

Forest Act, 1963

Chapter 9 - Penalties and Procedure

(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, vehicles or 1 [cattle or any other property used] in committing any such offence, may be seized by any Forest Officer or Police Officer.

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

(3) Every officer seizing any property under this section 2 [x x x] shall, as soon as may be, 3 [make a report of such seizure,-

(a) where the offence on account of which the seizure has been made is in respect of timber, ivory, 4 [gulmavu (machilus macrantha) bark, dalchini bark, halmaddi (exudation of ailanthus malabaricum), canes], firewood or charcoal which is the property of the State Government or in respect of sandalwood, to the concerned authorised Officer under section 71A; and

(b) in other cases, 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.

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

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

3. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

4. Inserted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 62A - Powers of Forest Officer in the matter of Investigation

1[62A. Powers of Forest Officer in the matter of Investigation

(1) Any Forest Officer not below the rank of a Range Forest Officer and within such specified area as the State Government may, by notification specify, may as regards offences under this Act exercise powers conferred on an Officer in charge of a police station by the provision of the Code of Criminal Procedure, 1973:

Provided that any such power shall be subject to such restrictions and modifications, if any, as the State Government may specify.

(2) For the purpose of section 156 of the Code of Criminal Procedure, 1973, the area in regard to which the forest Officer is empowered under sub-section (1), shall be deemed to be a police station and such Officer shall be deemed to be the Officer-incharge of such station.]

1. Sections 62A to 62C inserted by Act 20 of 2000 w.e.f. 4.10.2000.

Section 62B - Report by Investigation Officer

1[62B. Report by Investigation Officer

If on any investigation by a Forest Officer empowered under sub-section (1) of section 62A, it appears that there is sufficient evidence to justify the prosecution of the accused person, the investigating officer shall submit a report (which shall, for the purposes of section 190 of the Code of Criminal Procedure, be deemed to be a police report) to a Magistrate having jurisdiction to enquire into or try the case and empowered to take cognizance of offences on police reports.]

1. Sections 62A to 62C inserted by Act 20 of 2000 w.e.f. 4.10.2000.

Section 62C - Certificate of Forest Officer to be an evidence

1[62C. Certificate of Forest Officer to be an evidence

Any document purporting to be a certificate under the hand of a Forest Officer not below the rank of a Range Forest Officer who has undergone training in the examination of forest produce and who is so authorised by the State Government in this behalf in respect of forest produce, submitted to him for examination and report, may be used as evidence of the facts stated in such certificate in any proceedings under this Act; but the court may, if it things fit, and shall on the application of the prosecution or the accused person summon and examine any such Forest Officer as to the subject matter of his certificate.]

1. Sections 62A to 62C inserted by Act 20 of 2000 w.e.f. 4.10.2000.

Section 63 - Power to release property seized under section 62

Any Forest Officer of a rank not inferior to that of a Forest Ranger who, or whose subordinate, has seized any tools, boats, vehicles or cattle¹[under section 62 may, subject to section 71G release] the same on,²[production of a Bank guarantee equal to the value as estimated by such officer (which shall be renewable from time to time till the final disposal of the criminal proceedings instituted in respect of the alleged offence) and on] the execution by the owner thereof of a bond for the production of the property so released if and when so required before the magistrate having jurisdiction to try the offence on account of which the seizure had been made.

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

2. Inserted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 64 - Omitted

64.1[x x x]

1. Omitted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 64A - Penalty for unauthorisedly taking possession of land constituted as reserved forest, district forest, village forest, protected forest and any other land under the control of the Forest Department

1[64A. Penalty for unauthorisedly taking possession of land constituted as reserved forest, 2[district forest, village forest, protected forest and any other land under the control of the Forest Department]

(1) Any person unauthorisedly occupying any land in reserved forest, 2[district forest, village forest, protected forest and any other land under the control of the Forest Department] may, without prejudice to any other action that may be taken against him under any other provision of this Act or any other law for the time being in force, be summarily evicted, by a Forest Officer not below the rank of an Assistant Conservator of Forests and any crop including trees raised in the land and any building or other construction erected thereon shall, if not removed by him within such time as the Forest Officer may fix, be liable to forfeiture:

Provided that before evicting a person under this sub-section he shall be given a reasonable opportunity of being heard.

(2) Any property forfeited under sub-section (1) shall be disposed of in such manner as the Forest Officer may direct and the cost of removal of any crop, building or other work and of all works necessary to restore the land to its original condition shall be recoverable from the person evicted in the manner provided in section 109.

(3) Any person aggrieved by an order of the Forest Officer under sub-section (1) may, within such period and in such manner as may be prescribed, appeal against such order to the State Government or to such officer as may be authorised by the State Government in this behalf and the order of the Forest Officer shall, subject to the decision in such appeal, be final.]1

1. Inserted by Act 23 of 1974 w.e.f. 16.9.1974.

2. Inserted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 65 - Forest produce, tools, etc., when liable to forfeiture

(1) All timber or forest produce which is not the property of Government and in respect of which a forest offence has been committed and all tools, boats, vehicles and cattle used in committing any forest offence, 1[shall, subject to section 71G, be liable] by order of the convicting court to forfeiture to the State Government.

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

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 66 - Disposal, on conclusion of trial for forest offence, of produce in respect of which it was

committed

When the trial of any forest offence is concluded any forest produce in respect of which such offence has been committed shall, if it is the property of Government or has been forfeited, be taken charge of by a Forest Officer, and, ¹[in any other case may, subject to section 71G, be disposed] of in such manner as the court may direct.

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 67 - Procedure when offender is not known or cannot be found

When the offender is not known or cannot be found, the magistrate, may, if he finds, ¹ [that an offence has been committed, subject to section 71G], order the property in respect of which the offence has been committed to be forfeited to the State Government 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 thirty days from the date of seizing the property, or without hearing the person, if any, claiming any right thereto, and, the evidence, if any, which he may produce in support of his claim.

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 68 - Procedure as to perishable property seized under section 62

¹ [² [Subject to such rules as may be prescribed, the Forest Officer who made the seizure under section 62 or any other Forest Officer, may], notwithstanding anything contained in this Act or any other law, sell] any property seized under section 62 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 ³ [and shall report about every such sale to his official superior.]

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

2. Substituted by Act 11 of 1984 w.e.f. 13.1.1984.

3. Inserted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 69 - Appeal from orders under sections 65, 66 and 67

The officer who made the seizure under section 62 or any of his official superiors or any person claiming to be interested in the property so seized may, within thirty days from the date of any order passed under sections 65, 66 or 67, 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.

Section 70 - Vesting of forfeited property in State Government

When an order for the forfeiture of any property has been passed under section 65 or section 67, as the case may be, and the period specified by section 69 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 State Government free from all encumbrances.

Section 71 - Saving of power to release property seized

Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under section 62, which is not the property of Government, and the withdrawal of any charge made in respect of such property.

Section 71A - Confiscation by Forest Officers in certain cases

1[71A. Confiscation by Forest Officers in certain cases

(1) Notwithstanding anything contained in the foregoing provisions of this Chapter²[or in any other law], where a forest offence is believed to have been committed in respect of timber,³[ivory,⁴ [gulmavu (machilus marantha) bark, dalchini bark, Halmaddi (exudation of ailantus malabricum), canes], firewood and charcoal which is the property of the State Government or in respect of sandalwood], the officer seizing the property under sub-section (1) of section 62 shall, without any unreasonable delay produce it, together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence, before an officer authorised by the State Government in this behalf by notification in the official Gazette, not being below the rank of an Assistant Conservator of Forests (hereinafter referred to as the authorised officer).

(2) Where an authorised officer seizes under sub-section (1) of section 62 any timber,³[ivory, firewood⁴[gulmavu (machilus marantha) bark, dalchini bark, halmaddi (exudation of ailantus malabricum), canes] and charcoal which is the property of the State Government or any sandalwood], or where any such property is produced before an authorised officer under sub-section (1) and he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence.

⁴(3) (a) Where the authorised officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may, order the confiscated property or any part thereof to be sold by public auction.

(b) Where any confiscated property is sold, as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses relating thereto, shall where the order of confiscation made under section 71A is set aside or annulled by an order under sections 71C or 71D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.]

1. Sections 71A to 71F inserted by Act 50 of 1976 w.e.f. 22.6.1976.

2. Inserted by Act 1 of 1981 w.e.f. 23.2.1981.

3. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

4. Inserted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 71B - Issue of show cause notice before confiscation under section 71A

(1) No order confiscating any timber, sandalwood, charcoal, firewood,²[gulmavu (machilus marantha) bark, dalchini bark, halmaddi (exudation of ailantus malabricum), canes], ivory, tools, ropes, chains, boats, vehicles or cattle shall be made under section 71A except after notice in writing to the person from whom it is seized and considering his objections, if any:

1[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, rope, chain, boat, vehicle or cattle shall be made under section 71A if the owner of the tool, rope, chain, boat, vehicle or cattle proves to the satisfaction of the authorised officer that it was used in carrying the timber, sandalwood, charcoal, firewood2[gulmavu (Machilus marantha) bark, dalchini bark, Halmaddi (exudation of Ailantus malabricum), canes] or ivory without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

1. Inserted by Act 1 of 1981 w.e.f. 23.2.1981.

2. Inserted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 71C - Revision

Any Forest Officer not below the rank of Conservator of Forests1[specially empowered by the State Government] in this behalf by notification in the official Gazette may, before the expiry of thirty days from the date of the order of the authorised officer under section 71A, suo motu call for and examine the records of that order and may make such inquiry or cause such inquiry to be made may pass such orders as he deems fit:

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

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 71D - Appeal

(1) Any person aggrieved by any order passed under section 71A or section 71C may, within thirty days from the date of communication to him of such order, appeal to the1[Sessions Judge] having jurisdiction over the area in which the property to which the order relates has been seized and the1 [Sessions Judge] shall, after giving an opportunity to the appellant2[and the authorised officer or the officer specially empowered under section 71C, as the case may be] to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

1[(2) An order of the Sessions Judge under sub-section (1) shall be final and shall not be questioned in any court of law.]

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

2. Inserted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 71E - Award of Confiscation not to interfere with other punishments

The award of any confiscation1[under section 71A or section 71C or section 71D] shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 71F - Property confiscated when to vest in Government

When an order for confiscation of any property has been passed under section 71A or section 71C¹[or section 71D] and such order has become final in respect of the whole or any portion of such property, such property or portion thereof,¹[or if it has been sold under sub-section (3) of section 71A, the sale proceeds thereof] as the case may be, shall vest in the State Government free from all encumbrances.]

1. Inserted by Act 1 of 1981 w.e.f. 23.2.1981.

Section 71G - Bar of jurisdiction in certain cases

1[71G. Bar of jurisdiction in certain cases

Whenever any timber, ivory,²[gulmavu (machilus marantha) bark, dalchini bark, halmaddi (exudation of ailantus malabricum), canes], firewood or charcoal belonging to the State Government or any sandalwood, together with any tool, rope, chain, boat, vehicle or cattle used in committing any offence is seized under sub-section (1) of section 62, the authorised officer under section 71A or the officer specially empowered under section 71C or the Sessions Judge hearing an appeal under section 71D shall have and, notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) 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.]

1. Inserted by Act 1 of 1981 w.e.f. 23.2.1981.

2. Inserted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 72 - Punishment for wrongful seizure

(1) Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to forfeiture under this Act shall, on conviction, be punishable with imprisonment which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.

(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.

Section 73 - Penalty for counterfeiting or defacing marks on trees or timber and for altering boundary marks

Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or such tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(b) unlawfully affixes to any timber or standing tree a mark used by Forest Officers; or

(c) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest Officer; or

(d) alters, moves, destroys or defaces any boundary mark of any forest or waste land to which the provisions of this Act are applicable;

shall, on conviction, be punishable with imprisonment which may extend to two years, or with fine, or with both.

Section 74 - Power to arrest without warrant

(1) Any Forest Officer or Police Officer may, without orders from a magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Any person arrested under this section shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest magistrate having jurisdiction in the case 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.

Section 75 - Power to release on a bond a person arrested

Any Forest Officer of a rank not inferior to that of a Forest Ranger, who or whose subordinate has arrested any person under the provisions of section 74 may release such person on his executing a bond with proper surety 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.

Section 76 - Power to prevent commission of offence

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

Section 76A - Prevention of Commission of offences etc.

1 [76A. Prevention of Commission of offences etc.

Any forest officer may if necessary use as much force and do as much injury to persons and property to prevent the commission of any offence under this Act under Chapter VI of the Wild Life (Protection) Act, 1972, or to apprehend any person who has committed or is engaged in commission of any offence under the said Acts, or for seizure of any weapons, vehicles, cart, boat, any other conveyance, tools, or any other things used to commit offence under the said Acts or to carry, transport, conceal or keep the forest produce in respect of which the offence is committed.]

1. Inserted by Act 20 of 2000 w.e.f. 4.10.2000.

Section 77 - Power to try offences summarily

The District Magistrate or any magistrate of the first class specially empowered in this behalf by the State Government may try summarily under the 1[Code of Criminal Procedure, 1973 (Central Act 2 of 1974)], any forest offence punishable with imprisonment, which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

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

Section 78 - Operation of other laws not barred

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

Provided that no person shall be punished twice for the same offence.

Section 79 - Power to compound offences

(1) The State Government may,¹[subject to such conditions as may be specified, by notification], empower a Forest Officer,-

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence under section 72 or section 73²[or section 86 or section 87], a sum of money not exceeding³[fifty thousand rupees], by way of composition for the offence which such person is suspected to have committed;

(b) when any property has been seized as liable to confiscation²[subject to section 71G], to release, the same on payment of the value thereof³[as may be prescribed.]

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

(3) A Forest Officer shall not be empowered under this section, unless he is a Forest Officer of rank not inferior to that of a Range Forest Officer.

1. Substituted by Act 1 of 1981 w.e.f. 23.2.1981.

2. Inserted by Act 1 of 1981 w.e.f. 23.2.1981.

3. Substituted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 80 - Presumption that forest produce belongs to Government

When in any proceedings taken under this Act or in consequence of anything done under this Act or under any other law for the time being in force, a question arises as to whether any forest produce is the property of the State Government, such produce shall be presumed to be the property of the State Government until the contrary is proved, and in case of any prosecution the burden of proving the contrary shall lie on the accused.

Section 81 - Compensation for damage caused by commission of offence

(1) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees, or of injuring them by fire or otherwise in contravention of this Act or of any rule made thereunder, the convicting court may, in addition to any other punishment which it may award, order that person to pay to the State Government such compensation, for each tree with respect to which the offence was committed, as it deems just.

(2) If the person convicted of the offence committed it as the agent or servant of another person, the convicting court may, unless after hearing that other person, it is satisfied that the commission of the offence was not a consequence of his instigation or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in sub-section (1).

(3) An appeal from any order under sub-section (1) or sub-section (2) shall lie to the court to which orders made by the convicting court are ordinarily appealable, and the order passed on such appeal shall be final.

Section 82 - Forfeiture of leases

When the holder of any lease, licence or contract whatsoever granted or continued by or on behalf of the State Government for any of the purposes of this Act, or when any such offence is committed by any agent or servant of the holder of any such lease, licence or contract, and the State Government is satisfied that the commission of the offence was a consequence of the instigation of such holder or of any wilful neglect or default on his part, the State Government or a Forest Officer duly empowered by the State Government in this behalf, may, by order in writing, declare the lease, licence, or contract to be forfeited in whole or in part with effect on and from a date to be specified in the order.

Section 82A - Criminal liability of licensee for acts of servants

1[82A. Criminal liability of licensee for acts of servants

Where any offence under this Act or rules made thereunder, is committed by any person in the employment and acting on behalf of the holder of a licence or permit granted under this Act, such holder shall also be punishable with a fine which may extend to rupees fifteen thousand as if he had committed the said offence unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punishable with imprisonment except in default or payment of fine.]

1. Sections 82A and 82B inserted by Act 12 of 1998 w.e.f. 11.5.1998.

Section 82B - Offence by Companies etc.

1[82B - Offence by Companies etc.

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of the commission of the offence shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence 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 that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purpose of this section,-

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm, means a partner in the firm.]

1. Sections 82A and 82B inserted by Act 12 of 1998 w.e.f. 11.5.1998.

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