

Forest Act, 1963

Chapter 5 - Control over Forests and Lands Not Being the Property of the Government

For the purpose of this Chapter,

- (i) forest includes any land containing trees and shrubs, pasture lands and any land whatsoever which the State Government may, by notification under this section declare to be a forest;
 - (ii) owner in relation to a forest includes a mortgagee, lessee or other person having right to possession and enjoyment of the forest.
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Section 37 - Preservation of private forests

(1) No owner of any forest and no person claiming under him, whether by virtue of a contract, licence or any other transaction entered into before or after this Act comes into force, or any other person shall, without the previous permission of the¹[Deputy Conservator of Forest], cut or girdle trees or do any act likely to denude the forest, or diminish its utility as a forest:

Provided that nothing contained in this sub-section shall apply to the removal of fallen trees or any act done for the usual or customary domestic purposes or for making agricultural implements for bona fide use of the owner.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification, and for reasons to be specified in such notification, exempt any class of forests, or class of trees or any forest produce therein from all or any of the provisions of this section.

1. Substituted by Act 20 of 2001 w.e.f. 5.9.2002.

Section 38 - Power to make rules

For the purpose of section 37, the State Government may make rules prescribing,-

- (a) the classes or kinds of trees which may be permitted to be cut and girdled and the girth of such trees;
 - (b) the terms and conditions subject to which permission may be granted; and
 - (c) the procedure to be followed by the¹[Deputy Conservator of Forest] before granting permission.
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1. Substituted by Act 20 of 2001 w.e.f. 5.9.2002.

Section 39 - Protection of forests for special purposes

(1) The State Government may, by notification,-

- (a) regulate or prohibit in any forest,-
 - (i) the breaking up or clearing of any land;
 - (ii) the pasturing of cattle;
 - (iii) the firing or clearing of vegetation;
 - (iv) the girdling, tapping or burning of any tree or the stripping of bark or leaves from any tree;
 - (v) the lopping or pollarding of trees;
 - (vi) the cutting, sawing, conversion or removal of trees and timber; or
 - (vii) the quarrying of stones or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process;
- (b) regulate in any forest the regeneration of forests and their protection from fire;
- (c) regulate the exercise of customary and prescriptive rights in such forest or forests.

(2) When such regulation or prohibition appears necessary, the State Government may, by notification, provide,-

(a) for the conservation of trees and forests;

(b) for the preservation of and improvement of soil or the reclamation of saline or water logged land, the prevention of land slips 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 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, wind, rolling stones, floods and drought;

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

(i) for the preservation of public health.

(3) The State Government may, for any purpose referred to in sub-sections (1) and (2), construct at its own expense, in any forest, such work as it thinks fit.

Section 40 - Appeals

Any person aggrieved by an order under sub-section (1) of section 37, in regard to the sanction or the permission referred to in that sub-section may, within thirty days from the date of the receipt of the order, prefer an appeal in writing to the Deputy Commissioner and the Deputy Commissioner after following the prescribed procedure may pass such orders thereon as he deems fit.

Section 41 - Penalties

(1) Whoever contravenes the provisions of sub-section (1) of section 37 or of the rules framed under section 38 or any of the terms of a notification under section 39, shall, without prejudice to any other action under this Act, on conviction, be punishable with imprisonment which may extend to six months or with fine or with both.

¹[(2) x x x]

1. Omitted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 42 - Bar of suits

No order of the State Government or a Forest Officer not below the rank of a¹[Deputy Conservator of Forest] under this Chapter and no notification issued by the State Government under section 39, shall be liable to be questioned in any court of law.

1. Substituted by Act 20 of 2001 w.e.f. 5.9.2002.

Section 43 - Power to assume management of forests

(1) In case of any breach or neglect of the provisions of section 37 or of rules made under section 38 or wilful disobedience to any regulation or prohibition notified under section 39 or if the purposes of any work to be constructed under that section so require and when it appears to the State Government that it is necessary for the purpose of preservation and protection of the forest in public interest to assume management of such forest, the State Government may, after notice in writing to the owner of such forest and after considering his objections, if any, by notification assume management of such forest and may by notification declare that all or any of the provisions of this Act, relating to reserved forests shall apply to such forest. A notification assuming management of a forest under this sub-section shall be conclusive.

(2) The notice referred to in sub-section (1) and the notification, if any, issued assuming management of the forest shall be served on the owner of such forest in the manner provided in the Code of Civil Procedure, 1908 (Central Act V of 1908), for the service of the summons.

(3) The management of the forest by the State Government shall be deemed to commence from the date of publication of the notification under sub-section (1) in the official Gazette, and the State Government shall appoint a Forest Officer to be in charge of the forest.

(4) (a) The State Government shall, during the period of management of a forest pay, at prescribed intervals, to the owner of the forest, compensation, which shall be the aggregate of,

(i) an allowance calculated on the total area of the forest as determined by the Conservator of Forests at the rate of ten naye paise per acre per annum; and

(ii) the net profits, if any, accruing from the working and management of the forest.

(b) For the purpose of calculating the net profits, the total expenditure incurred on the working and management of the forest shall be adjusted against the total income from the working and management up to the date of account and the amount of any deficit shall be carried forward with interest at the prescribed rate from year to year till such amount is made up and surplus is effected.

(5) (a) During the period of management the State Government shall receive all revenues accruing from the working and management of the forest and shall pay the whole expenditure incurred in the working and management of such forest, and the owner of such forest or any other person shall not be entitled to make any objection to any expenditure that the State Government may consider it necessary on such working and management.

(b) The State Government shall maintain the revenue and expenditure account of the forest and shall at the request of the owner furnish to him an extract of the yearly account so maintained.

Section 44 - Consequences of assumption of management

On the assumption of management of any forest by the State Government under section 43, the following consequences shall ensue,

(a) all legal proceedings pending, and all processes, executions or attachments in force in respect of debts and liabilities enforceable against the forest or any part thereof shall be suspended, and so long as the management by the State Government continues, no fresh proceedings, processes, executions or attachments shall be instituted, issued, enforced or executed in respect thereof;

(b) so long as the management by the State Government continues, the owner of the forest shall be incompetent,

(i) to enter into any contract with respect to the forest;

(ii) to mortgage, charge, lease or alienate the forest or any part thereof or any product thereof; or

(iii) to grant valid receipts for the rents or profits arising or accruing therefrom;

(c) so long as the management by the State Government continues, subject to the orders of the State Government, no person other than the Forest Officer placed in charge of the forest shall be competent to do the acts referred to in sub-clauses (i), (ii) and (iii) of clause (b);

(d) subject to the orders of the State Government, the Forest Officer placed in charge of the forest, shall during the period of management of the forest, have all the powers which the owner thereof might as such have exercised for the purposes of management and shall receive and recover all rents and profits due in respect of the property under management; and for the said purposes in addition to any powers of the owner, the Forest Officer, shall be competent to exercise any power which he can exercise in respect of a reserved forest.

Section 45 - Period of management

(1) The period of management of any forest shall be for ten years from the date of publication of the notification under sub-section (1) of section 43, but such period may thereafter be extended by notification for successive periods of not more than ten years each:

Provided that the period of such management shall not in the aggregate exceed thirty years from the date of publication of the notification under sub-section (1) of section 43 assuming management of the forest.

(2) The Forest Officer under whose management 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 to the State Government regarding such control and shall state therein whether in his opinion, any period of management 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 management or whether to terminate it in the manner provided in section 46.

(4) No period of management shall be extended unless the owner has been given reasonable opportunity of showing cause against such extension and the State Government is satisfied that such extension is necessary for the preservation and protection of the forest.

Section 46 - Termination of management

(1) If the State Government decides to terminate any period of management of any forest, it shall, by notification, published in the official Gazette, and in such other manner as may be prescribed declare such termination; 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 purporting to be done by the Forest Officer in respect of any forest placed under his management, during the period of such management, shall be binding on the owner of such forest or any person to whom possession of the forest has been delivered under this section.

(3) After the period of termination of management of any forest, notwithstanding anything contained in the¹[Limitation Act, 1963], but subject to any law which may then be in force, all proceedings, processes, executions or attachments suspended under clause (a) of section 44 shall stand revived and may be proceeded with from the stage at which they were suspended, and all proceedings, processes, executions or attachments stayed under the said clause may be instituted,

issued, enforced or executed from the stage at which they were stayed.

1. Substituted by Act 10 of 1989 w.e.f. 16.3.1989.

Section 47 - Government management of forests at request of owners

(1) Any owner of any land or, if there be more than one owner thereof the owners of all the shares therein may, with a view to the formation or preservation of forest thereon, apply in writing to the State Government to take over the management of such land and the State Government may, on such application, where it is of opinion that it is expedient in public interests to form or preserve the forest, by notification, assume the management of such land.

(2) When the management of any land is assumed under sub-section (1), save as otherwise agreed to between the State Government and the applicants, the net profits, if any, arising from the management of the land shall be paid to the owners.

(3) The period of management shall be such as may be agreed to between the State Government and the applicants.

(4) In all other respects the provisions of this Chapter in respect of a forest the management of which has been assumed by the State Government under sub-section (1) of section 43 shall be applicable.

Section 48 - Acquisition of forests in certain cases

In any case under this Chapter, in which the State Government considers that, in lieu of assuming the management of a forest, the same should be acquired for public purposes, the State Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894.

Section 49 - Power to remove difficulties

If any difficulty arises in giving effect to any of the provisions of this Chapter, the State Government may, as occasion may arise, by notification, do anything which appears to it to be necessary for the purpose of removing the difficulty.
