज्य आणि व्यवस्थापकीय संचालक, महाराष्ट्र वन विकास महामंडळ मर्यादित यांना अपिलीय प्राधिकारी म्हणून नियुक्त करीत आहे.

(३) उक्त अधिनियमाच्या कलम २५ अन्वये राखीव वनातील सार्वजनिक किंवा खाजगी रस्ते आणि जलमार्ग बंद करण्याकरिता वन अधिकारी ज्यांच्या पूर्व परवानगीने अधिकारांचा वापर करू शकेल, असा अधिकारी म्हणून जिल्हाधिकाऱ्याला प्राधिकृत करीत आहे ;

(४) उक्त अधिनियमाची कलमे ५२, ६४ व ६६ यांच्या तरतुदींची आणि मुंबई वन नियम, १९४२ याच्या नियम ८५ ची अंमलबजावणी करण्याकरिता सीमाशुल्क, मोटार वाहन, राज्य उत्पादन शुल्क, सामाजिक वनीकरण आणि आदिवासी विकास विभाग यामधील सर्व अधिकाऱ्यांना वन अधिकारी म्हणून नेमणूक करीत आहे ;

(५) (अ) उक्त अधिनियमाच्या आणि मुंबई वन नियम, १९४२ च्या सर्व प्रयोजनांसाठी सर्व जिल्हाधिकारी, सहायक जिल्हाधिकारी आणि उप जिल्हाधिकारी यांना, वेळोवेळी महसूल विभागाच्या व्यवस्थापनाखाली असतील अशा, त्यांच्या संबंधित अधिकार क्षेत्रातील राखीव किंवा संरक्षित वनांच्या बाबतीत वन अधिकारी म्हणून नेमणूक करीत आहे ;

(ब) उक्त अधिनियमाच्या कलम ६८ च्या पोट-कलम (३) च्या तरतुदींच्या अधीन राहून, वरील खंड (अ) मध्ये नमूद केलेल्या अधिकाऱ्यांना त्यांच्या संबंधित अधिकारक्षेत्रातील राखीव वनाबाबत आणि संरक्षित वनाबाबत उक्त अधिनियमाच्या कलम ६८ मध्ये विनिर्दिष्ट केलेले अधिकार निहित करीत आहे ;

(क) सर्व जिल्हाधिकाऱ्यांना त्यांच्या संबंधित अधिकारक्षेत्रातील राखीव वनांबाबत आणि संरक्षित वनांबाबत उक्त अधिनियमाच्या कलम ६१ मध्ये विनिर्दिष्ट केलेले अधिकार विहित करीत आहे.

(६) उक्त अधिनियमाची कलमे ५२, ६४ आणि ६६ प्रयोजनासाठी सर्व मंडळ अधिकारी, तलाठी आणि पोलीस पाटील यांना, वेळोवेळी महसूल विभागाच्या व्यवस्थापनाखाली असतील अशा, त्यांच्या संबंधित अधिकार क्षेत्रातील वनांच्या बाबतीत वन अधिकारी म्हणून नेमणूक करीत आहे ;

(७) पुणे जिल्ह्यातील जी राखीव वन कुरणे, सेना रसद विभागाच्या उपयोगासाठी नेमून देण्यात आली असतील, अशा राखीव वन कुरणांच्या बाबतीत मुख्य सेना रसद अधिकारी, पुणे यांस, उक्त अधिनियमाच्या आणि मुंबई वन नियम, १९४२ च्या सर्व प्रयोजनांसाठी वन अधिकारी म्हणून नेमणूक करीत आहे ;

(८) पुणे जिल्ह्यातील तृण अधीक्षक, सेना रसद विभाग, पुणे आणि सेना रसद कुरण चौकीदार यांना, उक्त अधिनियमाची कलमे ५२, ६४ व ७० यांच्या प्रयोजनासाठी, त्यांची कर्तव्ये ज्या क्षेत्रापुरती मर्यादित असतील त्या संपूर्ण क्षेत्रासाठी वन अधिकारी म्हणून नेमणूक करीत आहे ;

(९) अहमदनगर जिल्ह्यातील जी राखीव वन कुरणे सैन्याच्या रिमाउंट विभागाच्या उपयोगासाठी नेमून देण्यात आली असतील, अशा राखीव वन कुरणांच्या बाबतीत समादेशक अधिकारी, रिमाउंट आगार, अहमदनगर यांस उक्त अधिनियमांच्या आणि मुंबई वन नियम, १९४२ च्या सर्व प्रयोजनांसाठी वन अधिकारी म्हणून नेमणूक करीत आहे ; आणि

(१०) अहमदनगर जिल्ह्यातील जी राखीव वन कुरणे सैन्याच्या तृणक्षेत्र विभागाच्या उपयोगासाठी नेमून देण्यात आली असतील, अशा राखीव वन कुरणांच्या बाबतीत व्यवस्थापक, सेना तृणक्षेत्र, अहमदनगर यांस, उक्त अधिनियमांच्या आणि मुंबई वन नियम, १९४२ च्या सर्व प्रयोजनांसाठी वन अधिकारी म्हणून नेमणूक करीत आहे.

स्पष्टीकरण.—या अधिसूचनेद्वारे अधिक्रमण करण्यात आलेल्या आणि उक्त अधिनियमाच्या तरतुदीखाली काढलेल्या कोणत्याही अधिसूचनांद्वारे किंवा आदेशांद्वारे प्रदान केलेल्या अधिकारांचा वापर करून कोणत्याही अधिकाऱ्याने केलेल्या कायदेशीर कार्यवाहीच्या परिणामी, जी कोणतीही कार्यवाही सुरु असेल, अशा कोणत्याही कार्यवाहीवर, या अधिसूचनेतील कोणत्याही गोष्टीमुळे बाधा पोहोचणार नाही किंवा ती कार्यवाही संकोच पावणार नाही.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

संजीव गौड,
शासनाचे सहसचिव.

REVENUE AND FOREST DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya, Mumbai 400 032,
dated the 21st May 2013.

NOTIFICATION

INDIAN FOREST ACT, 1927.

No. S-30/02/2013/CR-21/F-6.—Whereas by the Government Notification, Revenue Department, No. G.N. 4335/39(*d*), dated the 1st October 1942 issued by the then Government of Bombay, certain officers were empowered and appointed to do certain things required to be done by a Forest-Officer under various section of the Indian Forest Act, 1927 (XVI of 1927) (hereinafter referred to as 'the said Act');

And whereas, by the Government Notification, Revenue and Forests Department, No. IFA. 1064/71168-Z, date the 22nd November 1966, the Conservator of Forests, Divisional Forest Officers, Sub-Divisional Forest Officers and Range Forest Officers were empowered under sub-section *(1)* of section 68 of the said Act to compound certain forest offences ;

And whereas, by the Government Notification, Revenue and Forests Department, No.FDC1174/50368-II/Desk-F-5, date the 6th August 1975 certain officers of the Forest Development Corporation of Maharashtra Limited (FDCM Ltd.) which is incorporated in the year 1974 and has certain forest land under its administrative control for various forestry purposes, were appointed to exercise various powers required to be exercised by a Forest-Officer under the said Act ;

And whereas, by the Government Notification, Revenue and Forests Department, No. TRS. 1083/91882(ii)/CR-87-F6, dated the 31st May 1985, certain Divisional Forest Officers, Sub-Divisional Forest Officers, Assistant Conservator of Forests, Attached Officers and Logging Officers were empowered for the purposes of sub-section *(1)* of section 61 A of the said Act as Authorised Officers, in its applications to the State of Maharashtra ;

And whereas, by the Government Notification, Revenue and Forests Department, No. TRS. 1083/91882(iii)/CR-87-F6, dated the 31st May 1985, the Conservator of Forests, in charge of territorial circles were empowered for the purposes of section 61C of the said Act in its application to the State of Maharashtra ;

And whereas, by the Government Notification, Revenue and Forests Department, No. S.30/10/2000/C.R.456/F-6, dated the 21st April 2001, certain Range Forest Officers were invested with the powers exercisable under sub-section *(1)* of section 72 of the said Act, and all foresters in charge of a round were also invested with the powers for the purposes specified in clause *(a)* of sub-section *(1)* of section 72 of the said Act ;

And whereas, in view of change of the organizational structure of the Forest Department and consequent up-gradation of certain post and change of designations of certain posts of Forest Officers, it is expedient to issue a fresh notification to empower and appoint the Officers of Forest Department to do certain things required to be done by a Forest-Officer under various sections of the said Act.

Now, therefore, in exercise of the powers conferred by sections 2, 17, 21, 25, 26(1)(c), 26(2)(a), 26(4), 33(3), 38, 44, 45, 46, 47, 50, 52, 56, 57, 61, 61A, 61C, 63, 64, 65, 66, 68, 70, 72, 79, 83 and 85 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other power enabling it in that behalf, and in supersession of all above mentioned existing Government Notifications, issued from time to time in this behalf, the Government of Maharashtra is hereby pleased.—

(1) to empower, appoint and authorise the following officers of the Forest Department and Forest Development Corporation of Maharashtra Limited (FDCM Ltd.) mentioned in column (2)

of the Table appended here to to do anything required to be done by a Forest-officer under the various sections of the said Act specified against them in column (3) of the table.

TABLE

Sr. No.	Officers	Sections
(1)	(2)	(3)
1.	Chief Conservators, Conservators, General Managers, Regional Managers, FDCM Ltd.,	61C, 26(4) and 33(3)
2.	Chief Conservators, General Managers, Regional Managers, FDCM Ltd., Conservators, Deputy Conservators, Divisional Forest Officers, Divisional Managers, FDCM Ltd., Sub-Divisional Forest Officers in charge of independent sub-Divisions, Assistant Conservators, Assistant Managers, FDCM Ltd.	21, 26(4), 33(3), 53, 56, 57, 65, 68, and 72
3.	Chief Conservators, General Managers, Regional Managers, FDCM Ltd., Conservators, Deputy Conservators, Divisional Forest Officers, Divisional Mangers, FDCM Ltd., Sub-Divisional Forest Officers in Charge of independent Sub-Divisions.	17, 25, 26(1)(c), 38, 46, 47, 50, 61 and 83.
4.	Deputy Conservators, Divisional Forest Officers, Divisional Managers, FDCM Ltd., Sub-Divisional Forest Officers in charge of independent Sub-Divisions, Assistan Conservators, Assistant Managers, FDCM Ltd., Logging Officers Allapalli, Gadegaon, Navegaon, Pusad and Wani.	61 A (1)
5.	Divisonal Forest Officers, Divisional Managers, FDCM Ltd.	44, 52, 53, 61, 64, 65, 68, 70, 72, 79.
6.	Range Forest Officers, FDCM Ltd.	26(4), 33(3), 53, 56, 57, 65 and 72.
7.	Forest Surveyors, Ranger Surveyors, Foresters, Forest Guards (including Foresters and Forest Guards in FDCM Ltd.)	72 (1) (a)
8.	Chief Conservators, Chief General Manager, General Managers, Regional Managers FDCM Ltd., Conservators, Deputy Conservators, Divisonal Forest Officers, Divisional Managers FDCM Ltd, Sub-Divisional Forest Officers in charge of independent Sub-Divisions, Assistant Conservators, Assistant Managers, FDCM Ltd., Range Forest Officers, Foresters and Forest Guards (Including Range Forest Officers, Foresters and Forest Guards in FDCM Ltd.)	26 (2) (A), 34, 44, 45, 52, 63, 64, 66, 70 and 79.

Explanation :—The Officers mentioned in Column 2 in the Table above will also include their counterparts in Wildlife Wing of the Forest Department, *e.g.* Chief Conservator includes Chief Conservator (Wildlife);

(*2*) (*a*) to authorize all Chief Conservators, General Managers, FDCM Ltd , to decide questions referred to in sub-section (*2*) sections 85 of the said Act;

(*b*) to appoint the Principal Chief Conservator of Forests (Head of Forestry Force), Maharashtra State and the Managing Director, FDCM Ltd., to be the appellate authority under sub-section *(2)* section 85 of the said Act;

(*3*) to authorize District Collector, to be the officer with whose previous sanction the Forest-officer should exercise the powers under section 25 of the said Act to stop public or private ways and water courses in reserve forests;

(*4*) to appoint all officers of Customs, Motor Vehicles, State Excise, Social Forestry and Tribal Development Departments to be Forest-officers for the purpose of carrying out the provisions of sections 52, 64 and 66 of the said Act and rule 85 of the Bombay Forest Rules, 1942;

(*5*)(*a*) to appoint all Collectors, Assistant Collectors and Deputy Collectors to be Forest-officers for all the purposes of the said Act and the Bombay Forest Rules, 1942, with respect to such reserved or protected forests within the limits of their respective jurisdiction, as may, from time to time, be under the management of the Revenue Department;

(*b*) subject to the provisions of sub-section (*3*) of section 68 of the said Act, to invest the officers, mentioned in clasue (*a*) with the power specified in section 68 of the said Act, with respect to reserved and protected forests within the limits of their respective jurisdiction;

(*c*) to invest all Collectors with the power spcified in section 61 of the said Act, with respect to reserved and protected forests within the limits of their respective jurisdiction;

(*6*) to appoint all Circle Inspectors, Talathis and Police Patels to be Forest-officers for the purposes of section 52, 64 and 66 of said Act, with respect to such forests within the limits of their repective jurisdiction, as may, from time to time be under the management of Revenue Department;

(*7*) to appoint the Chief Commissariat officer, Pune to be a Forest-officer for all the purposes of the said Act and the Bombay Forest Rules, 1942 in respect of the reserved forest kurans in the Pune District which have been assigned for the use of Commissariat Department;

(*8*) to appoint the Superintendent of Grass Operations, Commissariat Department, Pune and the Commissariat Kurans Chaukidars in the District of Pune, to be Forest-officers throughout the areas to which their duties extend for the purposes of sections 52, 64 and 70 of the said Act;

(*9*) to appoint the Officer Commanding, Remount Depot, Ahmednagar to be a Forest-officer for all the purposes of the said Act and the Bombay Forest Rules, 1942 in respect of the reserved Forest Kurans in the Ahmednagar District which have been assigned for the use of the Army Remount Department, and

(*10*) to appoint the Manager, Military Grass Farms , Ahmednagr to be a Forest-officer for all the purposes of the said Act and Bombay Forests Rules, 1942 in respect of the reserved Forest Kurans in Ahmednagar District which have been assigned for the use of the Military Grass Farms Department.

Explanation—Nothing in this notification shall affect or abridge any proceeding which is in progress as a consequence of lawful actions taken by any officer in accordance with the powers conferred by any of the notifications or orders issued under the provisions of the said Act, which are superseded by this Notification.

By order and in the name of the Governor of Maharashtra,

SANJEEV GAUR,
Joint Secretary to Government.

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY SHRI PARSHURAM JAGANNATH GOSAVI, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, MEHAR SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, 21-A, MEHAR SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004, EDITOR – SHRI PARSHURAM JAGANNATH GOSAVI.

ANNEXURE 4.12

RNI No. MAHBIL /2009/31733

महाराष्ट्र शासन राजपत्र

असाधारण भाग चार–अ

वर्ष १, अंक ५७(३)] शनिवार, ऑगस्ट १, २०१५/श्रावण १०, शके १९३७ [पृष्ठे ३, किंमत : रुपये १५.००

असाधारण क्रमांक ११६

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने केंद्रीय अधिनियमांन्वये तयार केलेले
(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांव्यतिरिक्त) नियम व आदेश.

महसूल व वन विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरू चौक, मंत्रालय, मुंबई ४०० ०३२, दिनांक २२ जुले २०१५

अधिसूचना

भारतीय वन अधिनियम, १९२७

क्रमांक टिआरएस. ०६/२०१५/प्र.क्र. १०३/फ-६.—महाराष्ट्र राज्यासाठी लागू, भारतीय वन अधिनियम, १९२७ (१९२७ चा १६) च्या कलम २ **वाचा**- कलम २६ खाली उप-कलम (१क) च्या पोट-कलम (क) आणि कलम ६१ क च्या उप-कलम (३) यांचेसह याद्वारे प्रदान करण्यात आलेल्या शक्तींचा आणि त्याबाबतीत समर्थ करणाऱ्या इतर सर्व शक्तींचा वापर करून महाराष्ट्र शासन याद्वारे पुढील तक्त्यातील स्तंभ (२) मध्ये नमूद केलेल्या अधिकाऱ्यांना स्तंभ (३) मध्ये विनिर्दिष्ट केलेल्या उक्त अधिनियमाच्या कलमांन्वये वन अधिकाऱ्यांना करणे आवश्यक असलेल्या कोणत्याही गोष्टी करण्यासाठी प्राधिकृत व नियुक्त करीत आहे :—

तक्ता

अ. क्र. (१)		अधिकारी (२)	कलम (३)
१	(एक)	मुख्य वनसंरक्षक, मुख्य महाव्यवस्थापक, महाव्यवस्थापक, प्रादेशिक व्यवस्थापक एफ.डी.सी.एम. लिमीटेड, वनसंरक्षक, उप वनसंरक्षक, विभागीय वन अधिकारी, उप संचालक, विभागीय व्यवस्थापक, एफ.डी.सी.एम.लिमिटेड, स्वतंत्र उप विभागांचे प्रभारी उप विभागीय वन अधिकारी, सहायक वनसंरक्षक, सहायक व्यवस्थापक एफ.डी.सी.एम. लिमिटेड, वनपरिक्षेत्र अधिकारी, वनपाल आणि वनरक्षक (एफ.डी.सी.एम. लिमीटेड यामधील वनपरिक्षेत्र अधिकारी, वनपाल व वनरक्षक यांसह).	२६ (१क) (क)
	(दोन)	महसूल विभागाच्या व्यवस्थापनेखाली असलेल्या राखीव वनांसाठी ज्यांच्या अधिकारक्षेत्राखाली असे राखीव वन आहेत, असे जिल्हाधिकारी व तहसीलदार.	
२		मुख्य वनसंरक्षक, मुख्य महाव्यवस्थापक, महाव्यवस्थापक, प्रादेशिक व्यवस्थापक एफ.डी.सी.एम. लिमिटेड, वनसंरक्षक, उप वनसंरक्षक, विभागीय वन अधिकारी, उप संचालक, विभागीय व्यवस्थापक एफ.डी.सी.एम.लिमिटेड, स्वतंत्र उप विभागांचे प्रभारी, उप विभागीय वन अधिकारी, सहायक वनसंरक्षक, सहायक व्यवस्थापक एफ.डी.सी.एम. लिमिटेड, वनपरिक्षेत्र अधिकारी, वनपरिक्षेत्र अधिकारी, एफ.डी.सी.एम. लिमिटेड.	६१ क (३)

स्पष्टीकरण:—वरील तक्त्यातील अ. क्र. १ (एक) आणि २ समोर स्तंभ (२) मध्ये नमूद केलेल्या अधिकाऱ्यांमध्ये, त्यांना समकक्ष असलेल्या वन विभागाच्या वन्यजीव शाखेतील अधिकाऱ्यांचाही समावेश असेल, उदा, मुख्य वनसंरक्षक यामध्ये मुख्य वनसंरक्षक (वन्यजीव) यांचा समावेश आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

प्रकाश का. महाजन,
शासनाचे सह सचिव.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Madam Cama Marg, Hutatma Rajguru Chowk,
Mumbai 400 032, dated the 22nd July 2015

NOTIFICATION

INDIAN FOREST ACT, 1927.

No. TRS. 06/2015/CR-103/F-6.—In exercise of the powers conferred by section 2 *read* with clause (*a*) of sub-section (*1A*) of section 26 and sub-section (*3*) of section 61A of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in that behalf, the Government of Maharashtra is hereby pleased to empower, appoint and authorize the officers mentioned in column (2) of the Table appended hereto to do anything required to be done by a Forest-officer under the sections of the said Act specified against them in column (3) thereof:—

TABLE

Sr. No. (1)	Officers (2)	Sections (3)
1	(*i*) Chief Conservators, Chief General Manager, General Managers, Regional Managers, Forest Development Corporation of Maharashtra Limited, Conservators, Deputy Conservators, Divisional Forest Officers, Deputy Directors, Divisional Managers, Forest Development Corporation of Maharashtra Limited, Sub- Divisional Forest-Officers in charge of independent sub-divisions, Assistant Conservators, Assistant Managers, Forest Development Corporation of Maharashtra Limited, Range Forest Officers, Foresters and Forest Guards (including Range Forest Officers, Foresters and Forest Guards in Forest Development Corporation of Maharashtra Limited). (*ii*) Collectors and Tahsildars for the reserved forests under the management of the Revenue Department, in whose jurisdiction such reserved forests lie.	26 (*1A*)(*a*)
2	Chief Conservators, Chief General Manager, General Managers, Regional Managers, Forest Development Corporation of Maharashtra Limited, Conservators, Deputy Conservators, Divisional Forest Officers, Deputy Directors, Divisional Managers, Forest Development Corporation of Maharashtra Limited, Sub-Divisional Forest-Officers in charge of independent sub-divisions, Assistant Conservators, Assistant Managers, Forest Development Corporation of Maharashtra Limited, Range Forest Officers, Range Forest Officers, Forest Development Corporation of Maharashtra Limited.	61A(*3*)

Explanation.—The officers mentioned against Serial No. 1 (*i*) and 2 in column (*2*) of the Table above, shall also include their counterparts in Wild Life Wing of the Forest Department, *e.g.* Chief Conservator includes the Chief Conservator (Wild life).

By order and in the name of the Governor of Maharashtra,

PRAKASH K. MAHAJAN,
Joint Secretary to Government.

ON BEHALF OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, PRINTED AND PUBLISHED BY SHRI PARSHURAM JAGANNATH GOSAVI, PRINTED AT GOVERNMENT CENTRAL PRESS, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004 AND PUBLISHED AT DIRECTORATE OF GOVERNMENT PRINTING, STATIONERY AND PUBLICATION, 21-A, NETAJI SUBHASH ROAD, CHARNI ROAD, MUMBAI 400 004, EDITOR : SHRI PARSHURAM JAGANNATH GOSAVI.

ANNEXURE 4.13

Divisional Commissioners
Conferment of powers and
duties on -

GOVERNMENT OF MAHARASHTRA,
Revenue and Forests Department,
Resolution No. FLD 1080-F6,
Mantralaya, Bombay 400 032,
Dated the 21st October 1981.

At present notifications in matters relating to declaration of any land as reserved or protected forest under the relevant provisions of the Indian Forest Act, 1927 (hereinafter referred to as "the Forest Act") are issued by Government. It is, however, noticed that for various reasons considerable time elapses before the notification is finally issued. In order to prevent delay, it is expedient to delegate necessary powers to the Divisional Commissioners in this respect. Moreover, for speedy disposal of cases relating to Forest Settlement, it is also necessary to delegate to the Commissioners the powers of Government, mentioned in Section 17 of the Forest Act. In exercise of its powers conferred by Sub-Section(4) of Section 3 of the Bombay Commissioners of Divisions Act, 1957, Government is, therefore, pleased to confer on the Divisional Commissioners the following powers and functions under the Forest Act, as detailed below:-

Section of the Forest Act.	Extent of Power delegated.	When the Power is to be exercised.
(1)	(2)	(3)
Section 4.	(a) To notify the decision to constitute any land as a reserved forest;	(a) On receipt of orders from Government to the effect that it has been decided to constitute the land in question as reserved forest.
	(b) To notify the situation and limits of such land; and	(b) -do-
	(c) To notify the appointment of a Forest Settlement Officer to enquire into and determine the rights of ~~any~~ person(s) over the said land, etc.	(c) -do-
Section 17.	(a) To notify appointment of an Officer of the Revenue Department, of rank not lower than that of a Collector, to hear appeals from orders passed by a Forest Settlement Officer under Sections 11, 12, 15 or 16 of the Indian Forest Act, 1927;	(a) On receipt of orders from Government to the effect that it has been decided to constitute the land in question as a reserved forest;

(1)	(2)	(3)
Section 17.	(b) To empower any Forest Officer or other person generally or specially to make an appeal under the Section 17; and	(b) On receipt of orders from Government to the effect that it has been decided to constitute the land in question as a reserved forest;
	(c) To establish a Court composed of three persons to hear appeals mentioned in the Section 17.	(c) -do-
Section 20.	To notify the limits of the forest which is to be reserved and declare the same to be reserved from a date fixed by the notification.	On receipt of orders from Government declaring the land in question as reserved forest.
Section 29.	(a) To notify a declaration to the effect that the provisions of chapter IV of the Forest Act ~~xxxxxxxxx~~ relating to protected Forests shall be applicable to a forest land or waste land which is not included in a reserved forest; and	(a) On receipt of orders from Government to the effect that the provisions of Chapter IV of the Forest Act should be made applicable to the land in question.
	(b) To notify declaration of a forest land or a waste land, which is not included in a reserved forest, to be a protected forest, pending enquiry into the rights of Government and private persons in or over the forest land or waste land and recording of the rights at a survey or settlement.	(b) On receipt of orders from Government to the effect that the land in question should be declared to be a protected forest, pending enquiry into the rights of Government and private persons, in or over the land and recording of the rights at a survey or settlement.

2. In all cases in which notifications in exercise of the powers delegated to the Commissioners (as per para 1 above) are still to be issued, the concerned Forest Settlement Officer should submit requisite draft notifications in English and Marathi (in duplicate) to the concerned Divisional Commissioner, alongwith (i) a map of the land involved in triplicate and (ii) an attested true copy of the Government Order on the basis of which the draft of the notification is prepared.

3. The Divisional Commissioner should scrutinise and correct (wherever necessary) the draft notifications and issue the same and thereafter :-

(a) send a copy of the notification and the map for record to
(i) the Chief Conservator of Forests, Maharashtra State, Pune and
(ii) the concerned Conservator of Forests;

(b) see that copies of the notifications are sent to all concerned officers of the Revenue ~~and~~ as well as Forest Department; and

(c) ensure that necessary changes are made in the land records promptly.

4. These orders also apply to the cases in which Government has issued orders in the past regarding reservation of a land for forest purpose or declaration of a land as Protected Forest, etc., but requisite statutory notifications have not been issued as yet.

5. The powers mentioned against Section 4 and at (a) against Section 29 in para 1 above can be exercised by the Divisional Commissioners as a result of amendments made to the Bombay Commissioners of Divisions Act, 1957, under Government Notification, Revenue and Forests Department, No. FID 1080/1564-F 3, dated the 13th June 1980. The remaining powers, mentioned in para 1 above, can be exercised by the Divisional Commissioners on account of amendments made to the said Act of 1957, under appended Government Notification of even number and date.

By order and in the name of the Governor of Maharashtra,

(S. B. Velankar)
Desk Officer,
Revenue and Forests Department.

Encl: Government Notification.

To

All Commissioners of Divisions,

The Chief Conservator of Forests, Maharashtra State, Pune,

The Settlement Commissioner and Director of Land Records, Pune,

All Collectors,

All Conservators of Forests,

Forest Settlement Officer, Marathwada Region, Aurangabad,

Forest Settlement Officer, Chandrapur/Amravati/Bhor (District Pune)/Sawantwadi(District Sindhudurg),

All Divisional Forest Officers and Sub-Divisional Forest Officers in charge of independent Sub-Divisions,

M-5 Desk, Revenue and Forests Department (with reference to Government Endorsement, Revenue and Forests Department, No. 1081/3971/ 81-M-5, dated 7.8.1981).

P.T.O.

ANNEXURE 4.14

LATE NOTIFICATION

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Bombay 400 032, dated 16th July 1981

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INDIAN FOREST ACT, 1927

No. SWM. 1081/106836-F-6.—In exercise of the powers conferred by sections 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra is hereby pleased to make the following rules further, to amend the Bombay Forest Rules, 1942, namely :—

1. These rules may be called the Bombay Forest (Amendment) Rules, 1981.

2. In the Bombay Forest Rules, 1942, in rule 88, after sub-rule (10), the following sub-rule shall be added, namely :—

"(11)(*a*) The powers conferred by this rule on the Divisional Forest Officer of granting a licence for erecting or operating any machinery or saw mill for cutting or converting of timber, and of refusing, renewing and revoking such licence, shall be exercised by him under the superintendence, direction and control of the State Government.

(*b*) Where the State Government is satisfied that for the conservation of trees and forest or for carrying out any other purpose of the Act, it is necessary to issue directions to the Divisional Forest Officers, licensees and other persons concerned, for their guidance in matters of policy to be followed in public interest in regard to the issue, refusal, renewal or revocation of licences under this rule, generally or in any specified category of cases, the State Government may, from time to time, by notification in the *Official Gazette*, issue the necessary directions. Such directions shall be binding on, and shall be complied with, by the licensing authorities, licensees and other persons concerned."

By order and in the name of the Governor of Maharashtra,

L. H. A. REGO,
Deputy Secretary to Government.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Bombay 400 032, dated 16th July 1981

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BOMBAY FOREST RULES, 1942.

No. SWM. 1081/106836-F-6.—In exercise of the powers conferred by sub-rule (11) of rule 88 of the Bombay Forest Rules, 1942, the Government of Maharashtra, being satisfied that it is necessary to do so, hereby issues the following directions for the guidance of the licensing authorities, licensees and other persons concerned, in regard to the grant of new licences

under the said rule 88 for erecting or operating any machinery or saw mill for cutting or converting of timber, namely :—

Until further orders are issued by the State Government, no new licence under the said rule 88 shall be granted by the Divisional Forest Officer, except where a no objection certificate for the establishment of a saw mill was given by the Forest Department, prior to the date of issue of these directions, and except with the prior approval of the Chief Conservator of Forests, provided that the following conditions are also satisfied :—

(1) The applicant has purchased machinery or incurred financial or other liabilities of a substantial nature, prior to the date of issue of these directions.

(2) The applicant has fulfilled other formalities relating to industrial licence, municipal licence, etc.

(3) The saw mill is to be located at least 10 kilometres outside the boundary of any reserved or protected forest.

2. Where, in the opinion of the State Government, there is substantial tree growth in any area, which is at least 25 kilometres from the boundary of any reserved or protected forest and which is not served by any saw mill or which is served by only one saw mill, the State Government may by order approve the issue of a new licence or a second licence, as the case may be, by the Divisional Forest Officer, in order to provide the facility of a saw mill in that area or to eliminate the monopoly of the existing saw mill in that area, as the case may be.

By order and in the name of the Governor of Maharashtra,

L. H. A. REGO,
Deputy Secretary to Government.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Bombay 400 032, dated 16th July 1981

336

INDIAN FOREST ACT, 1927.

No. SWM. 1081/106836-F-6.—In exercise of the powers conferred by sections 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra is hereby pleased to make the following rules further, to amend the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) Rules, 1960, namely :—

1. These rules may be called the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) (Amendment) Rules, 1981.

2. In the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) Rules, 1960, in their application to the Vidarbha Region of the State of Maharashtra, in rule 23, after sub-rule (10), the following sub-rule shall be added, namely :—

"(11)(*a*) The powers conferred by this rule on the Divisional Forest Officer of granting a licence for erecting or operating any machinery or saw mill for cutting or converting of timber, and of refusing, renewing and revoking such licence, shall be exercised by him under the superintendence, direction and control of the State Government.

(*b*) Where the State Government is satisfied that for the conservation of trees and forests or for carrying out any other purpose of the Act, it is necessary to issue directions to the Divisional Forest Officers, licensees and other persons concerned, for their guidance in matters of policy to be followed in public interest in regard to the issue, refusal renewal or revocation of licences under this rule generally or in any specified category of cases, the State Government may, from time to time, by notification in the *Official Gazette*, issue the necessary directions. Such directions shall be binding on, and shall be complied with, by the licensing authorities, licensees and other persons concerned."

By order and in the name of the Governor of Maharashtra,

L. H. A. REGO,
Deputy Secretary to Government.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Bombay 400 032, dated 16th July 1981

337

BOMBAY TRANSIT OF FOREST PRODUCE (VIDARBHA REGION AND SAURASHTRA AND KUTCH AREAS) RULES, 1960

No. SWM. 1081/106836-F-6.—In exercise of the powers conferred by sub-rule (11) of rule 23 of the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) Rules, 1960, in their application to the Vidarbha Region of the State of Maharashtra, the Government of Maharashtra, being satisfied that it is necessary to do so, hereby issues the following directions for the guidance of the licensing authorities, licencees and other persons concerned, in regard to the grant of new licences under the said rule 23 for erecting or operating any machinery or saw mill for cutting or converting of timber, namely :—

Until further orders are issued by the State Government, no new licence under the said rule 23 shall be granted by the Divisional Forest Officer, except where a no objection certificate for the establishment of a saw mill was given by the Forest Department, prior to the date of issue of these directions, and except with the prior approval of the Chief Conservator of Forests, provided that the following conditions are also satisfied :—

(1) The applicant has purchased machinery or incurred financial or other liabilities of a substantial nature, prior to the date of issue of these directions.

(2) The applicant has fulfilled other formalities relating to industrial licence, municipal licence, etc.

(3) The saw mill is to be located at least 10 kilometres outside the boundary of any reserved or protected forest.

2. Where, in the opinion of the State Government, there is substantial tree growth in any area, which is at least 25 kilometres from the boundary of any reserved or protected forest and which is not served by any saw mill or which is served by only one saw mill, the State Government may by order, approve the issue of a new licence or a second licence, as the case may be, by the Divisional Forest Officer, in order to provide the facility of a saw mill in that area or to eliminate the monopoly of the existing saw mill in that area, as the case may be.

By order and in the name of the Governor of Maharashtra,

L. H. A. REGO,
Deputy Secretary to Government.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Bombay 400 032, dated 16th July 1981

338

INDIAN FOREST ACT, 1927.

No. SWM 1081/106836-F-5.—In exercise of the powers conferred by sections 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra is hereby pleased to make the following rules further to amend the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, namely :—

1. These rules may be called the Hyderabad Transit of Forest Produce (Bombay) (Amendment) Rules, 1981.

2. In the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, in rule 23, after sub-rule (10), the following sub-rule shall be added, namely :—

"(11) (a) The powers conferred by this rules on the Divisional Forest Officer of granting a licence for erecting or operating any machinery or saw mill for cutting or converting of timber, and of refusing, renewing and revoking such licence, shall be exercised by him under the superintendence, direction and control of the State Government.

(b) Where the State Government is satisfied that for the conservation of trees and forests or for carrying out any other purpose of the Act, it is necessary to issue directions to the Divisional Forest Officers, licensees and other persons concerned, for their guidance in matters of policy to be followed in public interest in regard to the issue, refusal, renewal or revocation of licences under this rule generally or in any

specified category of cases, the State Government may, from time to time, by notification in the *Official Gazette*, issue the necessary directions. Such directions shall be binding on, and shall be complied with, by the licensing authorities, licensees and other persons concerned ".

By order and in the name of the Governor of Maharashtra,

L. H. A. REGO,
Deputy Secretary to Government.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Bombay 400 032, dated 16th July 1981

339

HYDERABAD TRANSIT OF FOREST PRODUCE (BOMBAY) RULES, 1958.

No. SWM. 1081/106836-F-6.—In exercise of the powers conferred by sub-rule (11) of rule 23 of the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, the Government of Maharashtra, being satisfied that it is necessary to do so, hereby issues the following directions for the guidance of the licensing authorities, licensees and other persons concerned, in regard to the grant of new licences under the said rule 23 for erecting or operating any machinery or saw mill for cutting or converting of timber, namely :—

Until further orders are issued by the State Government, no new licence under the said rule 23 shall be granted by the Divisional Forest Officer, except where a no objection certificate for the establishment of a saw mill was given by the Forest Department, prior to the date of issue of these directions, and except with the prior approval of the Chief Conservator of Forests, provided that the following conditions are also satisfied :—

(1) The applicant has purchased machinery or incurred financial or other liabilities of a substantial nature, prior to the date of issue of these directions.

(2) The applicant has fulfilled other formalities relating to industrial licence, municipal licence, etc.

(3) The saw mill is to be located at least 10 kilometres outside the boundary of any reserved or protected forest.

2. Where, in the opinion of the State Government, there is substantial tree growth in any area, which is at least 25 kilometres from the boundary of any reserved or protected forest and which is not served by any saw mill or which is served by only one saw mill, the State Government may by order, approve the issue of a new licence or a second licence, as the case may be, by the Divisional Forest Officer, in order to provide the facility of a saw mill in that area or to eliminate the monopoly of the existing saw mill in that area, as the case may be.

By order and in the name of the Governor of Maharashtra.

L. H. A. REGO,
Deputy Secretary to Government.

शासकीय मुद्रणालय, मुंबई.

ANNEXURE 4.15

IMMEDIATE
No.SWM.1081/106836-F-6,
Revenue and Forests Department,
Mantralaya, Bombay-400 032,
Dated : 29th August 1981.

To

(I) All Divisional Forest Officers,

(II) All Sub-Divisional Forest Officers
in charge of Independent Sub-Divisions

Subject :- Grant of licences for erecting or operating machinery or saw-mills for cutting or converting of timber.

Government by its Notifications, Revenue and Forests Department, No.SWM.1081/106836(A)/F-6, No.SWM.1081/106836(B)/F-6, No.SWM.1081/106836(C)/F-6, No.SWM.1081/106836(a)/F-6 No.SWM.1081/106836(b)/F-6, and No.SWM.1081/106836(c)/F-6, all dated the 19th August,1981, has further amended Rule 88 of the Bombay Forest Rules, 1942, Rule 23 of the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) Rules, 1960 and Rule 23 of the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958 and also the directions issued thereunder on the 16th July, 1981 for the guidance of the licensing authorities, licensees and other persons concerned, in regard to the grant of new licences for erecting or operating any machinery or saw mill for cutting or converting of timber. Copies of the relevant notifications dated 19th August 1981 mentioned above, along with copies of the relevant Rule and directions, as amended upto-date, are enclosed for information and necessary action.

2. You are now requested to take immediate action to advise the persons operating saw mills without any licence, to apply for a licence on or before the 30th September, 1981, if they wish to take the benefit of clause 3 of the directions. For the purposes of this clause, it is clarified that the arrears of renewal fees should be recovered at the rates in force as per the orders issued by Government from time to time, without making any distinction between sawmills with only one machine and those

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having more than one machine. The revised renewal fee at Rs. 100/- per cutting or sewing machine per annum may be charged from the next renewal. The licence fee for the first licence to be issued on or after 19th August 1901 should be recovered according to the rates now prescribed by the Rules and will be related to the number of cutting or sewing machines.

3. Any cases falling under clause 4 of the directions should be referred to Government.

4. Your attention is invited to the amendment now made to provide for suspension of licence. The intention underlying this provision is, that it should be possible to deal with minor contraventions of the rules, etc. by suspending the licence for an appropriate period, instead of taking the extreme action of revocation of the licence.

5. New licences granted hereafter, should be in the amended form of the licence. Similarly, the amended licence form may be used while renewing the licences in future.

6. The revised model registers to be maintained by the licensees, will be circulated shortly for being prescribed by the licensing authorities. Till then, the licensing authorities may continue to prescribe the registers in vogue at present.

7. Your attention is also invited to the proviso to clause 3 of the directions, wherein it has been stipulated, that the desirous applicant should submit his application to the licensing authority on or before the 30th September 1901. You are requested to see that the orders of Government regarding grant of a new licence are given sufficient publicity in the area of your jurisdiction, so as to leave no room for complaints from any-one later on.

([illegible])
Deputy Secretary to Government,
Revenue and Forests Departments.

Enclosure : Copies of notifications.

3....

Copies, with the copies of the Government Notifications dated the 19th August 1911, forwarded with compliments to :-

The Chief Conservator of Forests, Maharashtra State, Pune,

All Conservators of Forests (Territorial) for information and necessary action.

ANNEXURE 4.16

Grant of licences for erecting or operating any machinery or saw mills for cutting or converting of timber.

GOVERNMENT OF MAHARASHTRA
Revenue and Forests Department,
Circular No.SWM.1081/106836-F-6,
Mantralaya, Bombay-400 032,
Dated 26th October 1981.

CIRCULAR

In Government Notification, Revenue and Forests Department, No. SWM 1081/106836-F-6, dated 16th July 1981, directions have been issued for the guidance of the licensing authorities, licensees and other persons concerned, in regard to the grant of new licences under Rule 48 of the Bombay Forest Rules, 1942, Rule 23 of the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch area) Rules, 1969 and Rule 23 of the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, for erecting or operating any machinery or saw mill for cutting or converting of timber. These directions were amended by Government Notification, Revenue & Forests Department No.SWM.1081/106836-F-6, dated 19th August 1981.

2. In paragraph 1 of the above directions (as amended), conditions have been specified under which a Divisional Forest Officer can issue a new licence, without reference to Government but with the prior approval of the Conservator of Forests.

3. In paragraphs 2 and 3 of the directions (as amended), explicit guidelines have been given as to the circumstances under which the cases relating to the erection or operation of any machinery or saw mill for cutting or converting of timber be referred to Government for prior sanction.

4. Paragraph 4 of the directions (as amended) stated that, notwithstanding anything contained in the directions, the State Government may, for reasons to be recorded in writing, by order, approve the grant of a new licence by the Divisional Forest Officer in any case, where it is satisfied that such grant of a licence is necessary to remove genuine and extreme hardship to an applicant or in public interest. In this respect, Government has decided to consider individual cases, which satisfy the

P.T.O.

following criteria :-

(i) The applicant should give positive proof of having purchased saw mill machinery or incurred financial or other liabilities of a substantial nature on or prior to 30th September 1981. He will have to furnish true copies of the bill and other pertinent documents as evidence, and these should be verified from the originals.

(ii) The saw mill should be located at least 10(ten) km outside the limits of any reserved or protected forest.

(iii) The applicant should have applied for grant of the saw mill license on or before 30th September 1981.

5. The licensing authorities are requested to additionally enquire into cases of applications received by them either directly or through Government and falling under paragraph 3 or above, and submit their reports and recommendations to Government for orders.

By order and in the name of the Governor of Maharashtra,

(S.H.A. Hudda)
Deputy Secretary to Government
Revenue and Forests Department.

To

The Chief Conservator of Forests, Maharashtra State, Pune,

All Conservators of Forests (Territorial),

All Divisional Forests Officers,

All Sub-Divisional Forest Officers in charge of Independent Sub-Divisions.

ANNEXURE 4.17

1) The Bombay Forest (Amendment) Rules, 1981 ;
2) The Bombay Transit of Forests Produce (Vidarbha Region and Saurashtra and Kutch areas) (Amendment) Rules, 1981 ; and
3) The Hyderabad Transit of Forest Produce (Bombay) (Amendment) Rules, 1981.

GOVERNMENT OF MAHARASHTRA,
Revenue and Forests Department,
Circular No.SWN.1081/106836-F-6,
Dated : 31st October 1981.

Read : (i) Government Notifications, Revenue and Forests Department, No.SWN.1081/106836-F-6, dated 16th July 1981 for respective regions and

(ii) Government Notifications, Revenue and Forests Department, No.SWN.1081/106836(A)/F-6, dated 19th August 1981 for respective regions.

CIRCULAR : In exercise of the powers conferred by section 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra has through the above Notifications amended the Bombay Forest Rules 1942 and other relevant Rules, in regard to erection/operation of the machinery/saw mill required for cutting or converting timber.

2. The State Subordinate Legislation Committee has elicited the following details in regard to the above notifications :-

(i) How many applications for licences for starting of sawmills or renewal were received in each Division/ Independent Sub-Division of the State every year from 1st April 1970 to 31st March 1981 ? ;

(ii) How many such applications had remained pending at the close of each of these years ?

The Divisional Forest Officers and the Sub-Divisional Forest Officers incharge of independent Sub-Divisions are, therefore, requested to furnish this information by 12th November 1981 at the latest to their respective Conservator of Forests with an advance copy to Government. The Conservators of Forests should consolidate the information Division/Sub Divisionwise and send it the Chief Conservator of Forests/Government along with their remarks thereon

P.T.O.

by the 20th November 1981 positively, the Chief Conservator of Forests will transmit the same to Government along with his remarks thereon by 25th November 1981 without fail.

By order and in the name of the Governor of Maharashtra,

(L.H.A. REGO)
Deputy Secretary to Government,
Revenue and Forests Department.

To

The Chief Conservator of Forests, Maharashtra State, Pune,

All Divisional Forest Officers and Sub-Divisional Officers
In-charge of Independent Sub-Division.

ANNEXURE 4.18

NOTIFICATION

Revenue & Forests Department,
Mantralaya, Bombay- 32
Dated the 8th July 1982

No. SMM 4502/200/F6- In exercise of the powers conferred by sections 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following rules, further, to amend the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, namely :-

1. These rules may be called the Hyderabad Transit of Forest Produce (Bombay) (Amendment) Rules, 1982.

2. In the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, in rule 23, to sub-rule (9) the following proviso shall be added at the end, namely:-

"Provided that where the licence of any person is revoked for the first time and the order of revocation is confirmed by the Chief Conservator of Forests in the second appeal, the licensee may, within a period of six months from the date of the order of the Chief Conservator of Forests in the second appeal, submit a petition to the State Government for restoration of his licence. On receipt of any such petition, the State Government may, after giving a reasonable opportunity of being heard to the petitioner, and having regard to the nature of the contravention or prejudicial activities for which the licence was revoked, the salutary effect of the revocation on the petitioner and any new facts which may have been brought to the notice of the State Government , restore the licence

Office of the State Government, restore the licence with effect from any specified date, not earlier than twelve months but not later than thirtysix months from the date of actual closure of the saw mill, or may reject the petition for reasons to be recorded, Any order made by the State Government shall be communicated to the petitioner."

By order and in the name of the Governor of Maharashtra

(L.H.T. Deo)
Deputy Secretary to Government.

NOTIFICATION

Revenue & Forests Department
Mantralaya, Bombay- 32
Dated the 8th July 1982.

No. STA 4582/200/F-6- In exercise of the powers conferred by sections 41 and 75 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf , the Government of Maharashtra hereby makes the following rules, further, to amend the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) Rules, 1960, namely:-

1. These rules may be called the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) (Amendment) Rules, 1982.

2. In the Bombay Transit of Forest Produce (Vidarbha Region and Saurashtra and Kutch areas) Rules, 1960, in rule 23, to sub-rule (2) the following proviso shall be added at the end, namely :-

"Provided, that where the licence of any person is revoked for the first time and the order of revocation is confirmed by the Chief Conservator of Forests in the second appeal, the licensee may , within a period of six months from the date of the order of the Chief Conservator of Forests in the second appeal, submit a petition to the State Government for restoration of the licence. On receipt of any such petition, the State Government may, after giving a reasonable

p.t.o.

opportunity of being heard to the petitioner, and having regard to the nature of the contravention of prejudicial activities for which the licence was revoked, the salutary effect of the revocation on the petitioner and any new facts which may have been brought to the notice of the State Government , restore the licence with effect from any specified date, not earlier than twelve months but not later than thirtysix months from the date of the actual closure of the saw mill, or may reject the petition for reasons to be recorded. Any order made by the State Government ~~of~~ shall be communicated to the Petitioner ."

By order and in the name of the Governor of Maharashtra.

(L.H.A. FEQO)
Deputy Secretary to Government.

NOTIFICATION

Revenue and Forests Department,
Mantralaya, Bombay-400 032

Dated 8th July 1982.

No. SMK 4582/200/F-6- In exercise of the powers conferred by sections 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927) in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra, hereby makes the following rules, further to amend the Bombay Forest Rules, 1942, namely:-

1. These rules may be called the Bombay Forest (Amendment Rules, 1982.

2. In the Bombay Forest Rules, 1942 in rule 38, to sub-rule (9) the following proviso shall be added at the end, namely:-

"Provided that where the licence of any person is revoked for the first time and the order of revocation is confirmed by the Chief Conservator of Forests in the second appeal, the licensee may, within a period of six months from the date of the order of the Chief Conservator of Forests in the second appeal, submit a petition to the State Government, for restoration of his licence. On receipt of any such petition, the State Government may, after giving a reasonable opportunity of being heard to the petitioner, and having regard to the nature of the contravention or prejudicial activities for which the licence was revoked, the salutary effect of the revocation on the petitioner and any new facts which may have been brought to the

notice of the State Government, restore the licence with effect from any specified date, not earlier than twelve months but not later than thirtysix months from the date of actual closure of the saw mill, or may reject the petition for reasons to be recorded, Any order made by the State Government shall be communicated to the petitioner".

By order and in the name of the Governor of Maharashtra,

(L.R.N.NEGI)
Deputy Secretary to Government.

ANNEXURE 4.19

क्र:एसइकल्युएम १०८५/सीआर-३१/८८-६, महसूल व वन विभाग,
मंत्रालय, मुंबई-४०० ०३२.
दिनांक: ३ फेब्रुवारी, १९८६.

प्रति,
मुख्य वनसंरक्षक [सेवारण्य],
महाराष्ट्र राज्य, पुणे.

विषय:- आरागिरणी नियमावली.

वरील विषयासंबंधीचे आपल्या कार्यालयाचे दिनांक:३१.१२.१९८५ चे कक्ष-११/सॉमील/४२२/८४-८५/७६७ चा क्रमांकाचे पत्र संदर्भासाठी पहावे.

२. संदर्भाधीन पत्रानुसार आपण पुढीलप्रमाणे दोन प्रस्ताव शासनाच्या आदेशार्थ सादर केले आहेत. या बाबतच्या नियमात योग्य ती सुधारणा करण्याचा प्रस्तावही आपण सादर केला आहे.

१] अस्तित्वात असलेल्या आरागिरणी यंत्राच्या संख्येत जर वाढ करावयाची असेल किंवा अधिक शक्ती चे यंत्र बसवायचे असेल, तर त्यापूर्वी आरा गिरणी मालकाचे वन विभागाची पूर्व परवानगी घ्यावी असे बंधन असावे. आरागिरणी यंत्राची वाढ किंवा बदल करण्यास परवाना देण्याचे अधिकार ज्या त्या वनवृत्तातील वनसंरक्षक यांना असावे.

२] परवाना दिलेल्या आरागिरणीचे मुलस्थानी जर बदल करावयाचे असेल, तर त्यासाठी परवाना देण्याचा अधिकार कोणाकडे राहील या विषयी प्रकरण नियमात काही तरतूद नाही, तरी तसेच अधिकार कोणाकडे असावे, हे स्पष्ट व्हावे.

३] वरील [१] च्या संदर्भात आपले मत मुंबई वन नियम, १९४२ च्या नियम ८८ च्या उपनियम ६[१] चे, तसेच वरील नियमावलीचा जोडलेल्या अनुसूची इ-ई अनुसार विहीत केलेल्या परवान्याच्या नमुन्यातील अट क्रमांक दोन कडे वेधण्यात येत आहे. तेथे नमूद केलेल्या तरतुदीनुसार हे स्पष्ट होते की, अस्तित्वात असलेल्या आरागिरणी यंत्राच्या संख्येत वाढ करावयाची असेल अथवा बदल करावयाचा असेल तर त्यासाठी आरागिरणी मालकाने वन विभागाची पूर्व परवानगी घेणे आवश्यक आहे. मूळ परवाना मंजूर करणारे अधिकारी, म्हणजेच मुख्य वनसंरक्षक, महाराष्ट्र राज्य, पुणे हेच अशा प्रकरणी परवानगी देण्यासाठी सक्षम अधिकारी असतील, असेही परंतु, मी देण्याचे अधिकार संबंधित वनवृत्तातील वनसंरक्षकांना बहाल करण्याचा प्रस्ताव मान्य करता येणार नाही.

४] वरील [२] च्या संदर्भात आपले मत तर नमूद केलेल्या मुंबई वन नियम, १९४२ च्या नियम क्रमांक:८८ सोबतच्या अनुसूची इ-ई मधील अट क्रमांक: ३ कडे वेधण्यात येत आहे. त्यानुसार अनुज्ञप्ती प्राधिकारी म्हणजेच विभागीय वन अधिकाऱ्यांच्या पूर्व अनुमतीने आरागिरणीचे स्थान बदलण्याची तरतूद करण्यात आली आहे. परंतु एखाद्या आरागिरणीचे स्थान वनविभागीय क्षेत्रात

.....२

प्रस्तुत नियमात स्थानांतर अध्याहृत धरले आहे. याचाच अर्थ असा की, जर रुग्णाला आरोग्यिरणीचे स्थानांतर अशा गिरणीच्या मध्याच्या बाहेर करायचे असल्यास त्या प्रकरणी संबंधित दोनही विभागीय अधिकाऱ्यांच्या विचार विनिमयानुसार अशा प्रकरणी आपणांस योग्य तो निर्णय घेणे आवश्यक आहे.

वर नमूद केलेल्या परिस्थितीचा विचार करता, या प्रकरणी आपण सुचविल्याप्रमाणे नियमित सुधारणा करण्याची आवश्यकता नाही.

स्वाक्षरीत-
[र.बा.उपाध्याय.]
मलमूत्र व धन विभाग

ANNEXURE 4.20

२. मुंबई वन नियम, १९४२ च्या नियम ८८ मधील पोट नियम (४) नंतर खालील पोट नियम घालण्यात येईल तो याप्रमाणे :—

"(४-अ) पोट नियम (४) मध्ये काहीही अंतर्भूत असले तरी जर पोट नियम (६-अ) अन्वये १० वर्षांसाठी एकाच वेळी नूतनीकरण शुल्क भरण्यात आले असेल तर या नियमान्वये देण्यात आलेले किंवा नूतनीकरण करण्यात आलेले प्रत्येक अनुज्ञप्ती रद्द करण्यासंबंधी या नियमाच्या अंतर्भूत असलेल्या तरतुदींना अधीन राहून ते अनुज्ञप्ती दिल्याच्या किंवा नूतनीकरण केल्याच्या दिनांकाच्या पुढील १० व्या वर्षाच्या ३१ डिसेंबर नंतरच्या कालावधीसाठी प्रभावी असणार नाही."

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

सु. कु. खेतरपाल,
शासनाचे सहसचिव.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated 6th November 1998.

INDIAN FOREST ACT, 1927.

No. SWM. 1096/CR-123/(1)/F6 :—In exercise of the powers conferred by sections 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the rules further to amend the Bombay Forest Rules, 1942, namely :—

1. These rules may be called the Bombay Forest (Amendment) Rules, 1998.

2. In rule 88 of the Bombay Forest Rules, 1942, after sub-rule (4), the following sub-rule shall be inserted namely :—

"(4-*a*) Notwithstanding anything contained in sub-rule (4), in case the renewal fee is paid for ten years at a time under sub-rule (6-A) then, every license granted or renewed under this rule shall, subject to the provision contained in this rule regarding concellation, be effective for a period not beyond the 31st December of 10th year of following the date of its issue or renewal."

By order and in the name of the Governor of Maharashtra,

S. K. KHETARPAL,
Joint Secretary to Government.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated 6th November 1998

INDIAN FOREST ACT, 1927.

No. SWM. 1096/CR-123 (II)/F-6.—In exercise of the powers conferred by sections 41 and 76 of the Indian Forests Act, 1927 (XVI of 1927), in its application to the State of Maharashtra, and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the rules further to amend the Bombay Transit of Forest Produce (Vidarbha Region, Saurashtra and Kutch areas) Rules, 1960, namely :—

1. These rules may be called the Bombay Transit of Forest Produce (Vidarbha Region, Saurashtra and Kutch areas) (Amendment) Rules, 1998.

2. In rule 23 of the Bombay Transit of Forest Produce (Vidarbha Region Saurashtra and Kutch areas) Rules, 1960, after sub-rule (4), the following sub-rule shall be inserted, namely :—

" (4*a*) Notwithstanding anything contained in sub-rule (4), in case the renewal fee is paid for ten years at a time under sub-rule (6A), then, every licence granted or renewed under this rule shall, subject to the provision, contained in this rule regarding cancellation, be effective for a period not beyond the 31st December of 10th year of following the date of its issue or renewal. "

By order and in the name of the Governor of Maharashtra,

Dr. S. K. KHETARPAL,
Joint Secretary to Government.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 6th November 1998

INDIAN FOREST ACT, 1927.

No. SWM. 1096/CR-123 (III)/F-6.— In exercise of the powers conferred by sections 41 and 76 of the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Maharashtra and of all powers enabling it in this behalf, the Government of Maharashtra hereby makes the rules further to amend the Hyderabad Transit of Forest Produce (Bombay) rules, 1958, namely :—

1. These rules may be called the Hyderabad Transit of Forest Produce (Bombay)(Amendment) Rules, 1998.

2. In rule 23 of the Hyderabad Transit of Forest Produce (Bombay) Rules, 1958, after sub-rule (4), the following sub-rule shall be inserted namely :—

"(4*a*) Notwithstanding anything contained in sub-rule (4), in case the renewal fee is paid for ten years at a time under sub-rule (6A), then, every licence granted or renewed under this rule shall, subject to the provision contained in this rule regarding cancellation, be effective for a period not beyond the 31st December of 10th year of following the date of its issue or renewal."

By order and in the name of the Governor of Maharashtra,

Dr. S. K. KHETARPAL,
Joint Secretary to Government.

ANNEXURE 4.21

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 3rd November 2003

NOTIFICATION

INDIAN FOREST ACT, 1927.

No. SWM. 1093/CR. 331/F-6.—In exercise of the powers conferred by section 41 and clause (*d*) of section 76 of the Indian Forest Act, 1927, in its application to the State of Maharashtra and of all other powers enabling it in that behalf, the Government of Maharashtra hereby make the following rules further to amend the Bombay Forest Rules, 1942, namely :—

1. These rules may be called the Bombay Forest (Amendment) Rules, 2003.

2. In rule 88 of the Bombay Forest Rules, 1942, for sub-rule (10), the following sub-rule shall be substituted, namely :—

"(10) Nothing contained in this rule, including any directions issued by the State Government under sub-rule (11) of this rule, shall apply to the ordinary operation of domestic carpentry or to the other similar work on a small scale.

Explanation.—For the purposes of this rule, the expression "other similar works on a small-scale" shall mean and include carpentry units which are not primary consumers of wood and which do not consume any fresh material for primary sawing but undertake only re-sawing operations of carpentry works for making small wooden articles such as toys, photo-frames, boxex, etc. taken up as vocation in the form of cottage industry or a small-scale industry, using a circular saw of diameter 12" or below for the purpose of such carpentry works, but shall not include other small-scale units involved in saw mill operations taken up on commercial basis as a small-scale industry.".

By order and in the name of the Governor of Maharashtra,

A. N. TRIPATHI,
Deputy Secretary to Government.