



# FOREST LAW



DIRECTORATE OF FORESTS  
GOVERNMENT OF WEST BENGAL



This edition is published by  
Development Circle,  
Directorate of Forests,  
Government of West Bengal,  
2016

Aranya Bhavan  
LA – 10A Block, Sector III  
Salt Lake City, Kolkata,  
West Bengal, 700098

Copyright © 2016 in text  
Copyright © 2016 in design and graphics

All rights reserved. No part of this publication may be reproduced, stored in any retrieval system or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of the copyright holders.



## PREFACE

In their day-to-day functions forest officers are required to discharge duties in terms of provisions of various Acts and Rules. It is therefore essential that forest officers have clear understanding of the meaning and implications of these Acts and Rules which would guide their decisions and actions. They also need to be very clear about the powers that have been conferred on them under the relevant Acts and Rules. As part of the JICA project on ‘Capacity Development for Forest Management and Training of Personnel’ being implemented by the Forest Department, Govt of West Bengal, these course materials on Forest Law have been prepared for induction training of the Foresters and Forest Guards.

The subjects covered in these materials broadly conform to syllabus laid down in the guidelines issued by the Ministry of Environment of Forests, Govt of India, vide the Ministry’s No 3 - 17/1999-RT dated 05.03.13. In dealing with some of the parts of the course though, some topics have been detailed or additional topics have been included to facilitate complete understanding of the subjects and to provide appropriate coverage of the State Acts and Rules. The revised syllabus, with such modifications, is appended.

As the materials are meant for the training of frontline staff of the Department, effort has been made to present the legal provisions with notes, comments and clarifications where deemed necessary. Some of the provisions have been presented in bullet points and tabular format so that they get registered easily as one goes through.

Many books and literature including those available in internet have been made use of in preparing these course materials. In particular, the contents of these study materials owe heavily to the following sources, namely, (1) Compendium of Forest Acts, Rules and Orders, March 2012, Government of West Bengal, Forest Department, (2) Forest Laws (Central and States) 7th Edition by Shri Chandra Bhushan Upadhyay, (3) The West Bengal Forest Manual Part I and II, and (4) The Code of Criminal procedure, 13th Edition, 1987 by Ratanlal and Dhirajlal. Many forest officers have helped in the preparation of these materials. Special word of thanks goes to Shri Sarajit Sen IFS, and Shri Subhamay Chanda IFS, for providing books and materials and sharing their views on various topics. Shri Subhankar Sengupta IFS has provided valuable inputs in the matter of Seizure Report and Prosecution Offence Report and the same are thankfully acknowledged.

Efforts that have gone into making of these course materials will be best rewarded if the frontline staff of the forest department find these materials useful in their day-to-day works.

Kolkata, 2015

**A Basu Ray Chaudhuri**, IFS (Retd)  
For IBRAD (Consultant)

**N K Pandey**, IFS  
Chairman, SPMU, Forest Department,  
Govt of West Bengal



## SYLLABUS (Revised )

| <b>Forest Law (15* hours), excursion 1 day, tour 2 days</b> |   |            |
|---|---|------------|
| 1. Acts related to forests                                  | Study of the important sections of the following acts:<br>Indian Forest Act   | 4* hours   |
|   | <ul style="list-style-type: none"> <li>- Reserve forests,</li> <li>- Village Forests</li> <li>- Protected Forests</li> <li>- Penalties and Procedures</li> <li>- Of Forest Officers</li> <li>- Subsidiary Rules</li> <li>- Miscellaneous.</li> </ul>  |            |
|   | The Wildlife (Protection) Act, 1972   | 4* hours   |
|   | <ul style="list-style-type: none"> <li>- Hunting of wild animals</li> <li>- Protected Areas</li> <li>- National Tiger Conservation Authority</li> <li>- Wild Animal, etc. to be government property</li> <li>- Prohibition of Trade or Commerce</li> <li>- Prevention and Detection of Offences</li> <li>- Miscellaneous provisions</li> </ul>  |            |
|   | The Forest Conservation Act, 1980   | 2* hours   |
|   | <ul style="list-style-type: none"> <li>- Restriction on dereservation of forests or use of forest land for non-forest purpose</li> <li>- Constitution of Advisory Committee (Sec 3)</li> <li>- Penalty for contravention and abetment</li> <li>- Offences by authorities and Government departments</li> <li>- Power to make Rules</li> <li>- Forest (Conservation) Rules, 2003</li> <li>- Two-stage clearance of proposals</li> <li>- Guidelines issued by MoEF</li> </ul> |            |
|   | The Biological Diversity Act 2002*  | 30 minutes |
|   | <ul style="list-style-type: none"> <li>- Definitions</li> <li>- Regulation of access to Biodiversity</li> <li>- Approval by the National Biodiversity Authority (NBA)</li> </ul>  |            |



|  |  |                   |
|--|--|-------------------|
| <p>2.. Forest Produce Transit Rules</p>            | <p>The West Bengal Forest Produce Transit Rules, 1959*</p> <ul style="list-style-type: none"> <li>- Forest Produce</li> <li>- Where applicable</li> <li>- Regulations – restrictions</li> <li>- Fees for Transit Pass</li> <li>- Production of Transit Pass on demand</li> <li>- Stoppage for examination and check</li> <li>- Procedure upon seizure</li> <li>- Registration of Property Mark</li> <li>- Penalty</li> </ul>   | <p>30 minutes</p> |
| <p>3. Rules related to regulations of sawmills</p> | <p>The West Bengal Forest (Establishment and Regulation of Sawmills and other Wood-Based Industries) Rules, 1982*</p> <ul style="list-style-type: none"> <li>- Definitions</li> <li>- Circumstances prohibiting establishment of sawmills, etc. and grant of licence</li> <li>- Application for licence</li> <li>- Change of Ownership</li> <li>- Category of Licence</li> <li>- Terms and conditions for issue of licence under various categories</li> <li>- Application for renewal of licence</li> <li>- Procedure for making application for licence or renewal of licence</li> <li>- Shifting</li> <li>- Appeal</li> <li>- Inspection and verification of records</li> <li>- Transit pass for Forest Produce</li> <li>- Appointment of Forest Officer as Inspector</li> <li>- Penalties</li> <li>- Daily Stock</li> <li>- Annual Return</li> </ul> | <p>30 minutes</p> |
| <p>4. Powers of forest officers</p>                | <p>Powers of officers under the Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972</p> <ul style="list-style-type: none"> <li>– Powers of officers under the Indian Forest Act</li> <li>– Powers of officers under the Wildlife (Protection) Act, 1972</li> <li>– Rules prescribing the procedure to be followed in case of firing by Forest officers</li> <li>– Officers of the Forest Directorate in West</li> </ul>  | <p>1 hour</p>     |



|  |  |        |
|--|--|--------|
|  | <p>Bengal who are exempted from prohibition under the Indian Arms Act, 1878 (xi of 1878)</p> <ul style="list-style-type: none"> <li>📄 Order regarding compensation to forest personnel</li> <li>📄 Grant of rewards in forest offence cases</li> </ul>  |        |
| 5. Code of Criminal Procedure and Forest Offence | <p>Code of Criminal Procedure</p> <ul style="list-style-type: none"> <li>– Definitions (Section 2)</li> <li>– Of Arrest</li> <li>– General Provisions relating to Search (sec 100)</li> </ul> <p>First Information Report</p> <p>Some issues relating to forest offence</p> <ul style="list-style-type: none"> <li>– Seizure Report</li> <li>– Prosecution Offence Report (POR)</li> </ul> | 1 hour |

☒ These are modifications to the MoEF-prescribed syllabus, indicating revision/addition of topics and lesson hours.



| Les-<br>son<br>No. | Content                        |  | Page<br>No. |
|--------------------|--------------------------------|--|-------------|
| 1                  | Indian Forest Act              | <ul style="list-style-type: none"> <li>• <b>Lesson Plan</b></li> <li>• <b>Definition of terms</b></li> <li>• <b>Reserved Forests (Chapter II of IFA)</b> <ul style="list-style-type: none"> <li>✚ Power to reserve forests</li> <li>✚ Notification by State Govern-ment ✚ The Forest settlement Officer</li> <li>✚ Notification declaring forest reserved under sec-tion 20</li> <li>✚ Section 26: Acts prohibited in reserved forests. ✚ Punishment (Section 26)</li> <li>✚ Power of Forest officer for eviction, confiscation etc. (Section 26)</li> <li>✚ Forest officer can permit act otherwise prohib-ited (section 26)</li> </ul> </li> <li>• <b>Village Forests (Chapter III)</b></li> </ul> | 1-5         |
| 2                  | Indian Forest Act (Contin-ued) | <ul style="list-style-type: none"> <li>□ <b>Lesson Plan</b></li> <li>□ <b>Protected forests (Chapter IV of IFA)</b> <ul style="list-style-type: none"> <li>✚ Power to issue notification reserving trees etc. ✚ Power to make rules</li> <li>✚ Penalties for acts in contraven-tion of notification u/s 30 or of rules u/s 32.</li> <li>✚ No prohibition in certain cases</li> </ul> </li> <li>□ <b>Chapter VII of IFA; Section 41: Power to make rules to regulate transit of forest produce.</b></li> <li>□ <b>Section 42: Penalty for breach of rules made u/s 41.</b> <ul style="list-style-type: none"> <li>✚ Double penalty in certain cases</li> </ul> </li> </ul>                            | 6-11        |
| 3                  | Indian Forest Act (Contin-ued) | <p><b>Lesson Plan</b></p> <p><b>Chapter IX – Penalties and Procedure</b></p> <ul style="list-style-type: none"> <li>✚ Section 52: Seizure of property liable to confiscation.</li> <li>✚ Section 53: Power to release property seized under section 52.</li> <li>✚ Section 55: Forest Produce, tools, etc. when li-able to confiscation.</li> <li>✚ Section 56: Disposal on conclusion of trial for forest offence, of produce in respect of which it was committed</li> <li>✚ Section 57: Procedure when offender not known or cannot be found</li> <li>✚ Section 58: Procedure as to perishable property</li> </ul>  | 12-17       |





|   |  |  |              |
|---|--|--|--------------|
|   |  | <p>seized under section 52</p> <ul style="list-style-type: none"> <li>✚ Section 59. Appeal from orders under section 55, section 56 or section 57</li> <li>✚ Section 59-A . Confiscation by forest officer of forest produce in the case of forest offence believed to have been committed</li> </ul>  |              |
| 4 | <b>Indian Forest Act (Continued)</b>       | <ul style="list-style-type: none"> <li>□ <b>Lesson Plan</b></li> <li>□ <b>CHAPTER IX – PENALTIES AND PROCEDURE (Continued)</b> <ul style="list-style-type: none"> <li>✚ Section 59-B. Issue of notice before confiscation</li> <li>✚ Section 59-C. Revision</li> <li>✚ Section 59-D. Appeal</li> <li>✚ Section 59-E. Award of punishment under other provisions of the Act.-I</li> <li>✚ Section 59-F. Confiscated property and proceeds of sale to vest in Government</li> <li>Section 59-G. Bar of jurisdiction in certain cases</li> <li>Section 62- Punishment for wrongful seizure</li> <li>Section 63. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks</li> <li>Section 64. Power to arrest without warrant</li> <li>✚ Section 65. Power to release on a bond a person arrested</li> <li>✚ Section 65-A. Certain offences to be non-bailable</li> <li>✚ Section 66. Power to prevent commission of offence</li> <li>✚ Section 66 A. Punishment of abetment</li> <li>✚ Section 67. Power to try offences summarily</li> <li>✚ Section 68. Power to compound offences</li> <li>✚ Section 69. Presumption that forest-produce belongs to Government</li> </ul> </li> <li>□ <b>Chapter XI Of Forest Officers</b> <ul style="list-style-type: none"> <li>✚ Section 72. State Government may invest Forest-officers with certain powers</li> <li>✚ Section 73. Forest officers deemed public servants</li> <li>✚ Section 74. Indemnity for acts done in good faith</li> <li>✚ Section 75. Forest Officers not to trade</li> </ul> </li> <li>□ <b>Chapter XII subsidiary rules</b></li> <li>□ <b>Chapter XIII Miscellaneous</b></li> </ul> | <b>18-27</b> |
| 5 | <b>The Wildlife (Protection) Act, 1972</b> | <ul style="list-style-type: none"> <li>□ <b>Lesson Plan</b></li> <li>□ <b>Chapter I</b> <ul style="list-style-type: none"> <li>✚ Definitions</li> </ul> </li> <li>□ <b>Chapter III – Hunting of Wild Animals</b> <ul style="list-style-type: none"> <li>✚ Prohibition of hunting</li> <li>✚ Hunting of wild animals to be permitted in certain</li> </ul> </li> </ul>  | <b>28-35</b> |



|   |  |   |              |
|---|--|---|--------------|
|   |  | <p>cases.</p> <ul style="list-style-type: none"> <li>✚ Action in defence is not an offence.</li> <li>✚ Grant of permit for special purposes</li> </ul> <p>□ <b>Chapter IV – [Protected Areas]</b></p> <ul style="list-style-type: none"> <li>✚ Declaration of area as sanctuary</li> <li>✚ Restriction on entry in sanctuary</li> <li>✚ Grant of Permit – Section 28(1)</li> <li>✚ Destruction, exploitation, removal etc. in a sanctuary prohibited without a permit</li> <li>✚ Causing fire in sanctuary is prohibited under section 30</li> <li>✚ Use of injurious substance</li> <li>✚ Control of Sanctuaries</li> </ul>  |              |
| 6 | <b>The Wildlife (Protection) Act, 1972 (Continued)</b> | <p>□ <b>Lesson Plan</b></p> <p>□ <b>Chapter IV – Protected Areas (Continued)</b></p> <ul style="list-style-type: none"> <li>✚ National Park</li> <li>✚ Declaration and Management of Conservation Reserve</li> <li>✚ Declaration and Management of Community Reserve</li> <li>✚ Constitution of Central Zoo Authority – Section 38A</li> <li>✚ Functions of the Authority</li> <li>✚ Recognition of Zoos</li> <li>✚ Acquisition of animals by a zoo</li> <li>✚ Prohibition of teasing, etc.</li> </ul> <p>□ <b>National Tiger Conservation Authority</b></p> <ul style="list-style-type: none"> <li>✚ Constitution of National Tiger Conservation Authority</li> <li>✚ Powers and Functions of Tiger Conservation Authority</li> <li>✚ Constitution of Steering Committee</li> <li>✚ Tiger Conservation Plan</li> </ul> | <b>36-42</b> |
| 7 | <b>The Wildlife (Protection) Act, 1972 (Continued)</b> | <p>□ <b>Lesson Plan</b></p> <p>□ <b>CHAPTER V</b></p> <p><b>Wild Animal, etc. to be government property</b></p> <ul style="list-style-type: none"> <li>✚ Possession to be reported</li> <li>✚ Ban on possession, transfer and destruction</li> <li>✚ Declaration</li> <li>✚ Inquiry and preparation of inventories</li> <li>✚ Certificate of ownership</li> <li>✚ Regulation of transfer of animal, etc.</li> <li>✚ Dealings in trophy and animal articles without licence prohibited</li> </ul>  | <b>43-50</b> |



|   |  |   |       |
|---|--|---|-------|
|   |  | <ul style="list-style-type: none"> <li>✚ Declaration by the Dealers and application for licence</li> <li>✚ Purchase of animal, etc., by licensee.</li> </ul> <p>☐ <b>Chapter VA - Prohibition of Trade or Commerce in Trophies, Animal Articles, etc. derived from certain Animals.</b></p> <ul style="list-style-type: none"> <li>✚ Definitions</li> <li>✚ Prohibition in dealings</li> <li>✚ Restriction on the licensee</li> <li>✚ Exemption</li> </ul>  |       |
| 8 | <b>The Wildlife (Protection) Act, 1972 (Continued)</b> | <p>☐ <b>Lesson Plan</b></p> <p>☐ <b>CHAPTER VI –Prevention and Detection of Offences</b></p> <ul style="list-style-type: none"> <li>✚ Power of entry, search, arrest and detention</li> <li>✚ Penalties</li> <li>✚ Forfeiture of animal etc. and cancellation of permit</li> <li>✚ Attempts and abetment</li> <li>✚ Punishment for wrongful seizure</li> <li>✚ Power to compound offences</li> <li>✚ Cognisance of offences</li> <li>✚ Presumption to be made in certain cases.</li> </ul> <p>☐ <b>Chapter VII – Miscellaneous</b></p> <ul style="list-style-type: none"> <li>✚ Officers to be public servants</li> <li>✚ Protection of action taken in good faith.</li> <li>✚ Reward to a person</li> <li>✚ Reward by State Government</li> </ul>                                    | 51-60 |
| 9 | <b>The Forest Conservation Act, 1980</b>               | <p>☐ <b>Lesson Plan</b></p> <p>☐ <b>Objects &amp; Reasons</b></p> <p>☐ <b>Restriction on dereservation of forests or use of forest land for non-forest purpose</b></p> <ul style="list-style-type: none"> <li>✚ Explanation</li> </ul> <p>☐ <b>Constitution of Advisory Committee (Sec 3)</b></p> <p>☐ <b>Penalty for contravention and abetment</b></p> <p>☐ <b>Offences by authorities and Government departments</b></p> <p>☐ <b>Power to make Rules</b></p> <p>☐ <b>Forest (Conservation) Rules, 2003</b></p> <ul style="list-style-type: none"> <li>✚ Nodal Officer</li> <li>✚ Composition of the Forest Advisory Committee</li> <li>✚ Submission of Proposals</li> <li>✚ Committee to advise on proposals</li> <li>✚ Action of the Central Govt on the advice of the</li> </ul> | 61-67 |



|    |  |   |        |
|----|--|---|--------|
|    |  | <p>Committee</p> <p>✚ Proceedings against persons guilty of offences under the Act</p> <p>☐ <b>SOME ADDITIONAL POINTS</b></p> <p>✚ Two Stage Clearance of Proposals</p> <p>✚ Land Transfer to Forest Department</p> <p>✚ Compensatory Afforestation</p> <p>Collection of Net Present Value CAMPA</p>  |        |
| 10 | <b>The Forest Conservation Act, 1980 (Continued)</b>   | <p>☐ <b>Lesson Plan</b></p> <p>☐ <b>Guidelines issued by MoEF</b></p>   | 68-84  |
| 11 | <b>The Biological Diversity Act 2002</b>   | <p>☐ <b>Lesson Plan</b></p> <p>☐ <b>Introduction</b></p> <p>☐ <b>Definitions</b></p> <p>☐ <b>Regulation of access to Biodiversity</b></p> <p>☐ <b>Approval by the National Biodiversity Authority (NBA)</b></p> <p>☐ <b>Determination of Equitable Benefit Sharing by NBA</b></p> <p>☐ <b>State Biodiversity Board (SBB)</b></p> <p>☐ <b>Biodiversity heritage Sites</b></p> <p>☐ <b>Biodiversity Management Committees</b></p> <p>☐ <b>Penalties</b></p> <p>☐ <b>Cognizable and non-bailable offences</b></p> <p>☐ <b>Cognizance of offences</b></p> | 85-95  |
|    | <b>The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006</b> | <p>☐ <b>Introduction</b></p> <p>☐ <b>Definitions</b></p> <p>☐ <b>Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers:</b></p> <p>☐ <b>Recognition and vesting of Forest Rights</b></p> <p>☐ <b>Authorities and procedures for vesting of forest rights</b></p>  |        |
| 12 | <b>The West Bengal Trees (Protection and Conservation in Non- Forest Areas) Act, 2006</b>                  | <p>☐ <b>Lesson Plan</b></p> <p>☐ <b>Introduction</b></p> <p>☐ <b>Definitions</b></p> <p>☐ <b>Restrictions on felling trees</b></p> <p>☐ <b>Permission to fell trees</b></p> <p>☐ <b>Appeal</b></p> <p>☐ <b>Obligation to Plant Trees</b></p> <p>☐ <b>Compulsory planting in certain cases (High-rise</b></p>  | 96-110 |



|    |   |  |         |
|----|---|--|---------|
|    |   | <p>building and construction)</p> <ul style="list-style-type: none"> <li>☐ Penalty For Felling Of Trees</li> <li>☐ Previous sanction of the state government</li> <li>☐ Forfeiture of timber etc</li> <li>☐ Power of seizure</li> <li>☐ Compounding of Offence</li> <li>☐ Power to prevent Commission of Offence</li> <li>☐ Execution of Order for Payment</li> <li>☐ Exemption</li> <li>☐ Power of State Government for preservation of trees</li> </ul>  |         |
| 13 | <p><b>The West Bengal Forest Produce Transit Rules, 1959</b></p>  | <ul style="list-style-type: none"> <li>☐ Lesson Plan</li> <li>☐ Introduction</li> <li>☐ Forest Produce</li> <li>☐ Where applicable</li> <li>☐ Regulations – restrictions</li> <li>☐ Fees for Transit Pass</li> <li>☐ Production of Transit Pass on demand</li> <li>☐ Stoppage for examination and check</li> <li>☐ Procedure upon seizure</li> <li>☐ Registration of Property Mark</li> <li>☐ Penalty</li> </ul>   | 111-135 |
|    | <p><b>The West Bengal Forest (Establishment and Regulation of Sawmills and other Wood-Based Industries) Rules, 1982</b></p> | <ul style="list-style-type: none"> <li>☐ Definitions</li> <li>☐ Circumstances prohibiting establishment of sawmills, etc. and grant of licence</li> <li>☐ Application for licence</li> <li>☐ Change of Ownership</li> <li>☐ Category of Licence</li> <li>☐ Terms and conditions for issue of licence under various categories</li> <li>☐ Application for renewal of licence</li> <li>☐ Procedure for making application for licence or renewal of licence</li> <li>☐ Shifting</li> <li>☐ Appeal</li> <li>☐ Inspection and verification of records</li> <li>☐ Transit pass for Forest Produce</li> <li>☐ Appointment of Forest Officer as Inspector</li> <li>☐ Penalties</li> <li>☐ Daily Stock</li> <li>☐ Annual Return</li> </ul> |         |



|    |   |   |         |
|----|---|---|---------|
| 14 | <b>Powers of officers under the Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972</b> | <ul style="list-style-type: none"> <li>□ Lesson Plan</li> <li>□ Powers of officers under the Indian Forest Act <ul style="list-style-type: none"> <li>✚ Authorisation of Divisional Forest Officers for the purpose of sub-section (1) of section 59A of the Indian Forest Act, 1927</li> <li>✚ Authorisation of Conservators of Forests under section 59C of the Indian Forest Act, 1927</li> <li>✚ Appointment of Bana Shramiks / Bana Majoors to discharge the functions of Forest Officers</li> </ul> </li> <li>□ Powers of officers under the Wildlife (Protection) Act, 1972 <ul style="list-style-type: none"> <li>✚ Authorisation of officers for the purposes of various sections of the Wildlife (Protection) Act, 1972 <ul style="list-style-type: none"> <li>– (Please see Appendix)</li> </ul> </li> <li>✚ Authorisation of officers for the purposes of section 55 of the Wildlife (Protection) Act, 1972</li> <li>✚ Authorisation of police officers for the purposes of section 55 of the Wildlife (Protection) Act, 1972</li> </ul> </li> <li>□ Rules prescribing the procedure to be followed in case of firing by Forest officers</li> <li>□ Officers of the Forest Directorate in West Bengal who are exempted from prohibition under the Indian Arms Act, 1878 (xi of 1878) <ul style="list-style-type: none"> <li>• Issuance of single barrel rifles to Forest Rangers/ Deputy Rangers and Foresters</li> <li>• Order regarding compensation to forest personnel</li> </ul> </li> <li>□ Grant of rewards in forest offence cases</li> </ul> | 136-157 |
|----|---|---|---------|



|          |                            |   |         |
|----------|----------------------------|---|---------|
| 15       | Code of Criminal Procedure | <ul style="list-style-type: none"> <li>• Lesson Plan</li> <li>• Some Salient points from the Code of Criminal Procedure <ul style="list-style-type: none"> <li>• Definitions (Section 2)</li> <li>• Of Arrest</li> <li>• General Provisions relating to Search (sec 100)</li> <li>• First Information Report</li> </ul> </li> </ul>   | 158-163 |
|          |                            | <ul style="list-style-type: none"> <li>□ Some issues relating to forest offence <ul style="list-style-type: none"> <li>✚ Seizure Report</li> <li>• Prosecution Offence Report (POR)</li> </ul> </li> </ul>  |         |
| Appendix | Govt Notifications         | <ul style="list-style-type: none"> <li>- Appointment of Divisional Forest Officers as Ex-officio Wildlife Wardens</li> <li>- Appointment of Chief Conservator of Forests and Conservator of Forest as Ex-officio Deputy Chief Wildlife Wardens</li> <li>- Appointment of Addl. Principal Chief Conservator of Forest as Ex-officio Additional Chief Wildlife Wardens</li> <li>- Delegation of powers to Deputy Ranger/Forester, Forest Guard, Wildlife Guard, Forest Ranger, Assistant Wildlife Warden, Assistant Divisional Forest Officer and Assistant Conservator of Forest.</li> </ul> |         |







**Lesson Plan:**

## Objective:

- To introduce Indian Forest Act 1927, which is central to forest laws.
- To describe definitions and interpretations of terms used in this Act.
- To deal with salient provisions of Reserved Forest and Village Forests.

## Forward Linkage:

- During tour to North Bengal, the trainees may be shown reserved forest and history of formation of reserved forest be explained.
- During tour to North Bengal, the trainees may be made aware of case studies on a couple of offences that had been detected in reserved forest and how such offences had been dealt with.

## Training materials required:

- Text of Indian forest Act, to be circulated beforehand
- Copy of lesson 1 to be circulated beforehand. Al-

## location of time:

- Introduction and Definition of terms – 10 mts
- Process to declare reserved forest – 15 mts
- Acts prohibited /regulated – 15 mts
- Punishment – 7 mts
- Village Forests – 3 mts
- Discussion/miscellaneous – 10 mts

**INDIAN FOREST ACT, 1927****1. Definition of terms**

**Section 2 of IFA deals with the definitions and interpretations for the purpose of this Act.**

**1.1 Cattle** – includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

*[It means that for the purpose of this Act, the term cattle includes the above categories of animals in addition to the normal meaning of the term, that is farm animals – cows and bulls.]*

**1.2 Forest Officer** - means any person whom the State Government or any officer empowered by the State Government, may appoint to carry out specified functions under the Act.



**1.1 Forest Offence** – means an offence punishable under the Act.

**1.2 Forest Produce** – Forest produce defined in the Act comprises of two parts – part (a) and part (b).

Part (a) of forest produce includes the following, regardless **whether they are found in, or brought from, a forest or not** -

- **Timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrabolams.**

The other part – part (b) –includes the following, **provided they are found in, or brought from, a forest-**

- **Trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,**
- **Plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,**
- **wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and**
- **peat, surface soil, rock, and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries**

Part (a) of forest produce increases the scope of definition of forest produce, and thus enhances scope of application of the law.

Part (b), however, shifts onus (to prove) on prosecution. In other words, when dealing with part (b) produce, the forest officer is required to prove that such produce has been brought from or found in forest.

**1.3 Timber** - includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not;  
[Please note that trees except when they are standing are timber.]

**1.4 Tree** - includes palms, bamboos, stumps, brush-wood and canes.  
*[The enlarged definition of tree again enhances the scope of the Act.]*

## **1. Reserved Forests (Chapter II of IFA)**

**1.1 Power to reserve forests** – According to **Section 3, the Power to reserve forests vests in the State Government.**

Any forest-land or waste-land to be constituted a reserve forest has to be the property of Government, or over which the Government has proprietary rights.

[Only two kinds of lands can be declared as reserved forest. They are (1) Forest Land, and (2) Waste Land; *Jang Bahadur v State*, 1977 All WR 599 (HC)]

The term ‘Forest’ having not been defined in the Act, the meaning given in the Shorter Oxford English Dictionary may be applied, which is ‘an extensive tract of land covered with trees and undergrowth, sometimes intermingled with pasture’ *Laxman Ichharam V DFO*, AIR 1953 Nag51.]

## 1.2 Notification by State Government –In terms of **Section 4**, the State Government issues notification

- **declaring the intention of the Govt to constitute a land a reserved forest**
- **specifying the situations and limits of such land**
- **appointing an Officer called Forest Settlement Officer (FSO).**

## 1.3 The Forest settlement Officer -

- The FSO is required to inquire into and determine the existence, nature and extent of any rights alleged to exist.
- The FSO shall ordinarily be a person **not holding any forest-office except that of Forest Settlement officer.**
- However, the State Government may appoint **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 FSO under this Act.

## 1.4 Orders by FSO

- **Section 12** empowers the FSO to pass orders on claims to rights of pasture or to forest-produce, admitting or rejecting the same in whole or part.
- Under **section 15**, the FSO passes such orders as will ensure the continued exercise of the rights so admitted.
- **Section 16 provides for Commutation of Rights.** In case the Forest settlement-officer finds it impossible to make settlement under section 15 he shall, subject to such rules as the State Government may make in this behalf, commute such rights, by the payment of a sum of money in lieu thereof, or by the grant of land.

## 1.5 Appeal from orders passed by FSO

- **Section 17 provides for appeal from order passed by FSO**
- **Any person who has made a claim under this Act, or any Forest-officer may, within 3 months from the date of the order passed, present an appeal.**

## 1.6 Notification declaring forest reserved under section 20

- When the following events have occurred, namely:-
  - (a) Period fixed for claiming any right has elapsed;
  - (b) Period for appealing from the orders passed on such claims have elapsed, and all appeals presented within such period have been disposed of;
  - (c) All lands (if any) which the FSO has elected to acquire under the Land Acquisition Act, 1894, have become vested in the Govt.

**The State Govt shall publish a notification in the Official Gazette**

- **specifying definitely the limits of the forest which is to be reserved, and**
- **declaring the same to be reserved from a date fixed by the notification.**

## 1.7 Section 26: Acts prohibited in reserved forests. Any

person who

- **Makes fresh clearing after issue of notification under section 4;**



- Sets fire to a reserved forest, or, in contravention, of any rules\* made by the State Government in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest;
- or who, in a reserved forest, kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify\*\* in this behalf;
- Trespasses or pasture cattle;
- Causes any damage by negligence in felling any tree or cutting or dragging any timber;
- Fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages the same;
- Quarries stone, burns lime or charcoal, collects or removes any forest produce;
- Clears or breaks up any land;
- In contravention of rules, hunts, shoots, fishes, poisons water or sets traps or snares;
- in any area in which the Elephants' Preservation Act, 1879, (6 of 1879) is not in force, kills or catches elephants in contravention of any rules so made.

(The last two offences are presently dealt with under the Wildlife Protection Act) Shall be punishable.

\*existence of such rules has to be proved.

\*\* existence of such notification has to be proved

### 1.8 Punishment (Section 26)

Any person committing any act prohibited in reserved forests is punishable

- with imprisonment for a term which may extend to [one year, or
- with fine which may extend to Rs.1000]<sup>1</sup>, or
- with both,
- in addition to such compensation for damage done to the forest as the convicting court may direct.

[<sup>1</sup> substituted by WB Act XXII of 1988, for the words “six months, or with fine, which may extend to five hundred rupees. “ ]

### 1.9 Power of Forest officer for eviction, confiscation etc. (Section 26)

[Notwithstanding above penalty, Forest Officer may evict any person who in such forest trespass or pastures cattle, or permit 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. Further, any agricultural or other crop or any illegal construction shall be liable to confiscation by an order of DFO.]<sup>2</sup>

[<sup>2</sup> inserted by WB Act XXII of 1988 ]

### 1.10 Forest officer can permit act otherwise prohibited (section 26)

- Nothing in this section, that is section 26, shall be deemed to prohibit any act done by permission in writing of the Forest-officer.

[ In other words, any of the acts, referred to in paragraph 2.7, if done with permission in writing of the forest officer, will not attract any offence under section 26. Noteworthy in this connection is that such permission is required to be issued by a forest officer authorised by the State Government in this behalf.

### 1.11 Power to declare forest no longer reserved (Section 27)

- The State Govt may by notification in the official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof, shall cease to be a reserved forest. (However, the rights extinguished shall not revive).

[Authority of State Govt has now been restricted under the FCA, 1980]

## 2. Chapter III- Village Forests

**Section 28** lays down the mode of formation and other provisions regarding management of village forests in the following three subsections.

(1) According to this section, the State Government may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests.

(Comments: Please note that village forests comprise of only reserved forests.)

(2) The State Government may make rules for regulating the management of village forests, prescribing the conditions under which the community 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.

(Comments: The objective of village forests is to provide to village community, as part of management, forest produce and other benefits provided they comply with the conditions and duties to be specified by the Government.)

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.





**Lesson Plan:**

## Objective:

- To deal with salient provisions of Protected Forest.
  - Power of the State Govt to declare trees to be reserved, to prohibit certain activities;
  - Power to regulate, by making rules, some matters;
  - Penalties
- To know power of State Govt to make rules to control trade, possession and transit of timber and other forest produce
  - penalties for breach of rules
- To know power of State Govt to make rules for regulation of manufacture and preparation of articles based on forest produce.

## Backward linkage:

- Definition and interpretation of terms dealt with in Lesson 1
- Provisions relating to Reserved forests dealt with in Lesson 1.

## Forward Linkage:

- During tour to south West Bengal, the trainees may be shown protected forest and copies of notifications/ rules issued/made in this regard.
- The trainees may be made aware of the linkage of WB Forest Produce Transit Rules and WB Forest (establishment and Regulation of sawmills and other wood based industries) Rules with section 41 and section 51A respectively.

## Training materials required:

- Text of Indian forest Act, to be circulated beforehand
- Copy of lesson 2 to be circulated beforehand. Al-

## location of time:

- Declaration of protected forest – 5 mts
- Notification reserving trees and prohibiting acts – 10 mts
- Rules regulating certain matters – 10 mts
- Penalties – 5 mts
- Regulation of transit of forest produce – 10 mts
- penalty for breach of rules – 5 mts
- Regulation of manufacture and preparation of articles based on forest produce – 5 mts
- Discussion/miscellaneous – 10 mts



## INDIAN FOREST ACT (Continued)

### 1. Protected forests (Chapter IV of IFA)

1.1 **Section 29** of the IFA (Indian Forest Act) provides that

- **The State Govt may, by notification in the Official Gazette, declare as ‘protected forest’ any forest land or waste land which is not included in a reserved forest, but which is the property of the Govt.**

1.2 **Power to issue notification reserving trees etc.**

**Section 30** provides that the state Govt may, by notification in the Official Gazette,

- Declare any trees or a class of **trees to be reserved;**
- Declare any portion of **such forest to be closed for a term not exceeding 30 years;**
- **Prohibit** from a fixed date quarrying of stone, or burning of lime or charcoal, or collection or subjection to any manufacturing process, or removal of, any forest produce, 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.

1.3 **Power to make rules.**

**Section 32** empowers the State Govt to **make rules to regulate**–

- Cutting, sawing, conversion and removal of trees and timbers, and the collection, manufacturing and removal of forest produce, from protected forests;
- Granting of licences to the inhabitants in the vicinity to take trees, timber or other forest produce for their own use;
- Granting of licenses to persons felling or removing trees or timber or other forest produce for trade;
- Payments to be made by the persons mentioned above;
- Examination of forest produce passing out of such forests;
- Clearing or breaking up of land;
- Protection from fire of timber lying in such forests and of trees reserved under section 30;
- Cutting of grass and pasturing of cattle;
- Hunting, shooting, fishing etc



- Protection and management of any portion closed u/s 30.
- Exercise of rights of individuals and communities over the forest land or waste land that existed before notification of such lands as protected forest.

[ Following two points may be noted –

- (1) **Section 30 empowers** the State Government **to issue notification so as to prohibit** certain activities in protected forest, whereas under **section 32** the State Government is authorised to **make rules to regulate (compare with ‘prohibit’)** certain activities.
- (2) **Thus in a protected forest, unless an activity (from among those the State Govt is authorised to prohibit or regulate) is either prohibited under section 30 or regulated under section 32, such activity carries no restriction. Therefore while dealing with offence in a protected forest, the prosecution is required to establish that commission of the related act has been prohibited under section 30 through issue of notification, or such act has infringed rules made under section 32. To state in brief, existence of relevant notification under section 30 or rules under section 32 is required to be established before the convicting court.]**

#### 1.4 Penalties for acts in contravention of notification u/s 30 or of rules u/s 32.

Section 33 lays down the following penalties:

- **Imprisonment for a term which may extend to [one year]<sup>1</sup>, or fine which may extend to [one thousand rupees]<sup>1</sup>, or both.**

[<sup>1</sup> substituted by WB Act XXII of 1988, section 4 for “six months” and “five hundred rupees”.

- <sup>2</sup>**[Notwithstanding above penalty, the Forest Officer may evict any person who, contrary to any prohibition under section 30, clears or breaks up such land for cultivation or for any other purposes.]<sup>2</sup>**

[<sup>2</sup> inserted by WB Act XXII of 1988 ]

- **When fire is caused wilfully or by gross negligence, the State Govt may, notwithstanding any penalty that has been inflicted, suspend exercise of any right of pasture or to forest produce.**

#### 1.5 Penalty for offence in Protected Forest vis-a-vis Reserved Forest

Please note the following points

- The Act provides for same maximum punishment (i) for offences in reserved forest, and (ii) in protected forest for contravention of sec30 and sec 32



- Section 33 only provide punishment for commission of offence mentioned in the section, and there is no provision specifically given in this section to award compensation for damages caused in respect of the protected forests, whereas for offence in reserved forest section 26 of the Act has provision for award of such compensation.

### 1.6 No prohibition in certain cases

**Section 34** lays down, inter alia, that 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.

### Chapter VII of IFA

[“ OF THE CONTROL OF TRADE, POSSESSION AND TRANSIT OF TIMBER AND OTHER FOREST- PRODUCE “]<sup>1</sup>

<sup>1</sup>*WB Amendment of the title (vide West Bengal Act XXII of 1988, section 5)*

### 2. Section 41: Power to make rules to regulate transit of forest produce.

- The control of all rivers and their banks as regards floating of timber [and other forest produce], as well as the control of [transit of]<sup>1</sup> all timber and other forest produce (in transit)<sup>2</sup> by land or water [and the control of trade and possession of timber and other forest produce]<sup>1</sup> is vested in the State Govt.
- State Govt may make rules to regulate the transit of all timber and other forest-produce [as well as the trade and possession of timber and other forest produce.]<sup>1</sup>
- WB Amendment [Addition]<sup>1</sup> (Deletion)<sup>2</sup>

#### 2.1 Rules under Section 41 may-

- (a) prescribe the routes
- (b) prohibit the import or export or moving of such timber or other produce without a pass
- (c) provide for the issue, production and return of such passes and for the payment of fees therefor;
- (d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit,
- (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,

- (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,
- (g) provide for the prevention or removal of any obstruction of the channel or banks of any such river,
- (h) prohibit absolutely or subject to conditions, within specified local limits, the establishment of sawpits, 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;
- [ (j) ) provide the regulation by licence or permit of trade and possession of timber and other forest-produce and levy of fees for such licence or permit.]<sup>1</sup>

<sup>1</sup>[WB Amendment: Inserted by WB Act XXII of 1988, section 6 ]

- (The power conferred under this section is merely regulatory in nature in respect of transit of timber and other forest produce; Kashi Prasad v State of Orissa, AIR 1963 Ori 24)

2.2 The State Govt may, however, direct that any rule made under section 41 shall not apply to any specified class of timber or other forest produce or to any specified local area.

### 3. Section 42: Penalty for breach of rules made u/s 41.

- The State Govt may by such rules prescribe as penalties imprisonment for a term which may extend to [One year, or fine which may extend to one thousand rupees, or both]<sup>1</sup>.

<sup>1</sup>[ ] – WB Amendment – substituted by WB Act XXII of 1988, section 7 for the words “six months, or fine which may extend to five hundred rupees, or both”.

#### 3.1 Double penalty in certain cases

Such rules may provide imposition of **double penalties** in cases

- where 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.

### Chapter VIIIA of IFA

**Regulation of manufacture and Preparation of Articles based on Forest Produce [This chapter has been inserted by WB Act XXII of 1988, section 4]**



**Section 51A** empowers the State Government to make rules

- to provide for establishment, and regulation by licence, permits or otherwise (and the payment of fees therefor), of sawmills and other units including factories engaged in the manufacture or preparation of
  - Katha (catechin) or cutch out of khair wood
  - plywood, veneer, and wood panel products
  - match boxes or match splints
  - boxes including packing cases made out of wood
  - Such other articles based on forest produce as the State govt may specify.
- To provide for the regulation by licence, permit or otherwise of procurement of raw materials for preparation of the articles mentioned above.

[Section **51A** has been inserted by **WB Act XXII of 1988, section 4.**]



## Lesson 3

Time 1 hour

### Lesson Plan:

#### Objective:

- To deal with part of salient provisions of Penalties and Procedures (chapter IX).
  - Seizure of forest produce by forest officer/police officer.
  - Power to release seized property;
  - Confiscation of forest produce, tools etc.
  - Procedures in certain cases
  - Appeal
- Confiscation by forest officer of forest produce. Back-

#### ward linkage:

- Definition and interpretation of terms dealt with in Lesson 1
- Provisions relating to Reserved and Protected forests dealt with in Lesson 1 and 2.

#### Forward Linkage:

- During tour to south West Bengal, the trainees may be shown a few case studies involving seizure and confiscation.

#### Training materials required:

- Text of Indian forest Act, to be circulated beforehand
- Copy of lesson 3 to be circulated beforehand. Al-

#### location of time:

- Seizure of property liable to confiscation (sec 52) – 10 mts
- Confiscation of forest produce, tools, etc. (sec 55) – 5 mts
- Disposal of produce on conclusion of trial (sec 56) – 5 mts
- Procedure in certain cases (sec 57 and 58) – 10 mts
- Appeal (sec 59) – 5 mts
- Confiscation by forest officer (sec 59) – 15 mts
- Discussion/miscellaneous – 10 mts

## Indian Forest Act (Continued)

### CHAPTER IX – PENALTIES AND PROCEDURE

#### 1. Section 52: Seizure of property liable to confiscation.

- **When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, [ropes, chains, boats,**



vehicles]<sup>1</sup>, or cattle used in committing such offence, may be seized by any Forest-officer or Police-officer.

[ ]<sup>1</sup> WB Amendment, substituted by WB Act XXII of 1988, section 10 in place of “boats, carts”.

### 1.1 [Comments: Please note the following.

- For making seizure, there should be prima facie evidence that the produce in question is forest produce (reference definition of forest produce in section 2, vide lesson 1).
- Forest produce liable to seizure may not be the property of the Government.
- WB amendment enhances the power of forest officer or police officer by conferring the latter the authority to seize inter-alia vehicles, if used in committing the offence. It is required to establish that such vehicle was used in commission of offence.]

### 1.2 Obligation to put seizure mark and report to Magistrate

**Sub-section (2) of Section 52 requires that** every officer seizing any property under this section shall place on such property [or the receptacle, if any, containing such property]<sup>2</sup> 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;

[ ]<sup>2</sup> WB Amendment – Inserted by WB Act XXII of 1988, section 10.

(Comments: Seizure mark by a forest officer is given by a seizure hammer issued to the officer for the purpose.)

### 1.3 When exempt from reporting to the Magistrate

Amendment by WB Act XXII of 1988 (section 10) adds the following proviso to sub-section (2) of Sec 52.

- **[provided that it will not be necessary to make a report of such seizure to the Magistrate in the following cases, namely-**
- **when the forest-produce with respect to which such offence is believed to have been committed is the property of the State Government and the offender is unknown, it shall be sufficient to make a report of the circumstance to the official superior**
- **when the offence falls under the purview of sec. 59-A**
- **when the offender agrees in writing to get the offence compounded]<sup>3</sup>**

[ ]<sup>3</sup> Substituted by WB Act XXII of 1988, section 10 for the proviso “Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the

property of the State Government, and the offender is unknown, it shall be sufficient to if the officer makes, as soon as may be, a report of the circumstances to his official superior.”

#### **1.4 Power to stop and detain a vehicle**

The WB Act XXII of 1988, section 10 also inserts the following as sub-section (3) of section 52.

**[(3) 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 any forest-produce in respect of which a forest offence has been committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to goods carried, which are in possession of such driver or other person in charge of the vehicle]<sup>4</sup>**

[ ] <sup>4</sup> Inserted by The WB Act XXII of 1988, section 10.

(Comments: It may be noted that any officer making a seizure is obliged to report, as soon as may be, the seizure to the magistrate, and, in the event of cases described above in paragraph 1.3, to his superior.)

#### **1.4 Penalty for forcibly opposing the seizure**

**WB Amendment inserts section 52A as fol-**

**lows.**

**[Section 52A – Whoever forcibly opposes the seizure of tools , ropes, chains, boats, vehicles or cattle liable to be seized under this Act, or receives the same after seizure, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both]<sup>5</sup>**

[ ] <sup>5</sup> inserted by WB Act XXII of 1988, section 1.

#### **2. Section 53: Power to release property seized under section 52.**

Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, [ropes, chains, boats, vehicles]<sup>1</sup> or cattle under section 52, may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made, [except in respect of offences falling under section 59A for which procedure laid down in that section shall be followed.]<sup>2</sup>

[ ] <sup>1</sup> substituted by WB Act XXII of 1988, section 12 for the words “boats, carts” [ ]<sup>2</sup>

inserted by WB Act XXII of 1988, section 12



(Comments: Please note that

- Officer of the rank of Forest Ranger and above only can release the property seized under section 52.
- Section 53 does not authorise the forest officer to release the forest produce, if any, seized under section 52. )

**3. Section 55: Forest Produce, tools, etc. when liable to confiscation.**

- All timber or forest produce which is not the property of the Govt and in respect of which a forest offence has been committed, and all tools, [ropes, chains, boats, vehicles or cattle]<sup>3</sup> used in committing any forest offence, shall be liable to confiscation.

[ ]<sup>3</sup> WB Amendment – substituted by WB Act XXII of 1988 section 14 for the words “boats, carts and cattle”.

**4 . Section 56: Disposal on conclusion of trial for forest offence, of produce in respect of which it was committed.**

- [Without prejudice to the provisions of section 59A, when the trial of]<sup>4</sup> any forest- offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct.

[ ]<sup>4</sup> WB Amendment – substituted by WB Act XXII of 1988, section 15 for the words “when the trial of”.

**5. Section 57: Procedure when offender not known or cannot be found.**

- When the Offender is not known or cannot be found the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

**Section 57, however, has the following proviso:**

- 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.

6. [ **Comments:** if, upon conclusion of trial, by court’s order under section 56 or 57, a forest officer is required to take charge of the property that was seized and put to trial, he should, on taking charge, bring such property to his official store (or depot) with proper entries in the depot or store register.]





## 7. Section 58: Procedure as to perishable property seized under section 52.

- [(1)]<sup>1</sup> The Magistrate may, notwithstanding anything, hereinbefore contained, direct the sale of 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]<sup>2</sup>.
- [Provided that if in the opinion of the officer seizing property it is not possible to obtain the orders of the Magistrate in time, such officer may sell the property himself, remit the proceeds of sale into the Government treasury and may make a report of such seizure, sale and remittance to the magistrate.]<sup>3</sup>
- [(2) The Magistrate may deal with the proceeds of the sale of any property sold under sub-section (1) as he would have dealt with such property if it had not been sold.]<sup>4</sup>

### WB Amendment

[ ]<sup>1</sup> renumbered as section 58(1) by WB Act XXII of 1988 . section 16

[ ]<sup>2</sup> omitted by WB Act XXII of 1988 . section 16 [

] <sup>3</sup> added by WB Act XXII of 1988 . section 16

[ ] <sup>4</sup> inserted by WB Act XXII of 1988 . section 16.

**8. Section 59. Appeal from orders under section 55., section 56 or section 57.-** 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 under section 55, section 56, or section 57, appeal there from to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

### **9. Section 59-A . Confiscation by forest officer of forest produce in the case of forest offence believed to have been committed.**

[ WB Act XXII of 1988, section 17 inserted the section 59-A, 59-B, 59-C, 59-D, 59-E, 59-F and 59- G]

(1) Notwithstanding anything contained in the foregoing provisions of this chapter or in any other law for the time being in force, where a forest offence is believed to have been committed in respect of the timber or other forest-produce which is the property of the State Government, the Forest Officer or the Police Officer seizing the timber or other forest-produce under sub-section (1) of Sec. 52 shall, without any unreasonable delay, produce the same, together with all tools, ropes, chains, boats, vehicle and cattle used in committing the offence before an officer of a rank not inferior to that of an Assistant Conservator of Forests authorised by State Government in this behalf by notification in the Official Gazette (hereinafter referred to as the authorised officer).



(Comments: Before proceeding under sec 59-A, the forest officer seizing the produce should satisfy himself that the seized produce is the property of the State Government.)

(2) The State government may, for any local area, authorise one or more officers under sub-section (1).

(3) where any timber or other forest-produce which is the property of the State Government is produced before an authorised officer under sub-section (1) and the authorised officer is satisfied that a forest offence has been committed in respect of such property, he may, whether or not a prosecution is instituted for a commission of such offence, order confiscation of the property together with all tools, ropes, chains, boats, vehicles and cattle used in committing the offence.

(4) (a) Where the authorised officer, after passing the order of confiscation of the property together with all tools, ropes, chains, boats, vehicles and cattle as aforesaid under sub-section (3), is of opinion that it is expedient in the public interest so to do, he may order such property or any part thereof and such tools, ropes, chains, boats, vehicles and cattle to be sold by public auction.

**(b)** Where the order of confiscation of any property or tools, rope, chains, boats, vehicles or cattle under sub-section (3) is set aside or annulled under Sec. 59-C or Sec. 59-D, the proceeds of sale by auction shall, after deduction of the expenses of auction and all other incidental expenses relating thereto, if any, be paid to the owner of such property or tools, ropes, chains, boats, vehicles or cattle to the person from whom the same was seized as may be specified in the order under Sec. 59-C or Sec. 59-D.

(Comments: Sec 59A, as inserted by WB Act XXII of 1988, enhances the power of forest officer remarkably, as it empowers, subject to conditions laid down in the section, the forest officer (authorised by the State Government) to issue orders of confiscation of seized property, which otherwise is done by the competent court.)



**Lesson Plan:**

## Objective:

- To deal with part of salient provisions of Penalties and Procedures (chapter IX).
  - Revision, Appeal etc. following order of confiscation – Sec 59B to sec 59G.
  - Punishment for wrongful seizure – sec 62.
  - Penalty for counterfeiting/defacing/altering marks – sec 63.
  - Power to arrest without warrant – sec 64.
  - Non-bailable offences – sec 65A
  - Provisions under sec 66, 66A and 67
  - Compounding offences – sec 68.
- To deal with salient provisions of chapter XI (Of Forest Officers)
  - Powers State Govt may vest in forest officers – sec 72
  - Forest Officers deemed public servants, indemnity – sec 73, 74.
- To deal with salient provisions of chapter XIII (Miscellaneous)
  - Persons bound to assist Forest and Police officers – sec 79
  - Land required under this Act to be deemed to be needed for public purpose- sec 84, 84 A

## Backward linkage:

- Provisions relating to Reserved and Protected forests dealt with in Lesson 1 and 2
- Confiscation under sec 59 A.

## Forward Linkage:

- During tour, the trainees may be shown a few case studies involving confiscation under section 59A and the post-confiscation stages, and records of a few cases of compounding offence.

## Training materials required:

- Text of Indian forest Act, to be circulated beforehand
- Copy of lesson 4 to be circulated beforehand. Al-

## location of time:

- Sec 59 B to 59G – 7 mts
- Punishment for wrongful seizure – 3 mts
- Penalty for counterfeiting-defacing-altering marks – 5 mts.
- Arrest without warrant – 5 mts
- Non-bailable offences – 5 mts



- Power to prevent offence, Punishment for abetment, Power to try offence summarily etc. – 5 mts
- Compounding offence – 10 mts.
- Chapter XI (Of Forest officers) – 5 mts.
- Chapter XIII Miscellaneous – 5 mts
- Discussion/miscellaneous – 10 mts

### **Indian Forest Act (Continued)**

#### **CHAPTER IX – PENALTIES AND PROCEDURE (Continued)**

**1. Section 59-B. Issue of notice before confiscation.**-(1) No order confiscating any property or tools, ropes, chains, boats, vehicles or cattle shall be made under Sec. 59-A except after giving a notice in writing to the owner of, or the person from whom, such property or tools, ropes, chains, boats, vehicles or cattle have been seized, for showing cause as to why the same should not be confiscated and considering his objections, if any.

Provided that no order confiscating any motor vehicle shall be made except after giving a 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 objection, if any.

Explanation.-“Motor vehicle” shall have the same meaning as in the Motor Vehicles Act, 1939 (4 of 1939).

(2) Without prejudice to the provisions of sub-section (1), no order consociating any tool, rope, chain, boat, vehicle or cattle shall be made under Sec. 59-A if the owner thereof proves to the satisfaction of the authorised officer that such tool, rope, chain, boat, vehicle or cattle was used in carrying the timber or other forest-produce without the knowledge or connivance of the owner himself or his agent, if any, or the person in charge thereof and that each of them had taken all reasonable and necessary precautions against such use.

**2. Section 59-C. Revision.**-Any Forest Officer of a rank not inferior to that of the Conservator of Forests specially empowered by the State Government in this behalf by notification in the Official Gazette may suo motu, or on application by the aggrieved person call for and examine any record of any order under Sec. 59-A and may make such inquiry or cause such inquiry to be made and may pass such order as he deems fit.

Provided that no such record shall be called for after the expiry of thirty days from the date of the order under Sec. 59-A, and no order under this section shall be passed if, in the meantime, an appeal has been preferred under Sec. 59-D against any order under Sec. 59-A.

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



**3. Section 59-D. Appeal-** (1) Any person aggrieved by an order under sec. 59-A or Sec. 59-C may, within thirty days from the date of communication to him of such order, prefer an appeal to the District Judge having jurisdiction over the area in which the property and the tools, ropes, chains, boats, vehicles or cattle have been seized, and the District Judge shall after giving the appellant and the officer who passed the order an opportunity of being heard, pass an order confirming, modifying or annulling the order appealed against.

(2) The order of the district judge under sub-section (1) shall be final and shall not be called in question by any Court.

*(Comments: A person aggrieved by an order of confiscation by the Authorised Officer under sec 59-A, has an opportunity to file an application under sec 59-C before the Conservator of Forests to seek redressal. Even in absence of such application, the CF, on his own, can take cognizance of the matter, call for records of order passed under sec 59-A, cause enquiry, and pass orders confirming or revising or altering the said order passed under sec 59-A. CF's power of intervention, however, ceases in the following two cases – (1) on expiration of thirty days from the date of order under sec 59 A and (2) if meanwhile any appeal is lodged with the District Judge under sec 59-D against the order under sec 59-A.)*

**4. Section 59-E. Award of punishment under other provisions of the Act.**-Notwithstanding any order under Sec. 59-A or Sec. 59-C or Sec. 59-D, nothing in any of the said sections shall be deemed to prevent the award to any person affected by such order of any punishment to which such person is liable under this Act or any other law for the time being in force.

**5. Section 59-F. Confiscated property and proceeds of sale to vest in Government-** When an order for the confiscation or sale by auction of any property or any tools, ropes, chains, boats, vehicles or cattle is passed under Sec. 59-A and is confirmed in whole or in part on revision under Sec. 59-C or on appeal under sec. 59-D, such property or tools, ropes, chains, boats, vehicles or cattle or the proceeds of sale as case may be, shall vest in the state Government free from all encumbrances.

**6. Section 59-G. Bar of jurisdiction in certain cases-**Notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force the officer authorized under Sec. 59-A or the Forest officer specially empowered under Sec. 59-C or the District judge to whom an appeal may be preferred under Sec. 59-D shall have, and any other officer or Forest Officer or Court, Tribunal or Authority shall not have jurisdiction to make order with regard to the custody, possession, delivery, disposal or distribution of any property or tools, ropes, chains, boats, vehicles or cattle seized under Sec. 52.

**7. Section 62- Punishment for wrongful seizure.-** Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.



*(Comments: Generally it is presumed that the forest officers act in good faith in discharge of their duties, but where they do not act in good faith they are personally liable for the same. However, the burden of proof lies on the person who alleges that the forest officer has vexatiously or unnecessarily seized the property to harass him or to cause wrongful loss to him.)*

**8. Section 63. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.-** Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code (45 of 1860)--

- (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or
- (b) Alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest officer; or
- (c) Alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied.

shall be punishable with imprisonment for a term [which shall not be less than three months but which may extend to three years and also with fine which shall not be less than five hundred rupees but which may extend to five thousand rupees]<sup>1</sup>.

[<sup>1</sup> WB Amendment –substituted by WB Act XXII of 1988, section 18 for the words “which may extend to two years, or with fine, or with both”.

*(Comments:*

*“Wrongful gain” has been defined in section 23 of IPC as gain by unlawful means of property to which the person gaining is not legally entitled.*

*“Counterfeit”.—According to section 28 of IPC, a person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised. Explanation 1.-- It is not essential to counterfeiting that the imitation should be exact. Explanation 2.-- When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.)*

**9. Section 64. 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 against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards.

(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.

*(Comments: Please note sub-section (3) above. According to this sub-section, a forest officer or police officer cannot, without orders from a magistrate or warrant, arrest any person for any offence in protected forests, unless such act has been prohibited under clause (c) of section 30.)*

**10. Section 65. Power to release on a bond a person arrested.--** Any Forest-officer of a rank not inferior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station.

**11. [Section 65-A. Certain offences to be non-bailable –(1)** Notwithstanding anything contained in this Act or Code of Criminal Procedure 1973, any offence punishable under –

(α) Clause (a), clause (b), or clause (f), or clause (g) or clause (h) or clause (i) of section 26, or  
*(Comments: Offences referred to above are the following committed in reserve forests: fresh clearing, setting fire, felling –girdling etc any tree, quarrying , clearing- breaking land for cultivation, hunting)*

(β) Clause (a) or clause (b) or clause (c) or clause (d) or clause (f) or clause (h) of sub-section  
(1) Of section 33, or

*(Comments: Offences referred to above are the following committed in protected forests: felling-girdling trees reserved under section 30, quarrying, breaking up land for cultivation contrary to prohibition under section 30, setting fire without reasonable precautions to prevent its spreading to any tree reserved under section 30, felling any tree or dragging any timber so as to damage any reserved tree , infringing any rule made under section 32.)*

(γ) Section 42, or  
*(Comments: Section 42 stipulates penalty for breach of rules made under section 41 to regulate transit of forest produce.)*

(δ) Section 63,  
*(Comments: Section 63 refers to penalty for counterfeiting or defacing marks on trees and timber, and for altering boundary marks.)*

Shall be non-bailable.



(2) No person accused of any offence as aforesaid shall, if in custody, be released on application for release on bail or on his own bond unless –

- (a) the prosecution has been given an opportunity to oppose the application for such release, and
- (b) where the prosecution opposes the application as aforesaid, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.]<sup>2</sup>

[ ]<sup>2</sup> *WB Amendment- inserted by WB Act XXII of 1988 section 19.*

## **12. Section 66. Power to prevent commission of offence.**

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

*(Comments: Section 66 imposes a duty on the forest officers to prevent the commission of forest offence. The word “ may “ should be read as “ shall”.)*

**13. [Section 66 A. Punishment of abetment** -(1) Whoever abets any offence punishable under this act shall, if the offence abetted is committed in consequence of abetment, be punished with the same punishment as is provided for such offence.

(2) Whoever abets any offence under this act shall, if the offence abetted is not committed in consequence of abetment, be punished with the same punishment as is provided for such offence, but such punishment shall extend up to the one- fourth of maximum punishment provided for such offence.]<sup>3</sup>

[ ]<sup>3</sup> *WB Amendment – inserted by WB Act XXII of 1988, section 20.*

**14. Section 67. 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 Code of Criminal Procedure, 1898, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

## **15. Section 68. Power to compound offences –**

(1) ) **The State Govt may, by notification in the Official Gazette, empower a Forest officer-**

- (a) To accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in sec 62 or 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and
- (b) When any property has been seized as liable to confiscation, to release the same on payment of <sup>4</sup>[an amount equivalent to double the market value thereof]<sup>4</sup> as estimated by such officer

<sup>4</sup>[ ]<sup>4</sup> *WB Amendment – substituted by WB Act XXII of 1988, section 3 for the words “the value thereof”.*



(2) On payment of such sum of money <sup>5</sup>[or such amount] <sup>5</sup> 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.

<sup>5</sup> [ ] <sup>5</sup> **WB Amendment – substituted by WB Act XXII of 1988, section 3 for the words “ or such value ”.**

<sup>6</sup>[(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 Forester, and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of one thousand one hundred and fifty rupees.]<sup>6</sup>

<sup>7</sup>[(4) Notwithstanding anything contained in the foregoing provisions of this section, no forest offence other than a forest offence under section 62 or 63, shall be compounded by a Forest Officer, if the value of the forest produce seized exceeds five thousand rupees or if a cart or other vehicle has been used in committing the offence.]<sup>7</sup>

<sup>7</sup> [ ] <sup>7</sup> **WB Amendment – inserted by WB Act XXII of 1988, section 21.**

<sup>6</sup> [ ] <sup>6</sup> **WB Amendment – substituted by WB Act XXII of 1988, section 3 for section 68(3) of the principal act which reads “ (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 as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees. ”.**

(Comments: Please note –

- *The proceeding under section 68 is a summary and final settlement out of court to which both parties (officer of forest department empowered to conduct such proceeding and the offender) have agreed.*
- *If while an offence is under trial before a court, the offender, having been released on bail or otherwise, moves the authorized forest officer to compound the offence, the concerned forest officer, even though empowered to compound the offence, shall not exercise his power of compounding except on prior approval of the said court.*
- *WB amendment has further decentralized the power of compounding by allowing conferment of the right of compounding up to rank of Forester in place of Forest Ranger (as per the principal Act).*
- *WB Amendment has also enhanced the maximum limit of compensation from fifty rupees as laid down in principal Act to one thousand one hundred and fifty rupees.*
- *Offences specified in section 62 and 63, which cannot be compounded, are*
  - *wrongful seizure and*
  - *Counterfeiting or defacing marks on trees and timber, and altering boundary marks.*
- *Sub-section (4) of section 68 further stipulates the cases where compounding is not permissible. )*



**16. Section 69. Presumption that forest-produce belongs to Government.--** 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 XI of Forest Officers

**17. Section 72. State Government may invest Forest-officers with certain powers.- (1)** The State Government may invest any Forest-officer with all or any of the following powers, that is to say: -

- (a) power to enter upon any land and to survey, demarcate and make a map of the same;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material object;
- (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898 (5 of 1898); and
- (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.

*(Comments: Section 72(1) (d) and 72 (2) clearly show that the evidence referred to is the statement of a witness and not the statement of a person who is alleged to have committed an offence. It is also necessary that the statement of the witness bears confirmation that it has been taken in presence of the accused person.)*

**18. Section 73. Forest officers deemed public servants.-** All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

**19. Section 74. Indemnity for acts done in good faith –**<sup>7</sup>[(1) No suit or criminal prosecution or other legal proceedings shall lie against any public servant for anything done by him in good faith under this Act.

(2) No Court shall take cognisance of any offence alleged to have been committed by a Forest Officer while acting or purporting to act in the discharge of his official duty, except with previous sanction of the State Govt.]<sup>7</sup>

<sup>7</sup>[<sup>7</sup> WB Amendment – substituted by WB Act XXII of 1988, section 22 for section 74 of the principal Act which reads “No suit shall lie against any public servant for anything done by him in good faith under this Act.”

*(Comments: A forest officer, as a public servant, enjoys indemnity from legal proceedings under section 74 only when he acts in good faith in the discharge of his official duty. Section 74 should not be construed as granting protection to a forest officer for offence referred to under section 62, that is, wrongful seizure.)*

**20. Section 75. Forest Officers not to trade** – Except with permission in writing of the State Govt no Forest-officer shall, as principal or agent, trade in timber or other forest produce, or become interested in any lease of any forest or in any contract for working any forest, whether in or outside the territories to which this Act extends.

## **Chapter XII subsidiary rules**

**21. Section 77. Penalties for breach of rules.**- 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.

**22. Section 78. Rules when to have force of law.**- 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.

*(Comments: According to section 78, all rules made by the State Government shall, on being published in the official gazette, have the force of law, unless inconsistent with this Act. The contravention of such rules is punishable under the various provisions of the Act. However, if the Act does not provide any penalty for breach of any such rule, the person contravening the same shall be punished under section 77 of this Act.)*

## **Chapter XIII Miscellaneous**

**23. Section 79. Persons bound to assist Forest-officers and Police-officers.**- (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 Government or who receives employments from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith taken steps, whether so required by any Forest-officer or Police-officer or not,--

- α) To extinguish any forest fire in such forest of which he has knowledge or information;
- β) 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-and
- γ) in preventing the commission in such forest of any forest-offence; and
- δ) 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 prevent, as required by sub-section (1), to extinguish any forest fire in a reserved or protected forest;
- (c) to prevent, as required by subsection (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 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.

*(Comments: Following categories of persons are bound to assist forest and police officers in terms of providing information and taking preventive steps.*

- *Persons who, in a reserved or protected forest, exercise rights in, or are permitted to harvest forest produce from such forests, and their employees in such forests.*
- *those in the fringe of such forests are employed by the government.*

*Failure on the part of these categories of persons attracts punishment specified in section 79(2) of this Act)*

**24. Section 84. Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.**- Whenever it appears to the State Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for public purpose within the meaning of section 4 of the Land Acquisition Act, 1894 (1 of 1894).

<sup>8</sup>*[Section 84A. Application of the Act to land – The State Govt may, by notification in the Official gazette, declare that any of the provisions of this Act shall apply to any land which is the property of the State Govt or the Central Govt, and thereupon such provisions shall apply to such land accordingly.]<sup>8</sup>*

<sup>8</sup>*[ ]<sup>8</sup> WB Amendment- Inserted by WB Act XXII of 1988, section 23.*

## The Wildlife (Protection) Act, 1972

### Lesson Plan:

#### Objective:

To deal with part of salient provisions of Chapter I, Chapter III and Chapter IV

- Definitions of terms used in relation to the Act;
- Hunting of Wild animals – prohibition, regulations etc. under the Act;
- Study major provisions relating to Protected Areas (Sanctuary).

#### Backward linkage:

- Salient features of Indian Forest Act.

#### Forward Linkage:

- During tour, the trainees may be made aware of background, procedural steps and other relevant aspects in connection with formation of a sanctuary.

#### Training materials required:

- Text of the Wildlife (Protection) Act, to be circulated beforehand
- Copy of lesson 5 to be circulated beforehand. Al-

#### location of time:

- Definitions of terms – Chapter I – 12 mts
- Hunting of Wild Animals – Chapter III – 13 mts
- Salient provisions relating to Protected Areas (Sanctuary) – 25 mts;
- Discussion/miscellaneous – 10 mts

## The Wildlife (Protection) Act, 1972

### Chapter I

#### 1. Definitions – According to section 2, definitions of some terms are as given below.

- <sup>1</sup> [“animal” includes mammals, birds, reptiles, amphibians, fish, other chordates and invertebrates and also includes their young and eggs;]<sup>1</sup>

<sup>1</sup> [ ] <sup>1</sup> substituted by Act 16 of 2003, sec 3.

(Comment: Meaning according to Oxford Dictionary : Amphibian – An animal that can live both on land and in water. Invertebrate – Any animal with no backbone.

Please note that eggs are also animals for the purpose of this Act.)



- “animal article” means an article made from any captive animal or wild animal, other than vermin, and includes an article or object in which the whole or any part of such animal <sup>2</sup> [has been used and ivory imported into India and an article made therefrom] <sup>2</sup>. <sup>2</sup> [ ] <sup>2</sup> substituted by Act 44 of 1991, sec 5.
  - “captive animal” means any animal, specified in Schedule I, Schedule II, Schedule III or Schedule IV, which is captured or kept or bred in captivity;
  - <sup>3</sup> [“ Circus” means an establishment, whether stationary or mobile where animals are kept or used wholly or mainly for the purpose of performing tricks or maneuvers;]<sup>3</sup>  
<sup>3</sup> [ ] <sup>3</sup> Inserted by Act 44 of 1991, section 5.
  - “Director” means the person appointed as Director of Wildlife Preservation appointed by the Central Government for the purpose of this Act.
  - <sup>4</sup> [“Forest Officer” means the Forest officer appointed under clause (2) of Sec. 2 of the Indian Forest Act, 1927 (16 of 1927) or under any other act for the time being in force in a State;]<sup>4</sup>  
<sup>4</sup> [ ] <sup>4</sup> Inserted by Act 44 of 1991, section 5
  - <sup>5</sup> [(12B) “forest produce” shall have the same meaning as in sub-clause (b) of clause (4) of Sec. 2 of the Indian Forest Act, 1927 (16 of 1927);]<sup>5</sup>  
<sup>5</sup> [ ] <sup>5</sup> Inserted by Act 16 of 2003, section 3
  - “habitat” includes land, water, or vegetation which is the natural home of any wild animal;
  - “hunting”, with its grammatical variations and cognate expressions, includes,-
    - <sup>6</sup> [(a) killing or poisoning of any wild animal or captive animal and every attempt to do so;]
    - (b) capturing, coursing, snaring, trapping, driving or baiting any wild or captive animal and every attempt to do so;]<sup>6</sup>  
<sup>6</sup> [ ] <sup>6</sup> substituted by Act 16 of 2003, section 3.
    - (c) injuring or destroying or taking any part of the body of any such animal, or in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;
- (Comments: Please note that acts described in (a) and (b) above, including attempts to commit such acts are within the meaning of “hunting”.)
- “National Park” means an area declared, whether under section 35 or section 38, or deemed under sub-section (3) of section 66, to be declared, as a National Park.

□ <sup>7</sup> [“protected area” means a National Park, a sanctuary, a conservation reserve, or a community reserve notified under section 18, 35, 36A and 36C of the Act ]<sup>7</sup>

[ ] <sup>7</sup> Inserted by Act 16 of 2003, section 3

□ <sup>8</sup> [“sanctuary” means an area declared as a sanctuary by notification under the provisions of Chapter IV of this Act and shall also include a deemed sanctuary under sub-section (4) of Sec. 66]<sup>8</sup>;

[ ] <sup>8</sup> substituted by Act 16 of 2003, section 3

□ <sup>9</sup> [“specified plant” means any plant specified in Schedule VI;]<sup>9</sup>

[ ] <sup>9</sup> substituted by Act 44 of 1991, section 5

□ “Territorial waters” shall have the same meaning as in section 3 of the Territorial Waters, Continental shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

□ “vermin” means any wild animal specified in Schedule V;

□ <sup>10</sup> [“wild animal” means any animal specified in Schedules I and IV and found wild in nature;]<sup>10</sup>

[ ] <sup>10</sup> substituted by Act 16 of 2003, section 3.

□ <sup>11</sup> [“wild life” includes any animal, aquatic or land vegetation which forms part of any habitat;]<sup>11</sup>

[ ] <sup>11</sup> substituted by Act 16 of 2003, section 3.

□ <sup>12</sup> [“zoo” means an establishment, whether stationary or mobile, where captive animals are kept for exhibition to the public <sup>13</sup> {and includes a circus and rescue centers but does not include an establishment}<sup>13</sup> of a licensed dealer in captive animals;]<sup>12</sup>

[ ] <sup>12</sup> Inserted by Act 44 of 1991, section 5

{ } <sup>13</sup> substituted by Act 16 of 2003, section 3, for “but does not include a circus and an establishment”.

## Chapter III – Hunting of Wild Animals

### 2. Prohibition of hunting

Section 9 states that <sup>1</sup> [“ no person shall hunt any wild animal specified in Schedules I, II, III and IV except as provided in section 11 and 12.”]<sup>1</sup>

[ ] <sup>1</sup> substituted by Act 44 of 1991, section 9.

In other words, hunting of Schedule I, II, III and IV wild animals is prohibited except under conditions described in section 11 and 12.



### 3. **Hunting of wild animals to be permitted in certain cases.**

Section 11 provides -

- that the Chief Wild Life Warden **may permit** any person to hunt **any Schedule I animal** or cause such animal to be hunted, **if he is satisfied that such animal has become dangerous to human life or has become disabled or diseased beyond recovery, and that such animal**<sup>2</sup>**[cannot be captured, tranquillised or translocated]**<sup>2</sup>.

[ ]<sup>2</sup> Act 16 of 2003, sec 9.

- that the Chief Wildlife Warden or the authorised officer may, if he is satisfied that any wild animal specified in Sch.II, Sch.III or Sch.IV has become **dangerous to human life or to property (including standing crops or any land) or is so disabled or diseased as to be beyond recovery**, permit any person to hunt<sup>3</sup> [such animal or group of animals in a specified area or cause such animal or group of animals in that specified area to be hunted.]<sup>3</sup>

[ ]<sup>3</sup> **Act 16 of 2003, sec 9.**

(Comments: Please note the difference in conditionality between Schedule I and other schedules (II, III and IV) for permission of hunting. In respect of other schedule animals, becoming dangerous to property is a valid cause for the chief Wild Life Warden to permit hunting, whereas becoming dangerous to property is not enough ground for hunting Schedule I animal.)

### 4. **Action in defense is not an offence. Section 11(2) states –**

The Killing or wounding in good faith of any wild animal in defence of oneself or any other person shall not be an offence;

Provided that nothing in the 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.

(Comments: Please note the proviso of Section 11(2). While acting in contravention of any provision of this Act, the right of private defence cannot be a plea to seek indemnity under section 11(2).)

### 5. **Grant of permit for special purposes**

**Section 12** provides that the Chief Wild Life Warden may grant permit, on payment of fees, to any person to hunt, subject to specified conditions, any wild animal specified in the permit, for the purpose of education, scientific research, scientific management, collection of specimens, and derivation/collection or preparation of snake venom for manufacture of life saving drugs (purposes, detailed and exhaustive are described in section 12).



1.1 **Permission of Central /State Govt is necessary**

- **For Schedule I wild animal, permit under section 12 requires prior permission of the central government.**
- **For any other wild animal, permit under section 12 requires prior permission of the State government.**

**Chapter IV – <sup>4</sup>[Protected Areas]<sup>4</sup>**

[ ] <sup>4</sup> substituted by Act 16 of 2003, sec 10, for the heading “SANCTUARIES, NATIONAL PARKS AND CLOSED AREAS”

**6. Declaration of Intention to constitute any area other than reserve forest or territorial waters as a sanctuary**

**Section 18** provides that the State Government may, by notification, declare its intention to constitute any area **other than area comprised with any reserve forest or the territorial waters** as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphologic, natural or zoological significance, for the purpose of protecting, propagating or developing wildlife or its environment.

**7. Declaration of area as sanctuary**

**Section 26A** provides that when –

- (a) a notification has been issued under Sec.18 and the period for preferring claim has elapsed , and all claims, if any, made in relation to any land in an area intended to be declared in a sanctuary, have been disposed of by the State Government; or
- (b) any area comprised **within any reserve forest or any part of the territorial waters**, which is considered by the State Government to be of adequate ecological, faunal, geomorphological, natural or zoological significance for the purpose of protecting, propagating or developing wildlife or its environment, is to be included in a sanctuary,

**the State Government** shall issue a notification specifying the limits of the area which shall be comprised within the sanctuary and declare that the said area shall be sanctuary on and from such date as may be specified in the notification.

**7.1** The section carries a proviso that where any **part of the territorial waters** is to be so included within a sanctuary, **prior concurrence of the Central Government shall be** obtained by the State Government.

(Comments: Please note that in order to be comprised in a sanctuary, an area need not be a reserve forest. If the State Govt deems such area as worthy of constituting a sanctuary, it may include such area in the notification under section 18.)



## 8. Restriction on entry in sanctuary – According to sub-section (1) of section 27,

No person other than,

- (α) a public servant on duty;
- (β) a person who has been permitted by the chief Wildlife Warden or the authorised officer to reside within the limits of the sanctuary;
- (χ) a person who has any right over immovable property within the limits of the sanctuary;
- (δ) a person passing through the sanctuary along a public highway; and
- (ε) the dependents of the person referred to in clause (a), clause (b) or clause (c),

shall enter or reside in the sanctuary, except under and in accordance with the conditions of a **permit granted under Section 28.**

### 1.1 Obligations of persons residing in the sanctuary –

**According to sub-section (2) of section 27,** every person, so long he resides in the sanctuary, is bound to -

- prevent commission of offence
- help in discovering and arresting the offender
- report the death of any wild animal and safeguard the remains;
- extinguish fire; and
- assist any Forest officer, Chief Wild Life Warden, Wild Life Warden or Police Officer on demand.

### 1.3 Prohibition on altering boundary mark

**Sub-section (3) of section 27 stipulates** that no person shall, with intent to cause damage to any boundary-mark of a sanctuary or to cause any wrongful gain as defined in the Indian penal code (45 of 1860), alter, destroy, move or deface such boundary-mark.

### 1.4 Prohibition on teasing wild animal and littering

**Sub-section (4) of section 27 stipulates** that no person shall tease or molest any wild animal or litter the grounds or sanctuary.

9. **Grant of Permit – Section 28(1)** provides that The Chief Wildlife Warden may, on application, grant to any person a permit to enter or reside in a sanctuary for all or any of the following purposes, namely:

- (α) investigation or study of wildlife and purposes ancillary or incidental thereof;
- (β) photography;
- (γ) scientific research;
- (δ) tourism;
- (ε) transaction of lawful business with any person residing in the sanctuary.

10. **Destruction, exploitation, removal etc. in a sanctuary prohibited without a permit.**

**[Section 29]<sup>1</sup> prohibits**

- destruction, exploitation, removal of any Wildlife including forest produce;
- destruction, damaging or diverting the habitat of any wild animal;
- diverting, stopping or enhancing the flow of water into or outside the sanctuary

**except under and in accordance with a permit granted by the Chief Wild Life warden.**

**10.1** The section 29 carries a **proviso** that **where the forest produce is removed** from a sanctuary the same may be used for meeting the personal *bona fide* needs of the people living in and around the sanctuary and **shall not be used for any commercial purpose.**

[ ] <sup>1</sup> section 29 substituted by Act 44 of 1991, section 20, and again substituted by Act 16 of 2003, sec 15.

11. **Causing fire in sanctuary is prohibited under section 30.**

12. **Entry in sanctuary with weapon**, except with the previous permission of the Chief Wild Life Warden, **is prohibited under section 31.**

13. **Use of injurious substance** like chemicals, explosives etc. in a sanctuary **is banned under section 32.**

14. **Control of Sanctuaries-** Under section 33, **the authority to control, manage and maintain all sanctuaries vests in the Chief Wild Life Warden** and, for that purpose, he

- (α) may construct such roads, bridges, buildings, fences or barrier gates, and carry out such other works as he may consider necessary for the purposes of such sanctuary:

<sup>2</sup>**[Provided that no construction of commercial tourist lodges, hotels, zoos and safari parks shall be undertaken inside a sanctuary except with the prior approval of the National Board;]**<sup>2</sup>

[ ] <sup>2</sup> inserted by Act 16 of 2003 section 16.



- (β) shall take such steps as will ensure the security of wild animals in the sanctuary and the prevention of the sanctuary and wild animals therein;
- (γ) may take such measures, in the interests of wildlife, as he may consider necessary for the improvement of any habitat;
- (δ) may regulate, control or prohibit, in keeping with the interests of wildlife, the grazing or movement of [livestock]<sup>3</sup>

[ ]<sup>3</sup> substituted by Act 44 of 1991, section 21 for “cattle”.

- 14A. Immunization of Livestock – Section 33A empowers** the Chief Wildlife Warden to take prescribed measures for immunization against communicable diseases of the livestock kept in or within five kilometres of a sanctuary. The section also stipulates that no person shall take, or cause to be taken or graze, any livestock in a sanctuary without getting it immunised.
- 15. Registration of certain persons in possession of arms –** Section 34 stipulates that every person residing in or within ten kilometres of a sanctuary and holding a license granted under the Arms Act, 1959, for possession of arms, or exempted from the provisions of the Act, and possessing arms shall apply for registration of his name.
- 16. Power to remove encroachment – Section 34A provides that** notwithstanding anything contained in any other law for the time being in force, any officer **not below the rank of an Assistant Conservator of Forests may –**
- (α) evict any person from a sanctuary or National Park, who unauthorisedly occupies Government land in contravention of the provisions of this Act;
  - (β) remove any unauthorised structures, buildings, or constructions erected on any Government land within any sanctuary or National Park;

Provided that no such order shall be passed unless the affected person is given an opportunity of being heard.

## The Wildlife (Protection) Act, 1972

**Lesson Plan:**

## Objective:

To deal with the salient provisions of Chapter IV (part), Chapter IVA and Chapter IVB Chapter IV (Part)

- National Park – Declaration, prohibition etc.
- Conservation Reserve - Declaration and Management;
- Community Reserve - Declaration and Management;

Chapter IVA – Central Zoo Authority and Recognition of Zoos

- Functions of Central Zoo Authority
- Recognition of Zoos
- Acquisition of animals
- Prohibition of teasing etc.

Chapter IVB – National Tiger Conservation Authority

- Powers and functions of the Authority
- Tiger Conservation Plan
  - Notification of Tiger Reserve
  - Alteration and de-notification of Tiger Reserve

## Backward linkage:

- Salient features of chapter IV dealt with in Lesson 5.

## Forward Linkage:

- During tour to National Park/ Tiger Reserve, the trainees may be made aware of background and procedural steps of formation and salient features of management

## Training materials required:

- Text of the Wildlife (Protection) Act, to be circulated beforehand
- Copy of lesson 6 to be circulated beforehand. Al-

## location of time:

Chapter IV (part)

- National Park – Declaration, prohibition etc. - 10 mts
- Conservation Reserve - Declaration and Management - 5 mts
- Community Reserve - Declaration and Management - 5 mts

Chapter IVA – Central Zoo Authority and Recognition of Zoos - 15 mts

- Functions of Central Zoo Authority



- Recognition of Zoos
- Acquisition of animals
- Prohibition of teasing etc.

Chapter IVB – National Tiger Conservation Authority -

15 mts

- Powers and functions of the Authority
- Tiger Conservation Plan
  - Notification of Tiger Reserve
  - Alteration and de-notification of Tiger Reserve Discussion/miscellaneous – 10 mts

### The Wildlife (Protection) Act, 1972 (Continued)

#### Chapter IV – Protected Areas (Continued)

1. **National Park - Under section 35(1)** the State Government may, by notification, **declare its intention** to constitute an area, whether within a sanctuary or not, as a National Park, if it considers that such area, by reason of its ecological, faunal, floral, geomorphological or zoological association or importance, is needed to be constituted as a National Park.

1.1 Where any part of **territorial waters** is proposed to be included in such National Park, **prior concurrence of the Central Government** shall be obtained by the State Government.

#### 1.2 Section 35(4) provides that

When the following events have occurred, namely -

- (a) the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a National Park, have been disposed of by the State Government, and
- (b) all rights in respect of lands proposed to be included in the National Park have become vested in the State Government,

the **State Government shall publish a notification** specifying the limits of the area which shall be comprised within the national Park and declare that the said area shall be a National Park on and from such date as may be specified in the notification.

#### 1.3 Actions prohibited in a National Park

**Section 35 (6)<sup>1</sup> prohibits –**

- (a) destruction, exploitation, or removal of any wildlife from a National Park;
- (b) destruction or damaging the habitat of any wild animal or depriving any wild animal of its habitat within such National Park except under and in accordance with a permit granted by the Chief Wild Life warden.

Provided that where the forest produce is removed from a National Park, the same may be used for meeting the personal *bona fide* needs of the people living in and around the National Park and shall not be used for any commercial purposes. (Comments: **The restriction is same as applicable to a sanctuary**).

<sup>1</sup> Section 35(6) substituted by Act 16 of 2003, section 19. **Section 35**

**(7) prohibits grazing of livestock in a National Park Section 35 (8)**

**provides that**

- the provisions of Sections 27 and 28– restriction on entry, grant of permit, prohibition on altering boundary mark, teasing wild animal, littering;
  - provisions of sections 30 to 32 (both inclusive) - prohibition on causing fire, prohibition of entry with weapon, ban on use of injurious substance;
  - provisions of section 33 - conferring authority on Chief Wild Life Warden to control, manage and maintain;
  - provisions of section 33A – immunization of livestock;
  - provisions of section 34 – registration of certain persons in possession of arms
- shall, as far as may be, apply in relation to a National Park as they apply in relation to a sanctuary.

**2. Declaration and Management of Conservation Reserve**

**Sub-section (1) of Section 36A<sup>1</sup> provides that** The State Government may, **after having consultations with the local communities**, declare any area owned by the Government, particularly the areas adjacent to national Parks and sanctuaries and those areas which link one protected area with another, as a conservation reserve for protecting landscapes, seascapes, flora and fauna and their habitat:

Provided that where the conservation reserve includes any land by the Central Government, its prior concurrence shall be obtained before making such declaration.

**According to sub-section (2) section 36A<sup>1</sup>,**

- sub-sections (2), (3) and (4) of section 27 – obligations of persons residing in sanctuary;
  - section 30 - prohibition on causing fire;
  - section 32 - ban on use of injurious substances; and
  - clauses (b) and (c) of section 33 – authority of Chief Wildlife Warden to control and manage;
- shall, as far as may be, apply in relation to a Conservation Reserve, as they apply in relation to a sanctuary.



### 3. Declaration and Management of Community Reserve

According to sub-section (1) of section 36(C)<sup>1</sup>, the State Government may, where the community or an individual has **volunteered** to conserve wild life and its habitat, declare any private or community land not comprised within a national park, sanctuary or a conservation reserve, as a community reserve, for protecting fauna, flora and traditional or cultural conservation values and practices.

According to sub-section (2) of section 36C<sup>1</sup>,

- sub-sections (2), (3) and (4) of section 27 – obligations of persons residing in sanctuary;
- section 30 - prohibition on causing fire;
- section 32 - ban on use of injurious substances;
- clauses (b) and (c) of section 33 – authority of Chief Wildlife Warden to control and manage;

shall, as far as may be, apply in relation to a Community Reserve, as they apply in relation to a sanctuary.

<sup>1</sup> Sections 36A and 36C inserted by Act 16 of 2003, section

20. [Chapter IVA]<sup>2</sup>

[ ]<sup>2</sup> Chapter IVA containing sections 38A to 38J inserted by Act 44 of 1991, section 26.

**Central Zoo Authority and Recognition of Zoos**

4. **Constitution of Central Zoo Authority – Section 38A** provides that the Central Government shall constitute the Central Zoo Authority to exercise such powers and perform such functions as are conferred and assigned under this Act.

### 5. Functions of the Authority –

According to section 38 C, major functions are –

- specify the minimum standards for housing, upkeep and veterinary care of animals kept in the zoo;
- evaluate and assess the functioning of zoos with respect to the standards or the norms as may be prescribed;
- recognise or derecognise zoos;
- identify endangered species of wild animals for purposes of captive breeding and assigning responsibility in this regard to a zoo;
- provide technical and other assistance to zoos for their proper management and development on scientific lines.



## 6. Recognition of Zoos –

**Section 38H (1)** stipulates that no zoo shall be operated without being recognised by the Authority. The section, however, carries the following proviso.

A zoo which is being operated immediately before the date of commencement of the Wild Life (Protection) Amendment Act, 1991 may continue to operate without being recognised for a period of [eighteen months from the date of such commencement]<sup>3</sup> and if the application seeking recognition is made within that period, the zoo may continue to be operated until the said application is finally decided or withdrawn and in case of refusal for a further period of six months from the date of such refusal.

[ ]<sup>3</sup> substituted by Act 26 Of 1993 for ‘six months from the date of such commencement’

## 7. Acquisition of animals by a zoo –

**Section 38-I<sup>4</sup>** provides –

(1) Subject to the other provisions of this Act, no zoo shall acquire, sell or transfer any wild animal or captive animal specified in Schedules I and II except with the previous permission of the Authority.

(2) No zoo shall acquire, sell or transfer any wild or captive animal except from or to a recognised zoo.

(Comments: Please note that the restriction of subsection (1) is only on schedule I and II animals, whereas restriction of subsection (2) is on all wild or captive animal.)

<sup>4</sup>**Section 38-I** inserted by Act 44 of 1991, section 26 (w.e.f 02.10.1991, and substituted by Act 16 of 2003, section 24 (w.e.f. 01.04.2003)

## 8. Prohibition of teasing, etc., in a zoo. –

**Section 38J** provides that no person shall tease, molest, injure or feed any animal or cause disturbance to the animals by noise or otherwise, or litter the grounds in a zoo.

[Chapter IVB]<sup>5</sup>

## National Tiger Conservation Authority

[ ]<sup>5</sup> Chapter IVB containing sections 38K to 38X inserted by Act 39 of 2006, section 2 (w.e.f 04.09.2006.



## 9. Constitution of National Tiger Conservation Authority

**Section 38L** empowers the **Central Government to constitute** the body, that is, the National Tiger Conservation Authority to exercise the powers conferred on, and perform the functions assigned to the body under this Act.

## 10. Powers and Functions of Tiger Conservation Authority

**Section 38O** lays down the powers and functions of the Authority. Some major functions are –

- to improve the Tiger Conservation Plan prepared by the State Government;
- disallow ecologically unsustainable land use such as, mining, industry and other projects within the tiger reserve;
- lay down normative standards for tourism activities and guidelines for project tiger and ensure their due compliance;
- provide for management focus and measures for addressing conflicts of men and wild animal;
- ensure that the tiger reserves and areas linking one protected area or tiger reserve with another protected area or tiger reserve are not diverted for ecologically unsustainable uses, **except in public interest and with approval of the National Board for Wild Life and on the advice of the Tiger Conservation Authority**;
- ensure critical support including scientific, information technology and legal support.

## 11. Constitution of Steering Committee

**Section 38U** provides for constitution of a Steering Committee by the State Government for ensuring coordination, monitoring, protection and conservation of tiger, co-predators and prey animals within the tiger range states. The Steering Committee is headed by the Chief Minister as Chairperson. Vice-Chairman is the Minister-in-charge of Wild Life, and the Chief Wildlife Warden is its Member-Secretary.

## 12. Tiger Conservation Plan

**Section 38V** provides that –

- the **State Government** shall, on the recommendations of the Tiger Conservation Authority, **notify** an area as tiger reserve.
- prohibition on causing fire, ban on use of injurious substance etc. and provisions of conferring authority on Chief Wild Life Warden to control, manage and maintain, shall, as far as may be, apply in relation to a tiger reserve, as they apply in relation to a sanctuary.

- the State Government shall prepare a tiger conservation plan to ensure, inter-alia, protection of tiger reserve and providing site-specific habitat inputs for a viable population of tigers, co-predators and prey animals;

### 12.1 Core and Buffer Area

**Section 38V** carries an explanation. It says that “tiger reserve” includes—

- (i) core or critical tiger habitat areas of National Parks and sanctuaries, where it has been established; such areas are required to be kept as inviolate for the purpose of tiger conservation without affecting the rights of Scheduled Tribes or such other forest dwellers and notified as such by the State Government;
- (ii) buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area, where a lesser degree of habitat protection is required to ensure the integrity of the critical tiger habitat, and which aims at promoting co-existence between wildlife and human activity. Limits of such areas are determined on scientific and objective criteria in consultation with the concerned Gramsabha and an Expert Committee constituted for the purpose.

### 12.2 Scheduled Tribes and Forest dwellers should not be resettled

**Sub-section (5) of section 38U stipulates that save as for voluntary relocation on mutually agreed terms and conditions** and provided such terms and conditions satisfy the requirements laid down in this sub-section, **no Scheduled tribes or other forest dwellers shall be resettled or have their rights adversely affected** for the purpose of creating inviolate areas for tiger conservation.

### 12.3 Alteration and de-notification of tiger reserve

**Sub-section (1) of section 38W stipulates that**

- **Alteration** in the boundaries of a tiger reserve shall **require recommendation** of Tiger Conservation Authority **and approval** of the National Board of Wildlife.

**Sub-section (2) of section 38W stipulates that**

- no State Government shall **de-notify a tiger reserve, except in public interest** with the **approval** of the Tiger Conservation Authority and the National Board of Wildlife.





**The Wildlife (Protection) Act, 1972**

**Lesson Plan:**

Objective:

To deal with salient provisions of Chapter V and Chapter VA

- Trade or Commerce in Wild Animals, Animal Articles and Trophies
- Prohibition of Trade or Commerce in Trophies, Animal Articles, etc. derived from certain Animals.

Backward linkage:

- Salient features of Chapter IV, IVA and IVB of the Wildlife (Protection) Act.

Forward Linkage:

- The trainees may be made aware of some case studies relating to issuance of certificate of ownership by the CWLW, and actions taken with regard to dealings in trophy, animal articles etc.

Training materials required:

- Text of the Wildlife (Protection) Act, to be circulated beforehand
- Copy of lesson 7 to be circulated beforehand. Al-

location of time:

- Chapter V - Trade or Commerce in Wild Animals, Animal Articles and Trophies – 35 mts
- Chapter VA - Prohibition of Trade or Commerce in Trophies, Animal Articles, etc. derived from certain Animals - 15 mts
- Discussion/miscellaneous – 10 mts



## The Wildlife (Protection) Act, 1972 (Continued)

### CHAPTER V

#### Trade or Commerce in Wild Animals, Animal Articles and Trophies

##### 1. Wild Animal, etc. to be government property.

**Sub-section (1) of section 39** states that every –

- (a) wild animal, other than vermin, which is hunted under Sec.11 or Sec.29 or sub-section (6) of Sec.35 or kept or [bred in captivity or hunted]<sup>1</sup> in contravention of any provisions of this Act or any rule or order made thereunder, or found dead, or killed by [\*\*\*]<sup>2</sup> mistake;

[ ]<sup>1</sup> substituted by Act 44 of 1991 sec 27 for “bred in captivity”

[ ]<sup>2</sup> The words “without a licence or” omitted by Act 44 of 1991

- (b) animal article, trophy or uncured trophy or meat derived from any wild animal referred to in Clause (a) in respect of which any offence against this Act or any rule or order made thereunder has been committed;

<sup>3</sup>[(c) ivory imported into India and an article made from such ivory in respect of which any offence against this Act or any rule or order made thereunder has been committed;

- (d) vehicle, vessel, weapon, trap or tool that has been used for committing an offence and has been seized under the provision of this Act.]<sup>3</sup>

[ ]<sup>3</sup> Inserted by Act 44 of 1991 sec 27

shall be the property of the State Government and, where such animal is hunted in a sanctuary or National Park declared by the Central Government, such animal or any article, trophy, uncured trophy or meat <sup>4</sup>[derived from such animal or any vehicle, vessel, weapon, trap, or tool used in such hunting,]<sup>4</sup> shall be the property of Central Government.

[ ]<sup>4</sup> substituted by Act 44 of 1991, sec 27 for the words “derived from such animals”

(Comments: Section 39(1), in essence, says that (1) wild animal, whether hunted in accordance with the provisions of this Act or not, (2) animal article, trophy, meat etc, of such hunted animal, in respect of which offence against this Act has been committed, and

- (3) vehicle etc, seized under this Act are properties of the State Government. If hunting takes place in a sanctuary or National Park declared by the Central Government, such animal or article or vehicle etc. shall be the property of the Central Government.)

## 2. Possession to be reported

**Sub-section (2) of section 39** requires that any person who obtains, by any means, the possession of **Government property**, shall, **within forty-eight hours** of obtaining such possession, **report** it to the nearest police station or authorised officer and shall, if so required, handover, such property to the officer-in-charge of such police station or such authorised officer as the case may be.

## 3. Ban on possession, transfer and destruction

**Sub-section (3) of section 39** stipulates that no person shall, without the previous permission in writing of the chief Wildlife Warden or the authorised officer, -

- (a) acquire or keep in his possession, custody, or control, or
- (b) transfer to any person, whether by way of gift, sale or otherwise, or
- (c) destroy or damage such

**Government property.**

(Comments: For the purpose of sub-section (2) and (3) of section 39, “Government property” will be what has been described in sub-section(1).)

## 4. Declaration.

**Section 40 (1)** requires that every person having at the commencement of this Act the control, custody or possession of any **captive animal specified in Schedule.1 or Part II of Schedule II**, <sup>5</sup>[or animal article, trophy or uncured trophy]<sup>5</sup> derived from such animal or salted or dried skin of such animal or the musk of a musk deer or the horn of a rhinoceros, shall, **within thirty days from the commencement of this Act**, declare to the Chief Wildlife Warden or the authorised officer the number and description of animal, or article of the foregoing description under his control, custody or possession and the place where such animal or article is kept.

[ ]<sup>5</sup> substituted by Act 16 of 2003, sec 25 for “or any uncured trophy”

**Section 40(2)** stipulates that no person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale, or otherwise transfer or transport **any animal specified in Schedule 1 or Part II of Schedule II**, any uncured trophy or meat derivative from such animal, or the salted or dried skin of such animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wildlife Warden or the authorised officer.

(Comments: Restrictions imposed in sec40 (1) and (2) are in respect of Schedule I and Part II of Schedule II animals.)

### 4.1 Possession of captive animal and animal article by inheritance

**According to** <sup>6</sup>[sub-section (2A) of section 40, no person other than a person having a certificate of ownership, shall, after the commencement of the Wildlife



(Protection) Amendment Act, 2002 acquire, receive, keep in his control, custody or possession any **captive animal, animal article, trophy or uncured trophy** specified in **Schedule 1 or Part II of Schedule II, except by way of inheritance.**

**However, according to [sub-section (2B) of section 40, every person inheriting any captive animal, animal article, trophy or uncured trophy under sub-section (2A) shall, within ninety days of such inheritance make a declaration to the Chief wildlife Warden or the authorised officer and the provisions for Sec.41 and 42 shall apply as if the declaration had been made under sub-section (1) of Sec.40.**

**Provided that nothing in sub-sections (2A) and (2B) shall apply to the live elephant.]<sup>6</sup>**

[ ]<sup>6</sup> inserted by Act 16 of 2003, sec 25.

<sup>7</sup>[(3) Nothing in sub-section (1) or sub-section (2) shall apply to a recognised zoo subject to the provisions of Sec.38I or to a public museum.]<sup>7</sup>

[ ]<sup>7</sup> substituted by Act 44 of 1991, sec 28.

#### **5. State Government may demand declaration**

Under **sub-section (4) of section 40**, the State Government may, by notification, require any person to declare to the Chief Wildlife warden or the authorised officer <sup>8</sup>[any animal or animal article]<sup>8</sup> or trophy (other than the musk of a musk deer or the horn of rhinoceros), or salted or dried skin derived from an animal specified in Schedule I or Part II of Schedule II in his control, custody or possession in such form, in such manner, and within such time as may be prescribed.

[ ]<sup>8</sup> substituted by Act 16 of 2003, sec 25.

#### **6. Inquiry and preparation of inventories.**

**Section 41(1)** provides that on receipt of a declaration made under Section 40, the Chief Wildlife Warden or the authorised officer may make inquiries, enter upon premises of the person referred to in section 40 and prepare inventories of animal articles, trophies, uncured trophies, salted and dried skins and captive animals specified in Schedule I and Part II of Schedule II found thereon.

#### **7. Certificate of ownership.**

**Section 42** authorizes the Chief Wildlife Warden to issue, for the purpose of Sec. 40, a certificate of ownership in such form, as may be prescribed, to any person who, in his opinion, is in lawful possession of any wild animal or animal article, trophy, or uncured trophy.



## 8. Regulation of transfer of animal, etc.

Section 43<sup>9</sup> stipulates the following regulations –

(<sup>9</sup> section 43 substituted by Act 16 of 2003, sec 28)

(1) **No person** having in his possession captive animal, animal article, trophy or uncured trophy **in respect of which he has a certificate of ownership shall transfer** by way of sale or offer for sale or by any other mode of consideration of commercial nature, such animal or article or trophy or uncured trophy.

(2) **Where a person transfers** or transport from the State in which he resides **to another State** or acquires by transfer from outside the State, any such animal, animal article, trophy or uncured trophy **in respect of which he has a certificate of ownership**, he shall, **within thirty days of transfer** or transport, **report** the transfer or transport to the **Chief wildlife Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.**

## 9. Dealings in trophy and animal articles without licence prohibited.

**Section 44(1) stipulates that** subject to the provisions of Chapter VA, no person shall, except under, and in accordance with, a licence granted under sub-section(4),

- (a) commence or carry on the business as –
  - (i) a manufacturer of, or dealer in, any animal article; or
  - (ii) a taxidermist; or
  - (iii) a dealer in trophy or uncured trophy; or
  - (iv) a dealer in captive animal; or
  - (v) a dealer in meat; or
- (b) cook or serve meat in any eating-house;
- <sup>10</sup>[(c) derive, collect or prepare, or deal in, snake venom,]<sup>10</sup>:

[ ]<sup>10</sup> inserted by Act 44 of 1991, sec 30(ii)

## 10. Declaration by the Dealers and application for licence

**Sub-section (2) of section 44** requires every manufacturer and dealer, referred to in sub- section (1) above to **declare, within fifteen days** from the commencement of this Act, to the Chief Wild Life Warden, **his stock** of animal articles, captive animals, trophies, uncured trophies, as the case may be.

**Under sub-section (3) of section 44**, every manufacturer and dealer, referred to in sub- section (1) above, who intends to obtain allowance, may make an application to the Chief Wildlife Warden or the authorised officer.



**Sub-section (4) of section 44** empowers the Chief Wildlife Warden or the authorised officer to grant licence after having due regard to such considerations as prescribed in the sub-section (4).

**(Comments: While Sub-section (1) permits a manufacturer or dealer to carry on business with a licence granted under sub-section (4), it also says that such permission is subject to provisions of Chapter VA. Thus sub-section (1) and (4) of section 44 have to be read together with Chapter VA, described later. Section 49B of chapter V imposes a complete ban on dealings in trophies, animal articles etc. with regard to Scheduled I and Part II of Scheduled II animals. Sub-section (2) of section 49B of chapter V further clarifies that no licence granted or renewed under section 44 shall entitle the holder to continue business after the ‘specified date’ (defined in sec 49A). Thus licence referred to in sec 44 should apply to only article or trophies of animals other than Schedule I and Part II of Schedule II.)**

#### 11. Purchase of animal, etc., by licensee.

**Section 48 stipulates that no licensee** under this Chapter shall -

- (a)** keep in his control, custody or possession –
  - (i) any animal, animal article, trophy or uncured trophy in respect of which a declaration under the provisions of sub-section (2) of Sec. 44 has to be made but has not been made;
  - (ii) any animal or animal article, trophy or uncured trophy or meat which has not been lawfully acquired under the provisions of this Act or any rule of order made thereunder.
- (b)** (i) capture any wild animal, or
  - (ii) acquire, receive, keep in control, custody or possession, or sell, offer to sale, or transport, any captive animal specified in Sch. I or Part II of Sch. II or any animal article, trophy or uncured trophy, or meat derived therefrom, or serve such meat, or put under a process of taxidening or make animal article containing part or whole of such animal, except in accordance with such rules as may be made under this Act.

(Comments: Please note clause (b) (ii). It bars the licensee to acquire, possess, transfer, sell etc. any captive animal of Schedule I and Part II of Schedule II, and trophy, articles etc, derived therefrom. Thus section 48 debars a licensee to carry out business in Schedule I and Part II of Schedule II animals. Please see comments under paragraph 10.)

## Chapter VA - Prohibition of Trade or Commerce in Trophies, Animal Articles, etc. derived from certain Animals.

### 12. Definitions

Section 49A<sup>11</sup> gives the following definitions of some terms used in this chapter.

(<sup>11</sup> Chapter VA containing section 49A to 49C inserted by Act 28 of 1986, sec 3.)

- a) “scheduled animal” means an animal specified for the time being in Schedule I or Part II of Schedule II;
- (b) “scheduled animal article” means an article made from any scheduled animal and includes an article or object in which the whole or any part of such animal <sup>12</sup>[has been used but does not include tail-feather of peacock, an article or trophy made therefrom and snake venom or its derivatives;]<sup>12</sup>
- (c) “specified date” means –
  - (i) in relation to a scheduled animal on the commencement of the Wildlife (Protection) Amendment Act, 1986, the date of **expiry of two months** from such commencement.
  - (ii) in relation to any animal added or transferred to Schedule I or Part II of Schedule II at any time after such commencement, the date of expiry of two months from such addition or transfer;
  - <sup>13</sup> [(iii) in relation to ivory imported into India or an article made from such ivory, the date of expiry of six months from the commencement of the Wildlife (Protection) Amendment Act, 1991.]<sup>13</sup>

[ ] <sup>12</sup> substituted by Act 44 of 1991, sec 33, for “has been used” [ ] <sup>13</sup> inserted by Act 44 of 1991, sec 33

### 13. **Prohibition in dealings in trophies, animal articles etc. derived from scheduled animals**

Section 49B imposes a ban on dealings in scheduled animals. It says–

- (1) Subject to the other provisions of this section, on and after the specified date, no person shall –
  - (α) commence or carry on the business as –
    - (i) a manufacturer of, or dealer, in scheduled animal articles; or



<sup>14</sup>[(ia) a dealer in ivory imported into India or article made therefrom or a manufacturer of such article; or]<sup>14</sup>

[ ]<sup>14</sup> inserted by Act 44 of 1991, sec 34

- (ii) a taxidermist with respect to any schedule animals or any parts of such animals; or
- (iii) a dealer in trophy or uncured trophy derived from any scheduled animal; or
  - (iv) a dealer in any captive animal being scheduled animal; or
  - (v) a dealer in meat derived from any scheduled animal; or
- (β) cook or serve meat derived from any scheduled animal in any eating-house.

#### 14. Restriction on the licensee

**Section 49B(2)** stipulates that license granted under section 44 before the specified date **shall not entitle** the holder to carry out business or occupation referred to in section 49B(1) above, meaning business relating to scheduled animals, after the scheduled date.

#### 15. Exemption

**According to section 49B(3), the Central Government** may, by an order, exempt, for the purpose of export, any corporation owned or controlled by Central Government, or a registered society wholly or substantially financed by the Central Government, from the provisions of section 49B(1) and 49B(2).

**The Wildlife (Protection) Act, 1972****Lesson Plan:**

## Objective:

To deal with salient provisions of Chapter VI and Chapter VII

- Prevention and Detection of Offences.
- Miscellaneous provisions

## Backward linkage:

- Salient features of Chapter IV, IVA, IVB, VA and V of the Wildlife (Protection) Act.

## Forward Linkage:

- The trainees may be made aware of some case studies relating to offence, procedural steps for prosecution, model examples of complaints to court, compounding of offence etc.

## Training materials required:

- Text of the Wildlife (Protection) Act, to be circulated beforehand
- Copy of lesson 8 to be circulated beforehand.
- Schedules

## Allocation of time: Chap-

## ter VI

- Powers under section 50 – 15 mts
- Penalties prescribed under section 51 – 12 mts
- Attempts and abetments – sec 52 – 3 mts
- Compounding offences under section 54 – 8 mts
- Cognisance of offence – section 55 – 3 mts

## Chapter VII

- Officers to be public servants – sec 59 – 2 mts
- Protection of action taken in good faith – sec 60 – 2 mts
- Reward to persons under section 60A – 3 mts
- Reward by State Government – 2 mts
- Discussion/miscellaneous – 10 mts



## The Wildlife (Protection) Act, 1972 (Continued)

### CHAPTER VI

#### Prevention and Detection of Offences.

##### 1. Power of entry, search, arrest and detention Section 50.

(1) Notwithstanding anything contained in any other law for the time being in force, the Director or any other authorised by him in his behalf or the Chief Wildlife Warden (CWLW) or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector may, if he has reasonable grounds for believing that any person has committed an offence against this Act, -

(a) require any such person to produce for inspection of any captive animal, wild animal, animal article, meat, <sup>1</sup>[trophy, uncured trophy, or any specified plant or part or derivative thereof]<sup>1</sup> in his control, custody or possession, or any licence, permit or any other document granted to him or required to be kept by him under the provisions of this Act;

[ ] <sup>1</sup> substituted by Act 44 of 1991, sec 36 for “trophy or uncured trophy”

(b) stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle, or vessel in the occupation of such person, and open or search any baggage or other things in his possession;

<sup>2</sup>[(c) seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy, or any specified plant or part or derivative thereof in respect of which an offence against this Act appears to have been committed, in the possession of any person together with any trap, tool, vehicle, vessel, or weapon used for committing any such offence and unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without any warrant and detain him.

Provided that where a fisherman, residing within ten kilometres of a sanctuary or National Park, inadvertently enters on a boat not used for commercial fishing, in the territorial waters in the sanctuary or National Park, a fishing tackle or net on such boat shall not be seized.]<sup>2</sup>

[ ] <sup>2</sup> substituted by Act 44 of 1991, sec 36

(2) [Omitted by Act 44 of 1991, sec 36.]

(3) It shall be lawful for any of the officers referred to in sub-section (1) to stop and detain any person, whom he sees doing any act for which a licence or permit is required under the provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he may be arrested without warrant, unless he furnishes his name and address, and otherwise satisfy the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him.

<sup>3</sup>[(3A) Any officer of a rank not inferior to that of an Assistant Director of Wildlife Preservation or <sup>4</sup>[an Assistant Conservator of Forests] <sup>4</sup>, who, or whose subordinate, has seized any captive animal or wild animal under Cl. (c) of sub-section (1) may give the same for custody on the execution of any person of a bond for the production of such animal if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.]<sup>3</sup>

[ ] <sup>3</sup> inserted by Act 44 of 1991, sec 36.

[ ] <sup>4</sup> substituted by Act 16 of 2003, sec 29.

(4) Any person detained, or thing seized under the foregoing power, shall forthwith be taken before a Magistrate to be dealt with according to law <sup>5</sup>[under intimation to the Chief Wildlife Warden or the officer authorised by him in this regard] <sup>5</sup>.

[ ] <sup>5</sup> inserted by Act 16 of 2003, sec 29

(5) Any person who, without reasonable cause, fails to produce anything, which he is required to produce under this section, shall be guilty of an offence against the Act.

(6) <sup>6</sup>[(a) Where any meat, uncured trophy, specified plant or part or derivative thereof is seized under the provisions of this section, the Assistant Director of Wild Life Preservation or any other officer of a Gazetted rank authorised by him in this behalf or the Chief Wildlife Warden or the authorised officer may arrange for the disposal of the same in such manner as may be prescribed.] <sup>6</sup>

[ ] <sup>6</sup> substituted by Act 16 of 2003, sec 29

(7) Whenever any person is approached by any of the officers referred to in sub-section (1) for assistance in the prevention or detection of an offence against this Act, or in apprehending persons charged with the violation of this Act, or for seizure in accordance with Clause (c) of sub-section (1), it shall be the duty of such person or persons to render such assistance.

<sup>8</sup>[(8) Notwithstanding anything contained in any other law for the time being in force, any officer not below the rank of an Assistant Director of Wildlife Preservation or <sup>7</sup>[an officer not below the rank of Assistant Conservator of Forests authorised by the State Government in this behalf] <sup>7</sup> shall have the powers, for the purpose of making investigation into any offence against any provision of this Act. –



- (a) to issue a search warrant;
- (b) to enforce the attendance of witness;
- (c) to compel the discovery and production of documents and material objects, and;
- (d) to receive and record evidence.

(9) Any evidence recorded under Clause (d) of sub-section (8) shall be admissible in any subsequent trial before a Magistrate provided that it has been taken in presence of the accused person.]<sup>8</sup>

[ ]<sup>7</sup> substituted by Act 16 of 2003, sec 29 for “Wildlife Warden”

[ ]<sup>8</sup> Inserted by Act 44 of 1991, sec. 36.

**[Comments:** Section 50 lays down a wide range of powers of forest officers and police officers with regard to **entry, search, arrest and detention**. Please refer to the Notifications dated 25.11.14 of the State Government (given in Lesson 14) to know the levels of officers authorized to exercise power under section 50. It may be seen that officers of the rank of Deputy Ranger/ Forester, Forest Guard and Wildlife Guard are also authorized to exercise power under section 50(1)(a), 50(1)(b) and 50(1)(c).]

**Wide range powers conferred under section 50:**

- require any person to produce wild animal, captive animal, documents etc.,
- Stop any vehicle and conduct search, enter upon and search any premises, open and search any baggage etc.
- seize
  - ☞ Any captive animal, wild animal, animal article, trophy,
  - ☞ Vehicle, weapon, tool etc. used in the offence;
- **Arrest the offender without warrant and detain him.**
- Asst Director of Wildlife Preservation, or an officer not below the rank of Asst Conservator of Forests, authorised by the state Govt, may
  - ☞ Issue search warrant
  - ☞ enforce attendance of witness
  - ☞ compel discovery and production of documents and objects
  - ☞ receive and record evidence.

**Evidence recorded under clause (d) of sub-section (8) is admissible in a court of law. Manda-**

**tory steps following seizure and/or arrest:**

Any person arrested or things seized should be forthwith produced before a Magistrate; the CWLW has to be informed of such actions taken.)





## 2. Penalties

**Section 51** lays down penalties for offences committed under this Act. Summary of the provisions is given below.

| Sl No | Offence   | Penalty  | sub-section /section        |
|-------|---|--|-----------------------------|
| 1.    | Subject to other provisions of section 51, offence against any provision of the Act, except Chapter VA (prohibition of trade or commerce in trophies, animal articles etc.) and 38J (prohibition of teasing etc. in a zoo), or any rule, order, license, permit etc | Imprisonment up to [three years] <sup>9</sup> or fine up to [twenty five thousand rupees] <sup>9</sup> , or both.<br>[ ] <sup>9</sup> Act 44 of 1991   | <b>(1) of 51</b>            |
| 2.    | If the offence is in relation to any animal specified in Schedule I or Part II of Schedule II, or meat article etc. derived from such animal, or hunting in or alteration of boundaries of a sanctuary or a National Park   | <sup>10</sup> [Imprisonment not less than three years, but may extend up to six years, and also fine not less than ten thousand rupees] <sup>10</sup>  | <b>proviso to (1) of 51</b> |
| 3.    | In the case of a second or subsequent offence of nature mentioned in sl No 1 above  | <sup>10</sup> [Imprisonment not less than three years, but may extend up to seven years, and also fine not less than twenty five thousand rupees] <sup>10</sup><br>[ ] <sup>10</sup> Act 16 of 2003 sec 30 | <b>proviso to (1) of 51</b> |
| 4.    | Contravention of provisions of Chapter VA (prohibition of trade or commerce in trophies, animal articles etc.)  | Imprisonment not less than [three years] <sup>11</sup> , but may extend up to seven years, and also fine not less than [ten thousand rupees] <sup>11</sup><br>[ ] <sup>11</sup> Act 16 of 2003 sec 30      | <b>(1A) of 51</b>           |
| 5.    | Contravention of provisions of section 38J (prohibition of teasing etc. in a zoo)   | Imprisonment up to six months or fine up to two thousand rupees, or both.  | <b>(1B) of 51</b>           |
| 6.    | Offence in relation to core area of a tiger reserve, or hunting in tiger reserve, or altering boundaries of tiger   | <sup>12</sup> [On first conviction -<br>Imprisonment not less than three years, but may extend to seven years, and also fine not less than   | <b>(1C) of 51</b>           |



|    |  |   |                       |
|----|--|---|-----------------------|
|    | reserve.   | fifty thousand rupees, but may extend to two lakh rupees.<br><b>On second or subsequent conviction</b> - Imprisonment not less than seven years, and also fine not less than five lakh rupees, but may extend to fifty lakh rupees. |                       |
| 7. | Abetment of offence mentioned in sl 6 above (punishable under sub-section 1 (C)), and if offence is committed in consequence of abetment | Same punishment as above (sl No 6)] <sup>12</sup><br>[ ] <sup>12</sup> Act 39 of 2006, sec3   | <b>(1D)<br/>of 51</b> |

### 3. Forfeiture of animal etc. and cancellation of permit

**Section 51(2)** provides for issue of order by the Court for

- forfeiture of captive animal, wild animal, trophy, article etc. derived therefrom, in respect of which offence has been committed, and of tool, vehicle, vessel, weapon etc. used in commission of offence
- Cancellation of any license or permit held by the offender.

Such order for forfeiture or cancellation of license or permit shall be in addition to any other punishment awarded for the offence.

### 4. Attempts and abetment.

**Section 52** – Whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or of any rule or order made thereunder shall be deemed to have contravened that provision or rule or order, as the case may be.

**(Comments:** Section 52 clearly states that attempting or abetting an offence is equally grave or serious matter as actually committing the offence.)

### 5. Punishment for wrongful seizure.

**Section 53** – If any person, exercising powers under this Act, vexatiously and unnecessarily seizes the property of any other person on the pretence of seizing it for the reasons mentioned in Sec. 50, he shall, on conviction, 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.

**(Comments:** Section 53 provides a safety clause against injudicious or deliberate misuse of authority conferred under section 50.)

## 6. Power to compound offences.

### Section 54 lays down the following provisions –

- <sup>13</sup>[ (1) The Central Government may, by notification, empower the Director of Wild Life Preservation or any other officer not below the rank of Assistant Director of Wild Life Preservation and in the case of a State Government in the similar manner, empower the Chief Wildlife Warden or any officer of a rank not below the rank of a Deputy Conservator of Forests, to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Act, payment of a sum of money by way of compensation of the offence which such person is suspected to have committed.
- (2) On payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged and no further proceedings in respect of the offence shall be taken against such person.
- (3) The officer compounding any offence may order the cancellation of any licence or permit granted under this Act to the offender, or if not empowered to do so, may approach an officer so empowered, for the cancellation of such licence or permit.
- (4) The sum of money accepted or agreed to be accepted as compensation under sub-section (1) shall, in no case, exceed the sum of twenty-five thousand rupees:

**Provided that no offence, for which a minimum period of imprisonment has been prescribed in Sec. 51, shall be compounded.]<sup>13</sup>**

[ ] <sup>13</sup> substituted by Act 16 of 2003

(Comments: Please note the proviso to section 54 written in bold. According to this proviso, offences mentioned in serial no 2, 3, 4, 6 and 7 for which a minimum period of imprisonment has been prescribed, cannot be compounded. In other words, following offences are compoundable:

- Offence against any provision of the Act, except Chapter VA (prohibition of trade or commerce in trophies, animal articles etc.) or any rule, order, license, permit etc, provided
  - Such offence is for the first time,
  - such offence is not related to any animal specified in Schedule I or Part II of Schedule II, and not related to hunting in or alteration of boundary marks of a sanctuary or National Park
  - Such offence is not related to core area of a tiger reserve, not relating to hunting in or alteration of boundaries of a tiger reserve.
- Contravention of provisions of section 38J (prohibition of teasing etc. in a zoo).



## 7. Cognisance of offences

**Section 55** lays down the list of persons who should submit complaints relating to offence under this Act in order that such complaints are taken cognisance of by the court. The section **Stipulates** –

- <sup>14</sup>[ No Court shall take cognisance of any offence against this Act on the complaint of any person other than –
- (a) The Director of Wild Life Preservation or any other officer authorised in this behalf by the State Government; or
- <sup>15</sup>[(aa) the Member-Secretary, Central Zoo Authority in matters relating to violation of the provisions of Chapter IVA, or]<sup>15</sup>
- <sup>16</sup>[(ab) Member-Secretary, Tiger Conservation Authority; or (ac) Director of the concerned tiger reserve; or]<sup>16</sup>
- (b) The Chief Wildlife Warden or any other officer authorised in this behalf by the State Government,<sup>17</sup>[subject to such conditions as may be specified by that Government;]<sup>17</sup> or
- <sup>18</sup>[(bb) the officer-in-charge of the zoo in respect o violation of provisions of Sec. 38J;]<sup>18</sup>  
or
- (c) 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 officer authorised aforesaid.]<sup>14</sup>

[ ] <sup>14</sup> substituted by Act 44 of 1991, sec 39

[ ] <sup>15</sup> inserted by Act 16 of 2003, sec 33

[ ] <sup>16</sup> inserted by Act 39 of 2006, sec 4

[ ] <sup>17</sup> inserted by Act 16 of 2003, sec 33

[ ] <sup>18</sup> inserted by Act 16 of 2003, sec 33

## 8. Presumption to be made in certain cases.

**Section 57 stipulates** that where in any prosecution for one offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, meat,<sup>19</sup>[trophy, uncured trophy, specified plant or part or derivative thereof,]<sup>19</sup> it shall be presumed until the contrary is proved, the burden of proving

which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, <sup>20</sup>[trophy, uncured trophy, specified plant, or part of derivative thereof.]<sup>20</sup>

[ ] <sup>19</sup> and [ ] <sup>20</sup> inserted by Act 44 of 1991, sec 40

(Comments: Please note that the burden of proof of lawful possession is on the accused.)

## Chapter VII - Miscellaneous

### 9. Officers to be public servants.

**According to section 59**, officers appointed under this Act and exercising any of the power conferred by this Act shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (45 of 1860).

### 10. Protection of action taken in good faith.

**According to section 60**, no suit, prosecution, or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything, including damage caused or likely to be caused by anything, which is good faith done or intended to be done under this Act.

### 11. Reward to a person.

**Section 60A** has provision for giving reward as incentive to a person who assists in detection of offence, by way of information or otherwise, and helps in apprehension of the offender.

**Section 60 A** provides that <sup>21</sup>{ (1) when a court imposes a sentence of fine or a sentence of which fine forms a part, the court may, when passing judgement, order that the reward be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the proceeds of fine not exceeding <sup>22</sup>[fifty percent of such fine] <sup>22</sup>.

(2) When a case is compounded under Sec. 54, the officer compounding may order reward to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offenders out of the sum of money excepted by way of composition not exceeding <sup>23</sup>[fifty percent of such money] <sup>23</sup>} <sup>21</sup>.

{ } <sup>21</sup> inserted by Act 44 of 1991, sec 43

[ ] <sup>22</sup> substituted by Act 16 of 2003, sec 35 for “twenty percent of such fine”

[ ] <sup>23</sup> substituted by Act 16 of 2003, sec 35 for “twenty percent of such fine”

### 12. Reward by State Government.

**Section 60B** separately provides for empowerment of the Chief Wild Life Warden to order payment of reward.

<sup>24</sup>[**Section 60B** – The State Government may empower the chief Wild Life Warden to order payment of reward not exceeding ten thousand rupees to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offender, from such fund and in such manner as may be prescribed.]<sup>24</sup>

[ ] <sup>24</sup> inserted by Act 16 of 2003, sec 36





**Lesson Plan:**

Objective:

To deal with salient provisions of

- The Forest Conservation Act, 1980; and
- The Forest Conservation Rules 2003

Backward linkage:

- Major features of Indian Forest Act and the Wildlife Conservation Act.

Forward Linkage:

- Guidelines issued by the Ministry of Environment and Forests, dealt with in Lesson 10.

Training materials required:

- Text of the Forest Conservation Act and Forest Conservation Rules 2003. to be circulated beforehand
- Copy of lesson 9 to be circulated beforehand. Al-

location of time:

Chapter VI

- Provisions of FCA – 25 mts
- Provisions of FC Rules – 15 mts
- Additional points described in the lesson – 10 mts
- Discussion/miscellaneous – 10 mts

### **The Forest Conservation Act, 1980**

#### **1. Objects & 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 wide-spread concern.
- With a view to checking further deforestation, the Forest (Conservation) Ordinance, 1980 was promulgated on 25 October, 1980.
- The Bill on the Forest Conservation Act sought to replace the aforesaid Ordinance.



## 2. Extent and commencement

According to **section 1**

- The Act came into force **on 25.10.1980.**
- It extends to the whole of India except the **State of Jammu and Kashmir.**

## 3. Restriction on dereservation of forests or use of forest land for non-forest purpose

**Section 2** lays down the restrictions which restrict or limit the power and authority of the State Governments in respect of four subjects/matters specified in the section.

According to section 2 –

**Except with the prior approval of the Central Government, no State Government or other authority shall make any order directing –**

**☎)(1) That any reserved forest or any portion thereof shall cease to be reserved.**

**(Comments: This section thus restricts the power of the State Government conferred under section 27 of the Indian Forest Act to dereserve a reserved forest)**

**☎)(1) That any forest land or any portion thereof may be used for non-forest purpose.**

**☎)(1)(1) 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 organisation not owned, managed or controlled by Government.**

**☎)(1)(2) That any forest land or any portion thereof may be cleared of trees which have grown naturally, for the purpose of reforestation.**

### 1.1 Explanation

**Section 2** carries an explanation for the clause “non-forest purpose” referred to in this section.

**According to the said explanation, “non-forest purpose” includes –**

- Cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops, or medicinal plants;
- Any purpose other than reforestation;

But does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or **other like purposes.**



**(Comments:** The above explanation clearly restricts use of forest land for cultivation of crops mentioned in bullet point above and for any purpose other than re-afforestation. It, however, lists out certain other activities “relating or ancillary to conservation, development and management of forests and wildlife”, which, though not afforestation per se in nature, will not be considered as ‘non-forest purpose’ and therefore, will not be restricted under this section. It may be noted that the list of works “relating or ancillary to conservation, development and management of forests and wildlife” cited in the explanation is only illustrative and not an exhaustive list, as it includes “**other like purposes**”. The issue whether any particular use of forest land constitutes non-forest purpose and thus attracts section 2 should be determined upon examination of whether such use or activity is essential for or relating to conservation of forests and wildlife.)

#### 4. Constitution of Advisory Committee (Sec 3)

**Section 3** of the Act provides that the Central Government may **constitute a Committee** to advise the Government with regard to -

- grant of approval under section 2, and
- any other matter connected with conservation of forests which may be referred to it by the Central Government.

#### 5. Penalty for contravention and abetment

**Section 3A states: Whoever contravenes or abets the contravention of any of the provisions of section 2, shall be punishable with simple imprisonment for a period which may extend to 15 days.**

(Comments: It may be noted that contravention of section 2 is possible only by Government departments and other such authorities.)

#### 6. Offences by authorities and Government departments

**According to sub-section (1) of section 3B, where any offence under this Act has been committed –**

- By any Govt department, the head of the department; or**
- By any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority, as well as the authority; shall be deemed to be guilty and be liable to be proceeded against and punished accordingly.**



## 1.1 Relief under certain conditions

The proviso to sub-section (1) of section 3B provides that nothing in this subsection shall render the head of the department or any person referred to in clause (b), **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.

## 1.2 Others liable to be guilty

**Sub-section (2) of section 3B provides** that If it is proved that the offence has been committed with the **consent or connivance of, or is attributable to any neglect** on the part of **any officer**, other than the Head of the Department, or in the case of an authority, any person other than the persons referred to in clause (b) of subsection (1), such officer or person shall also be deemed to be guilty and be liable to be proceeded against and punished accordingly.

## 7. POWER TO MAKE RULES

**SEC 4(1)** provides that **Central Govt may, by notification in Official Gazette, make rules for carrying out the provisions of this Act.**

### FOREST (CONSERVATION) RULES, 2003

8. **Nodal Officer** – According to Rule 2, Nodal Officer means any officer not below the rank of Conservator of Forests, authorized by the State Govt to deal with the forest conservation matters under the Act.

## 9. Composition of the Forest Advisory Committee

According to Rule 3, the Forest Advisory Committee shall be composed of

- (i) Director General of Forests –Chairperson
- (ii) Additional DGF
- (iii) Additional Commissioner (Soil Conservation), Ministry of Agriculture
- (iv) **Three** eminent experts in forestry and allied disciplines (non-officials)
- (v) IGF (forest Conservation) – Member Secretary

The Addl DGF shall act as Chairperson in absence of DGF.

- Terms of Appointment of non-official members (Rule 4) is **two years**

## 10. Submission of Proposals Ac-

### cording to Rule 6 -

- Submission in **Form A for proposal seeking first time approval** and in **Form B for seeking renewal of leases**, to Nodal Officer.
- The State Government after being satisfied that the proposal requires prior approval under Sec 2, shall **send the proposal to the Central Govt within 90 days for proposal seeking first time approval, and within 60 days for proposals seeking renewal of leases.**
- **All proposals involving clearing naturally grown trees in forest land for reforestation shall be sent in the form of Working Plan or Management Plan.**
- Proposal involving forest land of **more than 40 ha shall be sent to the Secretary, MoEF, GOI;** those involving land **less than 40 ha shall be sent to the CCF /CF of the Regional Office of MoEF**

## 11. Committee to advise on proposals

**Rule 7 stipulates that** the Committee, while tendering advice, shall have due regard to all or any of the following matters –

- Whether the land forms part of a nature reserve, national park, wildlife sanctuary, biosphere reserve, or forms part of the habitat of any endangered or threatened species of flora and fauna or any area lying in severely eroded catchment.
- Whether the use of forest land is for agriculture purpose, or for rehabilitation of displaced persons;
- **Whether the State Govt has certified that it has considered all other alternatives and that no other alternative is feasible, and the required area is the minimum needed for the purpose;**
- Whether the State Govt or the other authority undertakes to provide at its cost for the acquisition of land of an equivalent area and afforestation thereof.

## 12. Action of the Central Govt on the advice of the Committee

**Rule 8** provides that -

- The Central Govt shall, after considering the advice of the Committee and after such further enquiry as it may consider necessary, grant approval to the proposal with or without conditions or reject the same **within 60 days of its receipt.**



### 13. Proceedings against persons guilty of offences under the Act

**Rule 9** lays down that –

- The Central Govt may, by notification, authorize any officer not below the rank of CF or the concerned forest officer having territorial jurisdiction over the forest land, to file complaints against the person(s) prima-facie found guilty of offence under the Act or violation of rules made thereunder, in the court having jurisdiction in the matter.
- Provided that no complaint shall be filed without giving the person(s) an opportunity to explain his / their conduct and to show cause, by issuing a notice of not less than 60 days, as to why a complaint should not be filed in the court against him/them.
- The authorized officer may require any State Govt or its officer or any person or any other authority to furnish any reports, documents etc.

#### **SOME ADDITIONAL POINTS**

##### **14. Two Stage Clearance of Proposals:**

Forestry clearance to proposals for diversion of forest land for non-forest use, that is approval of the Central Government under section 2 of the Act, is given in two stages.

In first stage, proposal is agreed to in principle.

After receipt of compliance report from the State Govt in respect of transfer and mutation of equivalent non-forest land and transfer of funds for raising compensatory afforestation, formal (Stage II) approval is issued.

##### **15. Land Transfer to Forest Department:**

Equivalent non-forest lands identified for compensatory afforestation are to be transferred and mutated in favour of the State Forest Department, and declared as reserved / protected forests.

- The transfer must take prior to the commencement of the project.
- Stage II clearance is given after the land is mutated in favour of the Forest Deptt, but the Nodal officer must report compliance within 6 months and send a copy of the original notification declaring the non-forest land u/s 4 or 29 of IFA, as the case may be, to the Central Govt.

##### **16. Compensatory Afforestation –**

- Compensatory afforestation shall be done over equivalent area of non-forest land.
- Where non-forest lands are not available (to be certified by Chief Secretary), compensatory afforestation may be raised over degraded forest land twice in extent of the forest area diverted/dereserved.

- Compensatory afforestation may be raised over degraded forest land, twice in extent, in respect of following types of proposals:
  - Extraction of minor minerals from river beds;
  - Construction of link roads, small water works, school building, dispensaries, hospitals etc. which directly benefit the people of the area;
  - Laying transmission lines up to 220 KV.;
  - Mulberry plantation without tree felling;
  - Central Govt / Central Govt undertaking Projects (Certificate of Chief Secretary regarding non-availability of non-forest land will not be insisted.)

**17. No Compensatory Afforestation –**

In proposals involving diversion of forest land up to 1 ha.

**18. Collection of Net Present Value**

- ☒ NPV shall be charged in all those cases which have been granted in-principle approval after 30.10.02.
- ☒ NPV shall be realized before Stage II approval.

**19. CAMPA:**

Following Hon'ble Supreme Court's orders (30.10.2002), a body, namely, 'Compensatory Afforestation Management and Planning Authority (CAMPA)' has been created in 2004 for management of compensatory afforestation fund and collection of Net Present Value of forest lands.





**Lesson Plan:**

Objective:

To study the guidelines issued by MoEF, Govt of India in relation to the Forest Conservation Act, 1980;  
Backward linkage:

- Provisions of **the Forest Conservation Act, 1980 and the Forest Conservation Rules 2003 dealt with in Lesson 9.**

Forward Linkage:

- During the tour, the trainees may be shown some case studies on diversion of forest land dealt with under the FCA.

Training materials required:

- Text of the Forest Conservation Act and Forest Conservation Rules 2003. to be circulated beforehand
- Copy of lesson 10 to be circulated beforehand. AI-

location of time:

Chapter VI

- Study of guidelines – 50 mts
- Discussion/miscellaneous – 10 mts

### **The Forest Conservation Act, 1980 (Continued)**

#### **Guidelines issued by MoEF**

1. **MoEF, Govt of India has issued many guidelines**, from time to time, on clarification of various issues and implementation of the Act and the rules made thereunder. Some important salient guidelines are dealt with in this lesson.

**According to guidelines issued by MoEF, GoI -**

#### **2. Meaning of Forest Land**

- *The term 'Forest land' includes reserved forest, protected forest, or any area recorded as forest, lands notified u/s 4 of IFA, forest as understood in the dictionary sense, but*
- *shall not be applicable to plantations raised on private lands, except notified private forests.*



### 3. Actions that do not attract section 2 of the Act

- *Harvesting of fodder grasses, legumes etc. which grow naturally in forest areas, without removal of tree growth, will not require prior approval of central Govt.*

### 4. Restrictions in Protected Areas

- *The Hon'ble Supreme Court has passed an order (14.02 2000) restraining removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses from any National Park, or Game Sanctuary.*

### 5. Investigation and Survey-

- *Investigation and surveys carried out in connection with development projects such as transmission lines, hydro-electric projects, seismic surveys, exploration for oil drilling, mining etc. will not attract the provisions of the Act as long as they do not involve any clearing of forests or cutting of trees.*
- ***Whether or not felling of trees is involved, such survey shall not be carried out in wildlife sanctuaries, national parks and sample plots without prior approval of Central Govt.***
- *State Governments should not submit any proposal for diversion of forest land in National Parks and Sanctuaries without prior permission of National Board of Wildlife and Honourable Supreme Court.*
- *For reconnaissance operations carried out in forest land in connection with development projects, collection of samples from land surface in addition to drilled out material from 10 holes of 4 inch diameter per 100 sq.kms will not attract the Act, provided no felling of trees is involved.*

### 6. Non-Forest Purpose -

- ***Cultivation of fruit-bearing trees or oil-bearing plants or medicinal plants would require prior approval of Central Govt except when (a) the spp to be planted are indigenous, and (b) such planting activity is part of an overall afforestation programme.***

#### **Tusser Cultivation –**

- *Cultivation of trees on which Vanya Silks or silk worms of Tusser, Oak Tusser, Muga, Eri, and Firthi could be reared by tribals and non-tribals living in and around forest areas without undertaking monocultural plantations shall be treated as forestry activity.*
- ***Plantation of host trees shall be treated as forestry activity provided (i) it does not involve any felling of existing trees, and (ii) at least three species are planted, of which no single species covers more than 50% of the planted area.***



- *Not permitted in National Park, Sanctuaries or Biosphere Reserves.*
- *Biannual monitoring of the forest areas to be done by a team comprising DFO, Director (Sericulture Department) and Officials of Central Silk Board.*

1.1 *Plantation of Mulberry is a non-forest activity.*

1.2 *Plantation of Jatropha in Forest land*

*(Ref: MoEF's letter F. No. 2-1/2003-FC (Pt. III) dated 24.06.2006)*

- Plantation of Jatropha (*Jatropha curcas*) on forest land **would require prior approval** of the Central Governments under the Forest (Conservation) Act, 1980, except when—
  - (a) the species to be planted are indigenous or naturalised to the area in question; and
  - (b) such plantation activity is part of an overall afforestation programme for the forest area in question.
- Plantation of Jatropha on forest land shall be subject to the condition that such plantation shall be done on degraded forest land and no clearance of forest growth shall be done for the same.

1.3 *Mining -*

- *Mining including underground mining is a non-forest activity.*
- *Renewal of an existing mining lease requires prior approval of Central Govt.*

1.4 *Collection of boulders etc from riverbeds within forest areas would require prior approval of Central Govt.*

*6.4.1 Rights of forest dependent rural poor including tribals, recognized under IFA, 1927, to collect stones /boulders etc. from forests is permitted for domestic use, but under no circumstances, for commercial purposes.*

1.5 *Repair and Maintenance of Roads constructed on Forest lands prior to 1980*

*(Ref: MoEF's letter F. No. 11-48/2002-FC dated 14.09.2004 of MoEF, GoI)*

- Roads constructed on forest lands prior to 25.10.1980 (date of enactment of FC Act, 1980) may be repaired and maintained and black topping may be done with prior permission of the State Forest Department. While undertaking such works, State Government shall ensure:
  - (α) **No tree felling** should be allowed.
  - (β) **No widening** of roads should be undertaken **without prior permission** of the Central Government under Forest (Conservation) Act, 1980.
  - (χ) **No breaking of fresh forest land** is carried out.



- (δ) While black-topping, adequate precaution should be taken by the user agency to avoid any damage to flora and fauna.
- (ε) Plantation activities are taken up along the road at the cost of user agency, if the concerned Divisional Forest Officer finds it necessary.
- However, for the repair and maintenance of roads in protected areas like National Park/Sanctuaries, prior permission of National Board of Wildlife shall be taken by the State Government on case to case basis in view of the Supreme Court Order dated 14.02.2000 in Writ Petition (C) No. 202 of 1995.

## 7. General Approval in certain cases

### □ In tribal areas –

MoEF's letter No. 2-1/2003-FC dated 20-10-2003), excerpts of which is reproduced as under:

“In the tribal areas, **there shall be general approval under Section-2** of the Forest (Conservation) Act, 1980 for **underground laying of electricity cables and electric wires to individual households, drinking water supply/water pipelines, telephone lines**, which involve felling of trees not exceeding 50 number per project (should be below 60 cm girth class) and are outside National Parks or Wildlife Sanctuary and are laid along the roads and within the existing right of way.....”

### □ Critical development and security related activities –

(MoEF's letter F. No. 11-9/98-FC dated 03.01.2005)

General approval under Section-2 of the Forest (Conservation) Act, 1980 for diversion of forest land to Government Departments for following activities **subject to some specified conditions.**

- 1.Schools 2.Dispensary/Hospital
- 3.Electric and Telecommunication lines; 4.Drink-  
ing water
- 5.Water/Rainwater harvesting structures; 6.Minor  
irrigation canal;
7. Non-conventional sources of energy;
8. Skill up-gradation/vocational training centre;
- 9.Power sub-stations;
10. Communication posts; and
11. Police establishments like police stations/outposts/border outposts/watch towers, in sensitive areas (identified by Ministry of Home Affairs)

**The above general approval was initially granted for a period of two years up to 31.12.2006, vide Appendix 1, and subsequently extended up to 31.12.2013, vide Appendix 4.**

**(Comments: Please go through F. No. 11-9/98-FC dated 03.01.2005 and F. No. 11-9/1998-FC (Pt.) dated 11.09.2009 given in Appendix 1 and 4 respectively)**

**8. Guidelines for collection of Net Present Value in connection with diversion of forest land for non-forestry purposes**

Please go through MoEF's letter F. No. 5-3/2007-FC dated 05.02.2009 given in **Appendix 2**.

**9. Proposals for diversion of forest land for non-forest purpose need to ensure compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.**

*Please go through MoEF's letter F. No. 11-9/1998-FC (Pt.) dated 03.08.2009 given in **Appendix 3**.*

**10. 'Transfer of Lease' from one user agency to another user agency**

Vide MoEF's letter F. No. 11-9/1998-FC dated 03.05.10 (**Appendix 5**), the Central Government approves such transfer on levy of 10% Net Present Value (NPV) or Rs. 1,00,000 whichever is less, as transfer fee.

**11. Reg Section 2(iii) –**

- *The Government owned, managed, or controlled authority / corporation / agency, which has been assigned forest land shall not reassign it or any part thereof to any other organization or individual.*

**12. Reg Section 2(iv) –**

- *It will be attracted if the forest area in question bears naturally grown trees which are required to be clear-felled, irrespective of their size, for harnessing existing crop and / or raising plantation through artificial regeneration techniques, which may include coppicing, pollarding or any other mode of vegetative propagation.*
- *All proposals involving clearing of naturally grown trees in any forest area shall be sent in the form of Management plans/Working plans to the Regional CCF*
- *All proposals in respect of sanction of the Working Plans / Management Plans shall be finally disposed of by the Regional Office under section 2 of the Act.*





## FOREST LAW LESSON 10

F. No. 11-9/98-FC  
**Government of India Ministry of Environment & Forests**  
**F.C. Division**

### APPENDIX 1

To  
The Principal Secretary (Forests) (All States/UTs)  
Paryavaran Bhavan, CGO Complex Lodhi Road, New Delhi – 110 003,  
Dated : 03.01.2005

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980— General approval under Section 2 of Forest (Conservation) Act, 1980, thereof.

Sir,

Central Government believes that development and conservation should go hand in hand. This is a constitutional requirement of a welfare State like India which has also been emphasized by the Supreme Court from time to time. The tenet is embodied in the spirit of the Forest (Conservation) Act, 1980. Awareness among the people for conservation of environment is bound to come from within, provided the other developmental requirements of food, fibre, education, health and communication, etc., are satisfied. Central Government is committed to expedite its efforts for developmental activities in forest areas to cover the largest possible population of tribal and forest dwellers. To tackle the problems of sensitive areas on socio-economic front, the Central Government is all set to facilitate speedier execution of essential developmental activities.

Government of India is of the view that development of tribal villages/forest fringe villages can be ensured by providing basic and essential developmental facilities and sense of security in sensitive areas without compromising on environmental consideration and a balance has to be made between the economic/developmental considerations on one hand and ecological considerations on the other. It is imperative that for the creation of these facilities in forest/forest fringe area, most of the land requirement would have to be met from the forest lands.

A small beginning in this direction has been made when general approval under Section 2 of Forest (Conservation) Act, 1980, was accorded for underground laying of electricity cables and electric wires to individual households, drinking water supply/water pipelines, telephone lines was accorded under certain conditions vide para (iii) of the Guidelines of this Ministry's letter No. 2-1/2003-FC dated 20-10-2003, which is reproduced as under:



“In the tribal areas, there shall be general approval under Section-2 of the Forest (Conservation) Act, 1980 for underground laying of electricity cables and electric wires to individual households, drinking water supply/water pipelines, telephone lines, which involve felling of trees not exceeding 50 number per project (should be below 60 cm girth class) and are outside National Parks or Wildlife Sanctuary and are laid along the roads and within the existing right of way. This general approval shall be subject to the conditions that the Nodal Officer shall certify compliance. Records of such works undertaken shall be maintained by the Nodal Officer and the Territorial DFO. Nodal Officer shall send quarterly report to concerned Chief Conservator of Forests (Regional Office) for monitoring purpose. In lieu of felling of trees, five times of the number of felled trees shall be planted by the User Agency at or near the site. Any deviation shall require permission from the Central Government under the Forest (Conservation) Act, 1980.”

The issue of according general approval in case of some critical development and security related activities has again been reviewed by the Ministry of Environment and Forests holistically, and it has been found appropriate that extension of approval for some other critical developmental and other initiatives meant for people’s welfare and security, will go a long way in educating the masses, generating awareness and seeking their cooperation in conservation, regeneration and restoration of degraded forest and creation of a sense of security among them.

In view of the above, and in addition to general approval already given for certain activities as stated above, the Central Government, hereby conveys its general approval under Section-2 of the Forest (Conservation) Act, 1980 for diversion of forest land to Government Departments for following activities.

1. Schools
2. Dispensary/Hospital
3. Electric and Telecommunication lines;
4. Drinking water
5. Water/Rainwater harvesting structures;
6. Minor irrigation canal;
7. Non-conventional sources of energy;
8. Skill up-gradation/vocational training centre;
9. Power sub-stations;
10. Communication posts; and
11. Police establishments like police stations/outposts/border outposts/watch towers, in sensitive areas (identified by Ministry of Home Affairs)

The general approval shall be subject to fulfilment of following conditions:

- (i) The forest land to be diverted for above mentioned specified developmental works should be less than one hectare in each case.
  - (ii) The clearance of such developmental projects shall be subject to the condition that the same is need based.
  - (iii) The legal status of the land shall remain unchanged i.e. shall remain Reserved/Protected/ Village/Un-classed/Other types of forests/forest as the case may be.

**(iv)** The User Agency shall submit the project proposal to the State/UT Government in the prescribed format i.e. Form-A as provided in Rule-6 of the Forest (Conservation) Rules, 2003.

**(v)** The project should not involve felling of more than fifty numbers of trees per hectare. Corresponding permissible limit of maximum number of trees to be felled for the forest area diverted shall be in proportion to the extent of the diverted area.

**(vi)** The project site should be outside National Parks or Wildlife Sanctuary or Protected Areas.

**(vii)** The concerned Divisional Forest Officer shall assess the bare minimum requirement of the forest land for the project, which shall not exceed one hectare in each case and will also certify to this effect.

**(viii)** The User Agency will seek permission for diversion of forest land duly recommended by Principal Chief Conservator of Forests, from the State/UT Government.

**(ix)** The Nodal Officer (Forest Conservation) shall submit monthly report to the concerned Regional Office by 5<sup>th</sup> of every month regularly regarding approval of such cases. In the event of failure, the exercise of power by the State/UT Government to grant such permission may be suspended by the Central Government for a specified period of time or till the information is submitted.

**(x)** The User agency shall plant and maintain two times the number of trees felled of the diverted land to maintain the green cover at the project cost. Planting site for the purpose will be identified by the State Forest Department (preferably within or in the surrounding area of the project). Only indigenous forest tree species shall be used for such plantations. Trees, if planted on the diverted area, will not be felled without the permission of the State Forest Department. Trees, planted in surrounding area, will belong to State Forest Department.

**(xi)** The User Agency shall be responsible for any loss to the flora/fauna in the surroundings and therefore, shall take all possible measures to conserve the same.

**(xii)** The User Agency shall pay the Net Present Value (NPV) of the diverted forest land as established by law.

**(xiii)** The permission granted by the State Government shall be subject to the monitoring by the concerned Regional Office of the Ministry of Environmental and Forests.

**(xiv)** The forest land shall not be used for any purpose other than that specified in the proposal. Any change in the land use without prior permission of the Central Government shall amount to the violation of Forest (Conservation) Act, 1980. Request for such changes shall be made to the Regional Office by the Nodal Officer (Forest Conservation) of the State/UT.

**(xv)** The State Forest Department/State Government or the concerned Regional Office may impose from time to time any other condition in the interest of conservation, conservation and/or development of forests.

The general approval under the Forest (Conservation) Act, 1980 is granted initially for period of two years ending 31.12.2006 and will be subject to review thereafter.

Yours faithfully,

Sd/- ( Anurag

Bajpai )

Asstt. Inspector General of Forest



**F. No. 5-3/2007-FC**  
**Government of India Ministry**  
**of Environment & Forests**  
**(F.C. Division)**

Paryavaran Bhavan, CGO Complex  
 Lodhi Road, New Delhi – 110 510

Dated : 05.02.2009

To

The Principal Secretary/Secretary (Forests) (All States/UT Governments)

**Sub: Guidelines for diversion of forest land for non-forestry purposes under Forest (Conservation) Act, 1980— Guidelines of collection of Net Present Value (NPV).**

Sir,

The Ministry of Environment and Forests, Government of India has been receiving representations from different States seeking detailed clarification and guidelines on the above mentioned subject in the light of the Supreme Court Judgment dated 28.03.2008 revising the general rates of NPV and various other orders defining differential rates for various categories of projects.

After careful examination of the issue, I am directed to inform that the Hon'ble Supreme Court of India vide its judgment dated 28.03.2008 has re-fixed the rates of Net Present Value (NPV) on the basis of scientific data taking in view the ecological role and value of the forests. The 16 major forest types have been re-grouped into 6 ecological classes depending upon their ecological functions.

Eco-Class I Consisting of Tropical Wet Evergreen Forests, Tropical, Semi Evergreen Forests and Tropical Moist Deciduous Forests.

Eco-Class II Consisting of Littoral and Swamp Forests Eco-

Class III Consisting of Tropical Dry Deciduous Forests

Eco-Class IV Consisting of Tropical Thorn Forests and Tropical Dry Evergreen Forests

Eco-Class V Consisting of Sub-tropical Broad Leaved Hill Forests, Sub-tropical Pine Forests and Sub-tropical Dry Evergreen Forests.

Eco-Class VI Consisting of Montane Wet Temperate Forests, Himalayan Moist Temperate Forests, Himalayan Dry Temperate Forests, Sub-Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub.



Based on the ecological importance of forest falling in different eco-value and canopy density classes, relative weightage factors have also been taken into consideration. By using these relative weightage factors, the equalized forest area in eco-value Class-I and very dense forest corresponding to forest falling in different eco-value and density classes have been compiled. The net present value per hectare of forest has been fixed based on this data. For calculating the average net present value per hectare of forests in India, the following monetary value of goods and services provided by the forests have been considered :

- (a) Value of timber and fuel wood
- (b) Value of Non-timber Forest Products (NTFP)
- (c) Value of fodder
- (d) Value of Eco-tourism
- (e) Value of Bio-prospecting
- (f) Value of Ecological Services of Forest
- (g) Value of Flagship Species
- (h) Carbon Sequestration Value

Based on the above, the NPV was fixed and the following recommendations have been made by the Hon'ble Supreme Court of India.

(i) For non-forestry use/diversion of forest land, the NPV may be directed to be deposited in the Compensatory Afforestation Fund as per the rates given below:

| Eco-Value         | Class and NPV rates in Rs. |           |           |          |          |          |
|-------------------|----------------------------|-----------|-----------|----------|----------|----------|
|                   | Class I                    | Class II  | Class III | Class IV | Class V  | Class VI |
| Very Dense Forest | 10,43,000                  | 10,43,000 | 8,87,000  | 6,26,000 | 9,39,000 | 9,91,000 |
| Dense Forest      | 9,39,000                   | 9,39,000  | 8,03,000  | 5,63,000 | 8,45,000 | 8,97,000 |
| Open Forest       | 7,30,000                   | 7,30,000  | 6,26,000  | 4,38,000 | 6,57,000 | 6,99,000 |

N.B.: The NPV rate fixed would **hold good for a period of three years** and is subject to variation after three years as per the Supreme Court's judgment dated 28.03.2008.

(ii) The use of forest land falling in National Parks/Wildlife Sanctuaries will be permissible only in totally unavoidable circumstances for public interest projects and after obtaining permission from the Hon'ble Court. Such permissions may be considered on payment of an amount equal to ten times in the case of National Parks and five times in the case of Sanctuaries respectively of the NPV payable for such areas. The use of non-forest land falling within the National Parks and Wildlife Sanctuaries may be permitted on payment of an amount equal to the NPV payable for the adjoining forest area. In respect of non-forest land falling within marine National Parks/Wildlife Sanctuaries, the amount may be fixed at five times the NPV payable for the adjoining forest area:



The Hon'ble Supreme Court of India vide its order dated 24.04.2008 and 09.05.2008 has also exempted certain category of projects as per the details given below:

| Sl. No. | List of Activities / Projects  |  | Exemption Levels for NPV (as percentage of full chargeable NPV)   | Remarks  |
|---------|--|--|---|--|
| 1.      | (i)  | Schools  | Full exemption up to 1.00 ha of forest land provided :<br>(a) no felling of trees is involved.;<br>(b) alternate forest land is not available;<br>(c) the project is of non-commercial nature and is part of the Plan/ Non-Plan scheme of Government; and<br>(d) the area is outside National Park/ Sanctuary.  | As per Hon'ble Supreme Court Order dated 09.05.2008 regarding correction of the judgment dated 28.03.2008. |
|         | (ii)   | Hospitals  |   |  |
|         | (iii)  | Children's play ground of non-commercial nature                      |   |  |
|         | (iv)   | Community centres in rural areas                                     |   |  |
|         | (v)  | Over-head tanks  |   |  |
|         | (vi)   | Village tanks  |   |  |
|         | (vii)  | Laying of underground drinking water pipeline up to 4" diameter, and |   |  |
|         | (viii)   | Electricity distribution line up to 22 kV in rural areas.            |   |  |
| 2.      | Relocation of Villages from the National Parks/Sanctuaries to alternate forest land. |  | Full Exemption  | —do—   |
| 3.      | Collection of boulders/silts from the river belts in the forest area.                |  | Full exemption provided :<br>(a) area is outside National Park/ Sanctuary;<br>(b) no mining lease is approved/ signed in respect of this area;<br>(c) the works including the sale of boulders/silt are carried out departmentally or through Government undertaking or through the Economic Development Committee or Joint Forest Management Committee.<br>(d) the activity is necessary for conservation and conservation of forests; and<br>(e) the sale proceeds are used for conservation/conservation of forests. | —do—   |
| 4.      | Laying of underground optical  |  | Full exemption provided :   | —do—   |

|    |  |   |  |
|----|--|---|--|
|    | fibre cable.   | no felling of trees is involved; and areas falls outside National Park/Sanctuary  |  |
| 5. | Pre-1980 regularisation of encroachments and conversion of forest villages into revenue vil-lages. | Full Exemption provided these are strictly in accordance with MoEF's Guidelines dated 18.09.1990.                                     | —do—   |
| 6. | Underground mining   | 50% of the NPV of the entire area.  | —do—   |
| 7. | Field Firing Range   | Full Exemption provided :<br>(a) no felling of trees are involved; and<br>(b) no likelihood of destruction of forest is involved.     | As per Hon'ble Su-preme Court Order dated 24.04.2008 |
| 8. | Wind Energy Projects   | 50% of the minimum rate of the NPV irrespective of the eco-class in which the project lies provided minimum tree felling is involved. | —do— and CEC clarification dated 22.12.2008          |

In case of any other category seeking exemption from payment of NPV, the State Government/ User Agency may approach Hon'ble Supreme Court of India as per its order dated 24.04.2008 and 09.05.2008.

This issues with the approval of competent authority.

Copy to :

Sd/-

( C.D. Singh ) Senior Assistant Inspector General of Forests

1. The Principal Chief Conservator of Forests, All states/UTs.
2. The Nodal Officer (FCA), O/o the PCCF's, All States/UTs.
3. All Regional Offices of MoEF located at Bhopal, Shillong, Bangalore, Bhubaneswar, Lucknow and Chandigarh.
4. The RO (HQ), MoEF, New Delhi.
5. Monitoring Cell, FC Division, MoEF, New Delhi.
6. Guard File.

Sd/- ( C.D. Singh )

Senior Assistant Inspector General of Forests



F. No. 11-9/1998-FC (Pt.)  
 Government of India Ministry of  
 Environment & Forests  
 ( FC Division )

To  
 The Chief Secretary/Administrator  
 (All States/UT Governments except J&K)  
 Paryavaran Bhavan, CGO Complex Lodhi Road, New Delhi – 110510,  
 Dated : 03.08.2009

**Sub: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980—  
 ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers  
 (Recognition of Forest Rights) Act, 2006.**

Sir,

In continuation to this Ministry's letter of even number dated 30.07.2009, I am directed to invite the attention of the State Government to the operationalization of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which has become effective from 01.01.2008. It is observed that the proposals under the Forest (Conservation) Act, 1980 are being received from different States/UT Governments with the submission that the settlement of rights under Forest Rights Act, 2006 (FRA) will be completed later on.

Accordingly, to formulate unconditional proposals under the Forest (Conservation) Act, 1980, the State/UT Governments are, wherever the process of settlement of Rights under the FRA has been completed or currently under process, required to enclose evidences for having initiated and completed the above process, especially among other sections, Sections 3(1)(i), 3(1)(e) and 4(5). These enclosures of evidence shall be in the form of following:

- (a) A letter from the State Government certifying that the complete process for identification and settlement of rights under the FRA has been carried out for the entire forest area proposed for diversion, with a record of all consultations and meetings held;
- (b) A letter from the State Government certifying that proposals for such diversion (with full details of the project and its implications, in vernacular/local languages) have been placed before each concerned Gram Sabha of forest dwellers, who are eligible under the FRA;
- (c) A letter from each of the concerned Gram Sabhas, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures, if any, having understood the purposes and details of proposed division;
- (d) A letter from the State Government certifying that the diversion of forest land for facilities managed by the Government as required under section 3(2) of the FRA have been completed and that the Gram Sabhas have consented to it;
- (e) A letter from the State Government certifying that discussions and decisions on such proposals had taken place only when there was a quorum of minimum 50% of members of the Gram Sabha present;

- (f) Obtaining the written consent or rejection of the Gram Sabha to the proposal;
- (g) A letter from the State Government certifying that the rights of Primitive Tribal Groups and Pre-Agricultural Communities, where applicable, have been specifically safeguarded as per section 3(1) (e) of the FRA.
- (h) Any other aspect having bearing on operationalisation of the FRA.

The State/UT Governments, where process of settlement of Rights under the FRA is yet to begin, are required to enclose evidences supporting that settlement of rights under FRA 2006 will be initiated and completed before the final approval for proposals.

This is issued with the approval of the Minister of Environment and Forests.

Copy to :

1. The PMO (kind attention: Director, PMO)

,Sd/-

( C.D. Singh ) Senior Assistant Inspector General of Forests

2. The Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi.
3. The Principal Chief Conservator of Forests, All States/UTs.
4. The Nodal Officer (FCA) Office of the Principal Chief Conservator, All States/UTs.
5. All Regional Offices of MoEF located at Bhotal, Shillong, Bangalore, Lucknow, Bhubaneswar and Chandigarh.
6. The RO(HQ), DIGF(FP), Senior AIGF(FCI/AIGF)(FC) MoEF, New Delhi.
7. Monitoring Cell, FC Division, MoEF, New Delhi for placing the same on the website of the MoEF.
8. Guard File.

Sd/-

( C.D. Singh )

Senior Assistant Inspector General of Forests



F. No. 11-9/1998-FC (Pt.)  
**Government of India Ministry  
of Environment & Forests  
( F.C. Division )**

To  
The Chief Secretary (Forests) (All States/UTs)  
Paryavaran Bhavan, CGO Complex Lodhi Road, New Delhi – 110 510,  
Dated : 11.09.2009

**Sub : Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980— General Approval under Section 2 of Forest (Conservation) Act, 1980, thereof.**

Sir,

In continuation of this Ministry's letter of even number dated 03.01.2005 and 24.09.2007 by which general approval for certain activities to be carried out by the Government Departments involving not more than 1.00 ha. of forest land, under Forest (Conservation) Act, 1980 was granted initially for a period of two years has been further extended for further period of five years i.e. **up to 31.12.2013** on the same terms and conditions as enumerated in the above cited letters.

It may also be noted that this General Approval under Section 2 of Forest (Conservation) Act, 1980 is for the above mentioned activities in those forest areas, which are outside the purview of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Copy to :

Yours faithfully,

Sd/-

( C.D. Singh ) Senior Assistant Inspector General of Forests

1. The Director, PMO, New Delhi for kind information.
2. The Secretary, Ministry of Home Affairs, New Delhi.
3. The Secretary, Planning Commission, New Delhi.
4. The Secretary, Ministry of Rural Development, New Delhi.
5. The Secretary, Ministry of Tribal Affairs, New Delhi.
6. All PCCF's/Nodal Officers (All States/UTs)
7. All Regional Offices, Ministry of Environment & Forests.
8. Director General of Police (All States/UTs)
9. Director (FC)/AIGs(FC) 10.
- File No. 2-1/2003(FC)
11. Guard File

F. No. 11-9/1998-FC  
Government of India Ministry of  
Environment & Forests  
(FC Division)

To

The Principal Secretary/Secretary (Forests), All States/UT Governments Paryavaran Bhavan, CGO  
Complex Lodhi Road, New Delhi – 110 510,

Dated : 3<sup>rd</sup> May, 2010

**Sub: Diversion of forest land for non-forestry purposes under Forest (Conservation) Act, 1980—  
Guidelines for ‘Transfer of Lease’ from one user agency to another user agency - regarding**

Sir,

The Ministry of Environment and Forests, Government of India has been receiving representations from various project proponents/individual through different State/UT Governments seeking directions/ guidelines of the Central Government on transfer of leases, particularly mining leases, with respect to area limit, cases of death or inheritance of individual incumbent, liquidation of companies, etc. The questions have been raised about imposition of transaction/transfer fee for such transfer of leases.

In this connection, it is submitted that similar matter was taken up in the Forest Advisory Committee (FAC) on 17.09.2009 and the FAC recommended that transfer of leases, being an administrative issue need not be brought before the FAC, and the Administrative Ministry may take a decision in this regard. Accordingly, the matter was analysed in the Ministry and it was noted that any diversion of forest land is for a specific purpose for a specific applicant/user. However, transfer can be considered for the same purpose and under the same conditions.

In view of the above, I am directed to convey the approval of the Central Government to levy 10% Net Present Value (NPV) or Rs. 1,00,000 whichever is less, as transfer fee to discourage middle man from processing proposals and then selling it to others under the provisions of the Forest (Conservation) Act, 1980. This, however, is not applicable in case of Wind Power Generation, which involves large number of transferees.

This is issued with the approval of competent authority.

Yours faithfully,  
Sd/-

( C.D. Singh )  
Senior Assistant Inspector General of Forests







**Lesson Plan:**

Objective:

To study salient provisions of

- The Biological Diversity Act 2002
- The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (No 2 of 2007) and Rules made thereunder.

Backward linkage:

- Provisions of the Indian Forest Act, Wildlife protection Act.

Forward Linkage:

- During the tour, the trainees may be shown some case studies on application of the above Acts.

Training materials required:

- Text of the Biological Diversity Act 2002 and the Forest Rights Act 2006 to be circulated beforehand
- Copy of lesson 11 to be circulated beforehand. Al-

location of time:

- The Biological Diversity Act 2002 – 25 mts
- The Forest Rights Act 2006 and Rules made thereunder – 25 mts
- Discussion/miscellaneous – 10 mts

## The Biological Diversity Act 2002

### 1. Introduction

India was a party to the UN convention on Biological Diversity signed at Rio de Janeiro on 5<sup>th</sup> June 1992. While reaffirming the sovereign rights of the states over their biological resources, the Convention had the main objective of conservation of biological diversity, sustainable use of its components, and fair and equitable sharing of the benefits arising out of utilisation of genetic resources. After the said convention came into force on 29<sup>th</sup> December 1993, the Biological Diversity Act 2002 (No 18 of 2003) was promulgated in order 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.



## 2. Definitions

### According to section 2 –

“**benefit claimers**” means the conservers of biological resources, their byproducts, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;

“**biological diversity**” means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of ecosystems;

“**biological resources**” means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding, value added products) with actual or potential use or value, but does not include human genetic material;

“**bio-survey and bio-utilisation**” means survey or collection of species, subspecies, genes, components and extracts of biological resource for any purpose and includes characterisation, inventorisation and bioassay;

“**commercial utilisation**” means end uses of biological resources for commercial utilisation such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;

## 3. Regulation of access to Biodiversity

According to section 3, persons referred to below shall not, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for commercial utilisation or for bio-survey and bio-utilisation.

- (a) a person who is not a citizen of India
  
- (β) a citizen of India who is a non-resident as defined in clause (30) of section 2 of the Income-tax Act 1961
- (χ) a body corporate, association or organisation-
  - i. not incorporated or registered in India ; or
  - ii. incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.



### 3.1 Regulation of transfer of research results

**According to section 4**, no person shall, without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring in, or obtained from, India for monetary consideration or otherwise to any person referred to in the table above.

### 3.2 Regulation of application for intellectual property rights

**According to section 6**, no person shall apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application.

### 3.3 Prior intimation to State Biodiversity Board

**According to section 7**, No person, who is a citizen of India or a body corporate, association or organisation which is registered in India, shall obtain any biological resource for commercial utilisation, or bio-survey and bio-utilisation for commercial utilisation except after giving prior intimation to the State Biodiversity Board concerned;

The section, however, carries a proviso that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and vaidis and hakims, who have been practising indigenous medicine.

## 4. Approval by the National Biodiversity Authority (NBA)

**Section 19 empowers** the NBA to grant approval to obtaining biological resources or knowledge associated thereto by any person referred to in the table under paragraph 3. The section also empowers the NBA to grant approval to application for patent or any other form of intellectual property right based on any research or information on a biological resource obtained from India.

**Section 20 empowers** NBA to grant approval to transfer of biological resource or knowledge associated thereto which is the subject matter of approval accorded under section 19.

## 5. Determination of Equitable Benefit Sharing by NBA

**Section 21 provides that** the National Biodiversity Authority shall, while granting approvals under section 19 or section 20, ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.



## 6. State Biodiversity Board (SBB)

**Section 22** provides for establishment of SBB by the State Government.

### 6.1 Functions of SBB

According to **section 23**, the SBB shall, inter-alia,

- advise the State Government, subject to guidelines issued by the Central Government, on matters relating to conservation of biodiversity, sustainable use of its components, and equitable sharing of benefits;
- grant approval or otherwise requests for commercial utilization or bio-survey and bio- utilisation of any biological resource by Indians;

### 6.2 Power of SBB to restrict certain activities

Please refer to para 3.3. **Section 7** requires a person (citizen of India or a body registered in India) to give prior intimation to SBB before obtaining biological resources for commercial utilization etc. **Section 24(2)** provides that on receipt of an intimation, the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict any such activity, if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity.

## 7. Biodiversity heritage Sites

**Section 37** provides that the State Government may, from time to time, in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act, and in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.

## 8. Biodiversity Management Committees

**Section 41 stipulates** that every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro- organisms and chronicling of knowledge relating to biological diversity.

(Explanation: “cultivar” means a variety of plant that has originated and persisted under cultivation; “folk variety” means a cultivated variety of plant that was developed, grown and exchanged informally among farmers; “landrace” means primitive cultivar that was grown by ancient farmers and their successors; “chronicling” means to record events in the order they have happened.)



## 9. Penalties

Section 55 lays down the following penalties.

| Offence  | Punishment  |
|--|---|
| <b>Contravention of section 3 or section 4 or section 6</b><br>(Contravention of sec 3: obtaining biological resources, or associated knowledge by certain specified persons without previous approval of NBA;<br>contravention of sec 4: Transfer of results of research to certain specified persons without previous approval of NBA;<br>contravention of sec 6: Application of intellectual rights made without previous approval of NBA;)   | <b>Imprisonment:</b> for a term which may extend to <b>five years, or</b><br><b>fine: which may extend to ten lakh rupees</b> and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused,<br><b>or both.</b> |
| <b>Contravention, attempt to contravene, and abetment to contravene sec 7, or order made under sec 24(2)</b><br>(Contravention of sec 7: when a citizen of India or a body corporate registered in India obtain biological resources for commercial utilization without giving prior intimation to SBB. contravention of order made under sec 24(2): violation of order issued by SBB prohibiting or restricting collection of biological resources etc.of which it received prior intimation. | <b>Imprisonment:</b> for a term which may extend to <b>three years, or</b><br><b>fine: which may extend to five lakh rupees</b><br><b>or both.</b>  |

Section 56 lays down the following penalties

| Offence   | Punishment   |
|---|--|
| Contravention of any direction or order made by the Central Government, the State Government the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act. | <b>fine</b> which may extend to <b>one lakh rupees;</b><br>in case of a <b>second or subsequent offence: fine</b> may extend to <b>two lakh rupees;</b> and in the case of <b>continuous contravention: additional fine</b> which may extend to <b>two lakh rupees every-day</b> during which the default continues. |



## 10. Cognizable and non-bailable offences

**Section 58** states that the offences under this Act shall be **cognizable and non-bailable**.

## 11. Cognizance of offences

**According to section 61**, court shall take cognizance of offence under this act only on a complaint made by –

- (a) the Central Government or any authority or officer 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

**( Comments: Vide MoEF’s notification No S.O. 120 (E) dated 07 January 2009, the Central Government has authorized “Forest Officers not below the rank of Range Officers” to file complaints under section 61(a) of the Act.)**

## **The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (No 2 of 2007)**

### 12. Introduction

This Act has been promulgated with the primary object to recognise 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 also provides 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.

### 13. Definitions

Section 2 gives definitions of terms for the purpose of the Act. A few of these definitions are mentioned below. For the sake of brevity, certain definitions have been produced in abridged form. For full definition and definition of those terms which are not included here, it is advised to refer to the text of the Act.

- (a) “critical wildlife habitat” means such areas of National Parks and Sanctuaries, which are required to be kept as inviolate for the purposes of wildlife conservation. Such areas may be determined and notified by the Central Government in the Ministry of Environment and Forests through such process as described in section 2 of the Act.
- (b) “forest dwelling Scheduled Tribes” means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities;



- (c) “forest land” means land of any description falling within any forest area and includes unclassified forests, un-demarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;
- (d) “forest villages” means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;
- (e) “Gram Sabha” means a village assembly which shall consist of all adult members of a village;
- (f) “other traditional forest dweller” means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.

Explanation.-For the purpose of this clause, “generation” means a period comprising of twenty-five years;

#### 14. Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers:

**Section 3** lays down a number of rights as forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands. These forest rights, in brief, are mentioned below.

- (a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood;
- (b) community rights such as *nistar*, by whatever name called;
- (c) right of ownership, access to collect, use, and dispose of minor forest produce within or outside village boundaries;
- (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;
- (e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;
- (f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;
- (g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;
- (h) rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;
- (i) right to protect, regenerate or conserve or manage any community forest resource;
- (j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;
- (k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
- (l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;
- (m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.



## 15. Recognition and vesting of Forest Rights

**Under section 4(1), the Central Government recognizes and vests** all forest rights mentioned in section 3 in forest dwelling scheduled tribes and other traditional forest dwellers.

### 15.1 Rights in critical wildlife habitats

**Section 4(2) provides** that the forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, subject to conditions specified in this sub-section.

### 1.3 Occupation prior to 13 December, 2005

**Section 4(3) stipulates** that the recognition and vesting of forest rights under this Act shall be subject to the condition that the concerned Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

### 1.4 Rights are heritable but not alienable or transferable

**Section 4(4) stipulates** that a right conferred by sub-section (1) of section 4 shall be heritable but not alienable or transferable.

### 1.5 Bar on eviction

**Section 4(5) stipulates** that no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.

### 1.6 Forest land to be vested not to exceed four hectares

**According to section 4(6)**, where the forest rights recognised and vested are in respect of land, such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

## 16. Authorities and procedures for vesting of forest rights

**According to section 6(1), the Gram Sabha shall initiate** the process for determining the nature and extent of individual or community forest rights or both within the local limits of its jurisdiction by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim. The Gram Sabha shall, then, pass a resolution to that effect and thereafter **forward a copy of the same to the Sub-Divisional Level Committee.**

**(Note: According to Rule 3 of the Scheduled Tribes and Other Traditional Forest Dwellers**

**(Recognition of Forest rights) Rules, 2007**, hereafter referred to as FR Rules, 2007, the Gram Sabha shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a **committee** of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, where in at least <sup>1</sup>[two-third] <sup>1</sup> members shall be the Scheduled Tribes, provided that not less than one-third of such members shall be women.





[ ]<sup>1</sup> substituted by Rule 4 of FR Amendment Rules 2012 for the words “one-third”

**Rule 12** stipulates that the process of verifying claims by Forest Rights Committee shall be done after due intimation to the concerned claimant and the **Forest Department**.

<sup>2</sup>[**Rule 12A**]<sup>2</sup> stipulates that on receipt of intimation from the Forest Rights Committee, the officials of the Revenue and Forest Departments shall remain present during the verification of the claims and the verification of evidences on the site and shall sign the proceedings with their designation, date and comments, if any. If any objections are made by the Forest or Revenue department at a later date to a claim approved by the Gram Sabha, for the reason that their representatives were absent during field verification, the claim shall be remanded to the Gram Sabha for re-verification. If the representatives again fail to attend the verification process, the Gram Sabha’s decision on the field verification shall be final.

<sup>2</sup>[ ]<sup>2</sup> inserted by Rule 11 of FR Amendment Rules 2012.)

### 16.1 Sub-divisional Level Committee

**Section 6(3)** provides that the State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

### 16.2 Appeal

**Under section 6(2)**, any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee. **Section 6(4)** provides that any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee.

### 16.3 District Level Committee

**Section 6(5)** provides that the State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee. **According to section 6(6)**, the decision of the District Level Committee on the record of forest rights shall be final and binding.

### 16.4 State Level Monitoring Committee

Section 6(7) empowers the State Government to constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

### 16.5 Composition of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee

According to section 6(8), the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, **Forest** and Tribal Affairs of the State Government and **three members** of the Panchayati Raj Institutions at the



appropriate level, appointed by the respective Panchayati Raj Institutions, of whom **two shall be the Scheduled Tribe members** and **at least one shall be a woman**, as may be prescribed.

(Note: According to Rule 5 of FR Rules 2007, The State Government shall constitute **Sub-Divisional Level Committee** with the following members, namely:—

- (a) Sub-Divisional Officer or equivalent officer — Chairperson;
- (b) **Forest Officer** in charge of a Sub-division or equivalent officer — member;
- (c) **Three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat** of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a women member; or in areas covered under the sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and
- (d) An officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

According to Rule 7 of FR Rules, 2007, The State Government shall constitute District Level Committee (DLC) with the following members, namely :—

- (a) District Collector or Deputy Commissioner- Chairperson;
- (b) concerned **Divisional Forest Officer** or concerned Deputy Conservator of Forest - member;
- (c) **three** members of the district Panchayat to be nominated by the district Panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional Forest Dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the autonomous District Council or Regional Council of whom at least one shall be a woman member; and
- (d) an officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in-charge of the tribal affairs.

According to Rule 9 of FR Rules 2007, the State Government shall constitute a State Level Monitoring Committee with the following members, namely:

- (a) Chief Secretary — Chairperson;
- (b) Secretary, Revenue Department — member;
- (c) Secretary, Tribal or Social Welfare Department — member;
- (d) **Secretary, Forest Department** — member;
- (e) Secretary, Panchayati Raj — member;
- (f) **Principal Chief Conservator of Forests** — member;
- (g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
- (h) Commissioner, Tribal Welfare or equivalent who shall be the Member Secretary)

**Lesson Plan:**

## Objective:

To study salient provisions of

- The West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, Rules made thereunder and related Government Notifications.

## Backward linkage:

- Provisions of the Indian Forest Act.

## Forward Linkage:

- During the tour, the trainees may be shown some case studies on application of the above Act.

## Training materials required:

- Text of the The West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006 to be circulated beforehand
- Text of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2007
- Copy of lesson 12 to be circulated beforehand. Al-

## location of time:

- Definitions, Restrictions on felling trees, Permission, Procedure etc – Section 3, 4, 5 and 6 – 15 mts
- Appeal, obligation to plant trees, Relaxation-exemption – section 7 and 8 – 5 mts
- Compulsory planting, certificate of clearance, Sanction of Building /Construction Plan – section 9 – 10 mts
- Penalty, previous sanction, Forfeiture of timber etc., power of seizure, compounding of offence, power to prevent commission of offence, - section 11, 12, 14, 15, 16, 17 – 15 mts
- Execution of order for payment, exemption, power for preservation of trees – section 19, 21, 23 – 5 mts
- Discussion/miscellaneous – 10 mts



## The West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006

### 1. Introduction

Object of this Act is to encourage and promote plantation of trees, and to protect and conserve trees in non-forest areas, particularly those looked upon as sacred groves, or identified as belonging to an endangered species or given the status of heritage.

### 2. Definitions

For the purpose of this Act definitions of certain terms are as follows (**Ref: Section 3**)

- (a) “competent authority”\* means an authority appointed by the State Government, by notification, to perform the duties and exercise the powers conferred upon a competent authority under this Act;

**\*Please see notification of competent authorities in Appendix 1.**

- (b) “felling of tree” means cutting, girdling, pollarding, uprooting or damaging a tree in any manner but shall not include lopping off of a limb of tree for such purposes as may be prescribed<sup>1</sup>;

<sup>1</sup> [Rule 3 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Rules, 2007, **hereinafter referred to as “Rules 2007”** prescribe the purposes:

- (a) maintenance of electric lines, roads and other works of public utility, provided that such lopping does not pose any threat to the survival of the tree,  
(b) maintenance and beautification of the Parks and Garden :  
(c) when the limb of a tree causes serious inconvenience to the local residents, or poses threat to human life, or a building, or property or disrupts public services (transportation system)]<sup>1</sup>

- (c) “tree” has the same meaning as the Indian Forest Act, 1927, and includes any woody plant whose branches spring from an area supported upon a trunk or body and whose trunk or body is not less than ten centimetres in diameter at breast height from the ground level

### 3. Restrictions on felling trees

**Section 4 stipulates that** except as provided in this Act or the rules made thereunder, no person shall—

- (a) fell any tree in the Non-Forest Areas; and  
(b) cut, remove or otherwise dispose of any tree other than a tree which has felled without the aid of human agency.

It means unless permitted under this Act, felling of trees in non-forest land is prohibited. It is also not permitted to cut, remove or dispose of any tree except those which have fallen on their own.

#### 4. Permission to fell trees

**Section 5(1)** provides that a competent authority may, on receipt of an application from a person to fell a tree or otherwise dispose of any tree, grant permission, in writing, to fell tree. The authority grants permission when he is satisfied with regard to the legality of documents towards the proof of ownership or lease of the land on which such tree stands and after making an inquiry.

[ Rule 4(1) of Rules 2007 prescribes that permission under section 5(1) shall be granted only for the following purposes:

- (a) if it causes serious inconvenience to the local resident; or poses threat to human life, or a building, or property; or disrupt public services (transportation system);
- (b) if it attains natural death due to any disease, or natural calamities like storm, lightning;
- (c) if a tree was raised with the purpose of Social Forestry or Farm Forestry and has since attained maturity for harvesting;
- (d) if the tree is sought to be removed for facilitating re-forestation of the land for the purpose of Social Forestry or Farm Forestry;
- (e) if the owner intends to carry out the felling of trees to meet expenses for family obligations, such as medical treatment, marriage, education or to meet requirement of timber for construction or repair of his own house;
- (f) if it becomes absolutely necessary to fell the trees for disposing of land or settling up of the land dispute;
- (g) if in a tea garden, proviso to sub-section (3) of section 6 shall be complied with]

##### 1.1 Permission not granted in certain cases

**Section 5(1)** carries the proviso that no such permission shall be granted, if it is found on inquiry that the nature or character of the land may change or the mode of use of the land may alter. Permission, however, will not be withheld, if the person concerned produces the conversion certificate obtained from the collector concerned under the provisions of section 4C of the West Bengal Land Reforms Act, 1955;

##### 1.2 Permission not required in certain cases

**Section 5(1)** also carries the proviso that in the Sadar sub-division, Kalimpong sub-division and Kurseong sub-division of the district of Darjeeling, no such permission shall be required, if a *raiyat* obtains permission under provisions of section 4A of the West Bengal Land Reforms Act, 1955, read with rule 474 of the West Bengal Land and Land Reforms Manual, 1991;

##### 1.3 Permission in the cases of immediate danger

**Section 5(1)** carries further a proviso that the competent authority shall, **within three days** from the date of receipt of application, give permission of felling of trees, if it constitutes such immediate danger, as may be prescribed<sup>2</sup>, to any person or property.



<sup>2</sup> [ Rule 4(4) of Rules 2007 prescribes immediate dangers of following nature:

- (a) imminent threat to human life, or property of any person or institution or organization;
- (b) serious disruption to maintenance of public services (transportation system).]<sup>2</sup>

#### 1.4 No permission required in rural areas in certain cases

**According to section 5(2)**, notwithstanding anything contained in sub-section (1), no **permission shall be required in rural areas**

- if felling of trees is undertaken **for not more than three trees at a time: and**
- Provided that felling of trees shall not be undertaken in a particular plot of land more than once in a year.

Explanation — For the purposes of this section, “rural area” shall include all areas under Gram Panchayat and exclude the areas under Municipality, Notified Area Authority or Municipal Corporation.

**Thus according to section 5(2), felling of maximum three trees in a plot of land in rural areas, undertaken once a year, will not require permission.**

#### 5. Procedure for obtaining permission to fell trees Section 6 provides that –

- (1) - Every application under section 5 shall be in writing;
    - Application should give particulars of the tree, the details of the plot of land on which the tree is located and the reasons for felling the tree;
    - Application shall be accompanied with prescribed<sup>3</sup> fee;
- <sup>3</sup> [ Rule 5(1) of Rules 2007 prescribes –
- (i) *developer— Rs. 1,000.00 (One thousand rupees);*
  - (ii) *a person other than a developer— Rs. 25.00 (Twenty five rupees) (in rural areas)] and Rs. 100.00 (One hundred rupees) (other than rural areas);*
  - (iii) *Emergency Application Fee: If the application is required to be submitted for immediate permission under sub-rule (4) of rule 4: Rs. 200.00 (Two hundred rupees for all areas)]*
- (2) The competent authority shall, on receipt of an application -
    - issue an acknowledgement to the applicant;
    - make inquiry; and
    - shall dispose of the application, **within forty-five days** of the receipt of such application, either giving permission to fell such tree or rejecting the application giving reasons therefor.
  - (2) Every permission to fell tree shall be subject to such conditions, including taking of security for undertaking plantation for trees, as may be prescribed<sup>4</sup>;

<sup>4</sup> [ Rule 5(3) of Rules 2007 prescribes –

*The permission shall be granted only after the applicant, other than a developer, has paid security for undertaking plantation for trees to the competent authority at the rate of **twenty rupees per tree in rural areas and thirty rupees per tree in areas other than rural areas for each tree to be planted**: Provided that no security shall be payable by an applicant who is unable to undertake plantation of trees and has deposited the prescribed amount of money to the competent authority as prescribed under sub-rule (3) of rule 6.*

*Rule 5(5) stipulates that*

- the security **shall be refunded in full** to the applicant **but not before two years** from the date of grant of felling permission after the competent authority has satisfied himself that **at least eighty percent** of the trees planted by the applicant are surviving in good condition;
- the security shall be refunded to the applicant **on pro-rata** basis if the total number of trees survived are less than eighty percent of the total number of trees planted;
- the security may be **forfeited** by the competent authority if the total number of trees survived are **less than thirty percent** of the total number of trees planted.]<sup>4</sup>

### **5.1 Permission in case of tea gardens carries condition**

The section 6(3) carries a proviso that **in the case of tea garden**, such permission shall be subject to the condition that the sale proceeds be utilized strictly for the purpose of welfare of the **labourers of tea garden** on the basis of a specific scheme framed under the provisions of the Plantations Labour Act, 1951.

## **6. Appeal**

**Section 7** provides for making appeal to the appellate authority\* against every order of the competent authority. Such appeal will have to be made within thirty days from the date of communication of the order. The appellate authority after giving appellant reasonable opportunity of being heard, will dispose the appeal within one month from the date of preferring appeal.

**\* please see appointment of appellate authorities in Appendix 2.**

## **7. Obligation to Plant Trees**

**Section 8** requires every person, who fells any tree, to undertake plantation of such number of trees as may be prescribed<sup>5</sup>, **in place of every tree felled, in the same plot of land** and tend such plantation for trees in accordance with the directions of the competent authority;

<sup>5</sup> [ Rule 6(1) of Rules 2007 prescribes –

- Two trees in place of every tree felled
- A developer shall undertake plantation of trees as prescribed in sub-rule (1) of rule 7]<sup>5</sup>

### **1.1 Relaxation – Exemption**

**Section 8**, however, provides that the competent authority may, for such reasons, as may be Prescribed<sup>6</sup>, to be recorded in writing,

- permit a lesser number of plantation for trees to be undertaken in a different plot or plots, or
- exempt any person from the obligation of such plantation.

<sup>6</sup> [Rule 6(2) of Rules 2007 prescribes the following reasons:

- (a) *if the felling of trees is for erecting of house for selfaccommodation;*
- (b) *if the existing plot, on which the tree is felled, does not provide space for any further plantation;*
- (c) *if no other plot of land is available with the owner of the tree;*
- (d) *if the total number of trees to be felled is less than ten.]<sup>6</sup>*



**1.1.1** The section also carries a proviso that any person, unable to undertake plantations of trees, may deposit such amount of money, as may be prescribed<sup>7</sup> considering the importance of trees, to the competent authority, facilitating the designated agency\* of the State Government to undertake plantation of trees for the trees felled.

**\*Please see Govt order on designated agency in Appendix 3.**

<sup>7</sup> [Rule 6(3) of Rules 2007 prescribes -

- Twenty rupees per tree in rural areas; and
- thirty rupees per tree in areas other than rural areas
- Forty rupees per trees in rural areas and sixty rupees per tree in areas other than rural areas, if the trees to be felled belong to any of the species included in the Schedule of the Act.]<sup>7</sup>

## **8. Compulsory planting in certain cases (High-rise building and construction)**

**Section 9(1)** requires every person or developer intending to carry out development in the form of erection of highrise multi-unit building or otherwise construction for the purposes of residential or commercial or industrial or institutional uses on any plot or plots of land, to undertake plantation for trees, in the prescribed<sup>8</sup> manner and to the prescribed<sup>8</sup> extent, in the same plot or plots of land as subject to such development.

<sup>8</sup> [Rule 7(1) of Rules 2007 prescribes –

- plantation of trees over at least twenty percent of the total area in the same plot or plots of land as in accordance with a plantation plan approved by the competent authority;
- The total number of trees to be planted shall be at least five times the number of trees to be felled, if any;
- The competent authority may fix up norms for plantation of trees in a particular area regarding choice of species, proportion of different species, spacing, maintenance.]<sup>8</sup>

### **1.1 Certificate of Clearance**

**Section 9(2)** stipulates that the development, under sub-section (1), shall be carried out after obtaining the **certificate of clearance** from the competent authority; the application for certificate of clearance should be in the prescribed form<sup>9</sup>, in the prescribed manner<sup>10</sup> and accompanied by such fee<sup>11</sup> as may be prescribed. The certificate of clearance will specify the period within which the plantation shall be implemented before the development project is initiated.

<sup>9</sup> [Rule 7(2) of Rules 2007 prescribes – Form IB]<sup>9</sup>

<sup>10</sup> [Rule 7(2) of Rules 2007 prescribes – application to be accompanied by the proposed plantation plan with the following details:

- (a) species to be planted;
- (b) advance soil work;
- (c) source of seeds and seedlings for plantation;
- (d) spacing and planting pattern; and
- (e) time schedule for plantation and maintenance.}<sup>10</sup>

<sup>11</sup> [Rule 7(2) of Rules 2007 prescribes a fee as prescribed under Rule 5(1), that is Rs. 1000 (see paragraph 5)]<sup>11</sup>

### **8.1.1**

**Section 9(4)** empowers the competent authority to approve, after proper scrutiny and field inquiry and after obtaining the concurrence of the West Bengal Pollution Control Board, the plantation plan (in quadruplicate) under his signature with proper stamp and seal and issue the certificate of clearance in the prescribed Form<sup>12</sup>.

<sup>12</sup> [Rule 7(5) of Rules 2007 prescribes Form IV]<sup>12</sup>





## 1.2 Sanction of Building /Construction Plan

**Section 9(5)** stipulates that the authority, sanctioning the building or otherwise construction plan under the relevant Act, shall, before approving such plan, require the developer to produce before him both the certificate of clearance as issued and the plantation plan as approved under this Act. After verifying that the proposed plantation as shown in the plantation plan is properly incorporated in the building or otherwise construction plan as submitted before him for approval, the sanctioning authority shall certify under his signature with stamp and seal on each copy of building or otherwise construction plan as approved by him under the relevant Act, stating that this plan is compatible with the plantation plan so far as the proposed plantation is concerned.

## 9. PENALTY FOR FELLING OF TREES

Sub-section (1) of section 9 provides for following penalty.

| Offence   | Punishment   |
|---|--|
| Felling or causing to be felled any tree or cutting, uprooting or otherwise disposing any fallen tree in <b>contravention of section 4, or</b><br>Contravention of any condition of any permission granted under this Act | imprisonment which <b>may extend to one year or fine which may extend to five thousand rupees or both</b> ,<br>and until the plantation of requisite number of trees are undertaken,<br><b>fine for each day of default of fifty rupees.</b> |
| <b>Failure</b> on the part of a person or a developer to implement the <b>plantation plan</b> approved under section 9(4)   | <b>Imprisonment which may extend to two years or fine which may extend to ten thousand rupees or both.</b>   |

## 10. Previous sanction of the state government necessary

**Section 12** stipulates that previous sanction of the State Government or the authorized\* officer or authority is necessary for prosecution against any person in respect of any offence under this Act.

**\*Please see Govt Notification on authorized officer in Appendix 4.**

## 11. Forfeiture of timber etc.

**Section 14(1)** provides that where any person has been **convicted** of committing an offence of felling a tree -

- the timber of tree, and implements used for felling such tree, may be ordered by the Court to be forfeited to the State Government:
- Provided that if the timber is found to have been **disposed of**, the Court may order an **additional penalty of not exceeding five thousand rupees.**

**Section 14(3)** states that such forfeiture may be in addition to any other punishment specified in this Act for such offence.



## 12. Power of seizure

**Section 15(1)** provides that when there is **reason to believe** that any tree has been felled, cut or removed in **contravention of the provisions of this Act-**

- any **Forest Officer not below the rank of a Forest Ranger or any Police Officer not below the rank of a Sub-inspector** or any other officer empowered in this behalf by the State Government, **may seize** the wood of such trees, together with the boat, vehicle, carrier or cattle, if any, used for felling, cutting or removing of such tree.

*[ Rule 9 of Rules 2007 stipulates that wood of trees together with boat, vehicle, carrier or cattle seized under the provisions of sub-section(1) of section 15 shall be handed over the competent authority who shall dispose them of through auction or open tender following the relevant government orders in this respect.]*

**Section 15(2)** requires –

- The officer to report every seizure to the Magistrate having jurisdiction to try the offence; and
- subject to the order of such Magistrate, disposal of the wood of such trees, together with boat, vehicle, carrier or cattle in the prescribed manner.

## 13. Compounding of Offence

**Section 16(1)** provides for

- compounding of any offence, which has been committed and is punishable under this Act;
- compounding either before or after institution of the prosecution;
- compounding by such officer, and for such amount not exceeding ten thousand rupees, as the State Government may by notification\* in the *Official Gazette*, specify;

**\*Please see Appendix 5.**

- recovery, in addition, from the offender of such net present value of timber, as may be prescribed<sup>13</sup> by rules.

<sup>13</sup> [Rule 10 of Rules 2007 prescribes that the net present value of timber shall be calculated on the basis of “Scheduled of Rate” prescribed for the nearby Forest Division by the concerned Conservator of Forests. ]<sup>13</sup>

**Section 16(2)** directs that where an offence has been compounded under sub-section(1)-

- the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of such offence; and
- the property seized under this Act shall be released.

**Section 16(3)** imposes a restriction that –

- the compounding of an offence under sub-section(1) shall be allowed only in respect of the first offence committed by any person;
- and no such compounding shall be made for any subsequent offence committed by the same person.

## 14. Power to prevent Commission of Offence

**Section 17(1)** stipulates that It shall be the duty of every Forest Officer, Gram Panchayet Secretary, Gram Panchayet Karma Sahayak, Krishi Prajukti Sahayak, Gram Sevak, Revenue Inspector, Officer dealing with environmental protection or Police personnel to make efforts to **prevent any contravention of section 4 and section 9 and to report to his superior officer.**



### 15. Execution of Order for Payment

**Section 19** states that the amount of compensation of an offence, the payment of which has been directed to be made by any person under this Act shall be recoverable from him as an arrear of land revenue.

### 16. Exemption

**Section 21(1)** empowers the State Government to exempt any area or any species of tree or a specified number of trees of any species from all or any of the provisions of this Act subject to such conditions, if any, as may be imposed.

**Section 21(2)**, however, stipulates that notwithstanding anything contained in sub-section(1), permission of competent authority shall be obtained for felling of trees specified in the Schedule.

### 17. Power of State Government for preservation of trees

**Section 23(1)** authorizes the State Government to declare by notification that any class or classes of tree shall not be felled for such period as is specified in that notification.

## SCHEDULE

### Permission Mandatory for Felling

( See section 21 )

1. *Acacia catechu* (Khair)
2. *Bombax ceiba* (Simul)
3. *Dalbergia sissoo* (Sishu)
4. *Diospyros melanoxylon* (Kend/Kendu/Tendu)
5. *Gmelina arborea* (Gamar)
6. *Madhuka indica* (Mahua)
7. *Michelia champaka* (Champ)
8. *Shorea robusta* (Sal)
9. *Swietenia mahogany* (Mahogany)
10. *Tectona grandis* (Teak/Segun)
11. *Mangrove trees*



**Appointment of competent authorities for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal FOREST DE-  
PARTMENT  
Writers' Buildings, Kolkata – 700 001 NOTIFICA-  
TION

No. 901-For dt. The 1<sup>st</sup> March, 2007. In exercise of the power conferred by clause (2) of section 3 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to appoint the competent authority under column (1), to perform the duties and exercise the powers conferred under the said Act within the jurisdiction as described under column (2), of the Schedule given below—

**SCHEDULE**

**Name of competent authority**

**Jurisdiction**

(1) (2)

- |    |  |  |
|----|--|--|
| 1. | Forest Range Officer   | Rural areas under the jurisdiction of the Forest Range Officer;  |
| 2. | Divisional Forest Officer (Utilisation Division<br>Kolkata Municipal Corporation area; |  |
| 3. | Divisional Forest Officer  | All other “Rural Areas”, not covered by the jurisdiction of the Forest Range Officer, and Municipalities/ Corporations/Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area. |

By Order of the Governor,

Sd/—

( S. Nag )

Joint Secretary to the Govt. of West Bengal

**Appointment of appellate authorities for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

**Government of West Bengal FOREST  
DEPARTMENT  
Writers' Buildings, Kolkata – 700 001**

**NOTIFICATION**

No. 902-For dt. The 1<sup>st</sup> March, 2007. In exercise of the power conferred by sub-section (1) of section 7 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor, for the purpose of the said Act, is pleased hereby to appoint the appellate authority under column (1), with their respective jurisdiction as described under column (2), of the Schedule given below—

**SCHEDULE**

| <b>Name of appellate authority</b>  | <b>Jurisdiction</b>  |
|-------------------------------------|--|
| (1) (2)                             |  |
| 1. Divisional Forest Officer        | Rural areas under the jurisdiction of the Forest Range Officers of his division;   |
| 2. Conservator of Forest, Marketing |  |
| Kolkata Municipal Corporation area; |  |
| 3. Conservator of Forests           | All other “Rural Areas”, not covered by the jurisdiction of the Forest Range Officer, and Municipalities/ Corporations/Notified Area Authorities within his jurisdiction, except Kolkata Municipal Corporation area. |

*By Order of the Governor,*

Sd/— ( S.

Nag )

*Joint Secretary to the Govt. of West Bengal*



**Appointment of designated agencies for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal FOREST DE-  
PARTMENT  
Writers' Buildings, Kolkata – 700 001

**ORDER**

No. 903-For dt. The 1<sup>st</sup> March, 2007. In pursuance of the power conferred under section 8 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006), the Governor, for the purposes of the said section, is pleased hereby to specify the designated agency of the State Government under column (1), with their respective jurisdiction as described under column (2), of the Schedule given below—

**SCHEDULE**

| <b>Designated Agency</b>   | <b>Jurisdiction</b>                                  |
|--|--|
| (1) (2)  |  |
| 1. Divisional Forest Officer   | Concerned Division of the Divisional Forest Officer; |
| 2. Deputy Conservator of Forests, Urban and Recreational Forestry<br>Kolkata Municipal Corporation area; |  |

*By Order of the Governor,*

Sd/— (S. Nag)  
*Joint Secretary to the Govt. of West Bengal*

**Authorisation of officers to accord sanction required under section 12 of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

**Government of West Bengal FOREST  
DEPARTMENT  
Writers' Buildings, Kolkata – 700 001**

**NOTIFICATION**

No. 3125-For dt. the 5<sup>th</sup> June, 2007—In pursuance of the power conferred by section 12 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to authorise the following officers under column (1), to accord sanction as required under section 12 of the said Act within their respective jurisdiction as indicated in column (2) of the Schedule given below—

**SCHEDULE**

| <b>Name of Officer</b>               | <b>Jurisdiction</b>  |
|--------------------------------------|--|
| (1) (2)                              |  |
| 1. Divisional Forest Officer         | Rural areas under the jurisdiction of the Forest Range Officers of his division;   |
| 2. Conservator of Forests            | All other “Rural Areas” not covered by the Jurisdiction of the Forest Range Officer, and Municipalities, Corporations or Notified Area Authorities within his Jurisdiction, except Kolkata Municipal Corporation area. |
| 3. Conservator of Forests, Marketing | Kolkata Municipal Corporation area;  |

Sd/— (S. Nag)

*Joint Secretary to the Govt. of West Bengal*



**Appointment of compounding authorities for the purposes of the West Bengal Trees (Protection and Conservation in Non Forest Areas) Act, 2006**

Government of West Bengal FOREST  
DEPARTMENT  
Writers' Buildings, Kolkata – 700 001

**ORDER**

No. 3126-For dt. the 5<sup>th</sup> June, 2007— In exercise of the power conferred by sub-section (1) of section 16 of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act, 2006, (West Bengal Act X of 2006) (hereinafter referred to as the said Act), the Governor is pleased hereby to specify the following officers under column (1), to be the compounding authority within the jurisdiction as described under column (2), to compound the offences punishable under the said Act for the amount indicated in column (3), of the Schedule given below—

**Name of the Compounding Authority**

**SCHEDULE**

| Jurisdiction<br>(1)           | Amount of Compensation<br>(2)  | (3) |
|-------------------------------|--|-----|
| 1. Forest Range Officer       | Rural areas under the<br>Jurisdiction of the Forest Range Officer;   |     |
| 2. Divisional Forests Officer | All other “Rural Areas”, not<br>covered by the Jurisdiction of the Forest Range Officer, and Municipalities,<br>Corporations or Notified Area Authorities within his Jurisdiction, except<br>Kolkata Municipal Corporation area; |     |

Authorise to accept compensation of an amount not exceeding ten thousand rupees considering to the gravity of offence;

Authorised to accept compensation of an amount not exceeding ten thousand rupees considering the gravity of offence;

3. Divisional Forests Officer (Utilisation Division)  
Kolkata Municipal Corporation area;

Authorised to accept compensation of an amount not exceeding ten thousand rupees considering the gravity of offence.

By Order of the Governor,  
Sd/—  
( S. Nag )  
Joint Secretary to the Govt. of West Bengal



**Lesson Plan:**

## Objective:

To study salient provisions of

- The West Bengal Forest Produce Transit Rules, 1959
- The West Bengal Forest (Establishment Regulation of Saw-Mills and other Wood-based Industries) Rules, 1982

## Backward linkage:

- Provisions of the Indian Forest Act.

## Forward Linkage:

- During the tour, the trainees may be shown some case studies on application of the above Rules.

## Training materials required:

- Text of the above two rules to be circulated beforehand
- Copy of lesson 13 to be circulated beforehand. Al-

## location of time:

- The West Bengal Forest Produce Transit Rules, 1959 – 25 mts
- The West Bengal Forest (Establishment Regulation of Saw-Mills and other Wood-based Industries) Rules, 1982 – 25 mts
- Discussion/miscellaneous – 10 mts

### **The West Bengal Forest Produce Transit Rules, 1959**

**1. Introduction**

The above transit rules have been framed in exercise of the powers conferred by sections 41, 42 and 76 of the Indian Forest Act, 1927 (16 of 1927), and in supersession of the West Bengal Forest Produce Transit Rules, 1955. The rules have been made to regulate the transit by land or water of timber and other forest produce into, from and within the districts specified in the rules.



## 2. Forest Produce

Rule 2 says that in these rules, “forest-produce” has the same meaning as in the Indian Forest Act, 1927 (16 of 1927).

## 3. Where applicable

**According to Rule 3**, these rules shall apply to timber and other forest-produce **from any source**

- within the districts of **Jalpaiguri, Cooch Behar, Birbhum, Bankura, Burdwan, Midnapore, Malda, Darjeeling (including the territory since transferred from Bihar), West Dinajpur (including the territory since transferred from Bihar), Murshidabad, Purulia, Nadia, Hooghly** and
- **24-Parganas (excluding the areas of the 24-Parganas Forest Division and Sunderbans Tiger Reserve to which the forest Produce Transit Rules for 24-Parganas Forest Division apply)** and
- also to timber imported to and transported out of Calcutta and Howrah under Open General License which are moved by any of the routes within the boundaries of these districts.

## 4. Regulations – restrictions

**Rule 4** lays down the following restrictions- regulations:

- (1) Within the limits of the areas specified in rule 3, **no person shall conceal** any timber.
- (2) No timber or other forest-produce shall be moved **into, from or within** the districts referred to in rule 3, except under cover of a **transit pass** in the form prescribed in Appendix I.
  - The transit pass should be issued by an officer of the Forest Directorate not below the rank of a Forester duly authorised by the Divisional Forest Officer to issue the same;
  - The transit of produce should be in accordance with the conditions of such pass.
- (3) All timber, in respect of which a transit pass has been issued by the officers of the Forest Directorate, shall **bear a Government hammer mark the facsimile of which shall be imprinted on the connected pass.**
- (4) In respect of timber and other forest-produce from **Khasmahal forests** transit pass shall be issued by the Divisional Forest Officer or any officer duly authorised in this behalf on the production of a certificate of origin issued by the Khasmahal officer.



- (5) Movement of timber and other forest produce may be **prohibited by an order of the Circle Conservator during the period from 18.00 hrs. to 6.00 hrs.** of the following day.
- (6) In respect of timber and other forest- produce grown under Social Forestry Project on private lands, a tree-card in the form prescribed **in Appendix-II** shall be maintained by each owner of such land.
- The tree-card shall be in **triplicate** and shall be issued by the territorial Divisional Forest Officer.
  - One copy of the tree - card shall be retained by the owner of the land and the other copies by the Beat Officer and the Divisional Forest Officer.
- (7) The transit pass in respect of timber and other forest produce mentioned in sub-rule (6) shall be issued by the Beat Officer authorised by the territorial Divisional Forest Officer in this regard.
- The rotation, the number of trees issued against a transit pass and the balance left for harvesting shall be noted on the reverse page of the tree-card.
  - The number of the transit pass should be recorded on the reverse page each time the transit pass is issued.
- (8) The tree-card may be renewed or a duplicate issued in the event of loss, defacement or otherwise.
- (9) The Beat Officer shall use the departmental passing hammer for marking the trees mentioned in the transit pass. No property mark shall be necessary in any such case.

## 5. Fees for Transit Pass

**Rule 5** stipulates that **fees** for transit passes in respect of different items of forest-produce moved from the districts specified in rule 3 may be levied in accordance with **rates as may be prescribed by the Conservator of Forests from time to time.**

**5.1 Rule 5** further authorizes the Conservator of Forests to regulate, subject to the approval of Government, the movement of certain kinds of forest produce in short supply from the limits of the areas specified in rule 3.

## 6. Production of Transit Pass on demand Rule

### 6 requires

- Any person **importing, exporting or moving** timber or other forest produce into, from or within the areas specified in rule 3 **or**
- any persons **in possession or charge** of timber or other forest-produce in transit, **to produce the Transit Pass** referred to in rule 4 on demand by any Forest officer or Police Officer.



## 7. Stoppage for examination and check

Rule 7 (1) empowers any Forest Officer to stop all timber and other forest-produce to which these rules apply, and any cart, vehicle, boat, or other vessel suspected of carrying the same, within the limits of the area specified in rule 3 for the purpose of examination and check.

**1.1** Rule 7(2) provides that any sum due and payable to the Forest Directorate, Government of west Bengal, on such timber or other forest-produce shall be realised at the nearest forest office.

### 1.2 Seizure

**Rule 7(3)** provides –

- Any timber or other forest-produce not covered by a transit pass referred to in sub-rules (2) and (3) of rule 4, together with
- boats, carts, vehicles or cattle suspected to be carrying the same or
- any timber which is concealed in contravention of sub-rule (1) of rule 4, shall be **liable to seizure** and dealt with further under the provisions contained in Chapter IX of the Indian Forest act, 1927 (16 of 1927), and
- any cattle seized in this connection shall be liable to be impounded.

## 8. Procedure upon seizure

**Rule 8(1)** stipulates that any Forest Officer who has seized any forest-produce under rule 7 shall—

- (a) Immediately **issue a written notice** to the owner of such forest-produce, or if the owner is unknown, to the person in charge or possession of such forest-produce at the time of seizure, calling upon him to **produce proof of the origin of the forest-produce and his title thereto within thirty days from the date of issue of such written notice**, a copy of which shall be posted on a Notice Board at nearest forest office, and
- (b) **Submit a seizure report** in the prescribed form without delay to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

**Rule 8(2)** says that the seized forest-produce shall be released or confiscated under the provisions contained in Chapter IX of the Indian Forest Act, 1927 (16 of 1927).

## 9. Registration of Property Mark

Rule 9(1) requires any person, dealing in timber fashioned or unfashioned, to register with the Divisional Forest Officer concerned a property mark which, after approval of fees prescribed by the Conservator of Forests concerned, shall be registered in the Divisional Forest Office:

Proviso to Rule 9(1) authorizes the Divisional Forest Officer to ask, at his discretion and at any time, for the return of such registered property mark and replacement of the same by a fresh property mark duly approved by him.

## 1.2 Property mark on Timber

**Rule 9 (2)** lays down that

- all timber imported, exported or moved into, from or within the limits of the area specified in rule 3 shall be marked with a registered property mark in addition to a Government hammer mark as required under rule 4 (3);
- timber found without a registered property mark and a government hammer mark shall be liable to detention and seizure for enquiry under the provisions of rule 8.

## 1.3 More than one Property Mark admissible

**Rule 9(3)** provides that the Divisional Forest Officer may at his discretion permit any one person to register **more than one property mark**, provided that no two such marks shall have identical design.

## 1.4 Certificate of Registration

**Rule 9(4)** requires that a certificate of registration showing the design approved by the Divisional Forest officer and duly registered shall be furnished to the owner of a property mark. Certificates must be **returned annually** to the Divisional Forest Officer for the purpose of **renewal**.

## 1.5 Waive Registration

**Rule 9(5)** authorizes the Divisional forest Officer to waive the registration of a property mark in cases where small quantities of timber are to be moved within, from or into the area specified in rule 3. Application shall in all such cases be made to the nearest Forest Officer for the issue of a transit pass and the marking of such timber with a Government hammer.

## 1.6 Establishment of check-posts

**Rule 9(6)** states that the Divisional Forest Officer may, **in consultation with the Collector** concerned, provide for the establishment and regulation of Check Posts or Depots at which

- timber or other forest-produce shall be **stopped for examination or**
- for the payment of dues therefor or
- in order that Government hammer marks may be affixed to the same.

## 10. Bar on closing or obstructing of river etc.

**Rule 10(1)** prohibits closing or obstructing of any river, stream or channel or the bank of any river, stream or channel used or capable of being used for the transit of forest-produce; the sub-rule also prohibits any stoppage of navigation on such rivers, streams and channels for such transit.



### 10.1 Order by Collector for removal of stoppage-obstruction

**Rule 10(2)** provides that the Collector of the district may order any person who by any act of negligence, has caused such closure, obstruction or stoppage to remove the same within a time to be specified in writing and on the expiry of such period, may cause the obstruction to be removed at the cost of the person to whom such notice has been issued.

### 11. Penalty

**Rule 11(1)** stipulates that any person contravening any of the provisions of these rules 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.**

**Rule 11(2)** provides that penalties which are double of those mentioned in sub-rule (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 an offence.**



APPENDIX I  
Transit Pass  
FOREST DIRECTORATE , WEST BENGAL

Book No. -----

Serial No.-----

- ) □□□□□□□ □□□
- ) □□□□□□□ □□□□□□
- ) □□□□□□□□□□ □□□□□□/□□□□□□ □ □□□□□□
- ) □□□□□□□ □□□□□
- ) □□□□□□□ □□
- ) □□□ □□□□□ □□□□□ □□□□□/□□□□□□□ □□□□□
- ) □□□□□ □□□□□ □□□□□□□□ □□□□□ □□□□□ □□□□□ / □□□□□□□ □□□□□
- ) □□ □□□□□□□ □□ □□□□ □□ □□□□□ □□□□
- ) □ □□□□□□□□ □□□□□□□ □□□□□□□ □□□□□□ □□□
- ) □□□□ □□□□□□□□ □□□□□□ □□□□□□□ □□□□□□ □□□□□

□□□ □□□□□□□□□□□□ □□□□□□□□□□

(This pass shall be in triplicate in the above form in vernacular and serially numbered )



GOVERNMENT OF WEST BENGAL

□□□□□□□□ □□□□

FOREST DEPARTMENT

(□□ □□□□)

APPENDIX-II

□□□□□□□□ -□

Tree Identification Card

(□□□□□ □□□□□□□□)

1. Name ( □□□ ): \_\_\_\_\_
2. Father's Husband's Name( □□□□□ □□□/ □□□□□□□ □□□ ): \_\_\_\_\_
3. Address( □□□□□□ ): \_\_\_\_\_
4. Description of trees (□□□□□ □□□□□□):  
 Species ( □□□□□□□□ ) No. (□□□□□□) Year (□□□□)
5. Description of land( □□□□ □□□□□□):  
 a) Area ( □□□□□□ ): \_\_\_\_\_  
 b) Plot No.( □□□ □□ ): \_\_\_\_\_  
 c) Mouza and J.L.No. ( □□□□ □ □□.□□.□□ ): \_\_\_\_\_  
 d) Police Station & District ( □□□□ □ □□□□ ): \_\_\_\_\_
6. Signature ( □□□ ): \_\_\_\_\_
7. Name & Address of the first nominee  
 ( □□□□□ □□□□□□ □□□□□□□□□□□□□□□ □□□ □ □□□□□□ ): \_\_\_\_\_
8. Name & Address of the second nominee  
 ( □□□□□□□ □□□□□□ □□□□□□□□□□□□□□ □□□ □ □□□□□□ ): \_\_\_\_\_
9. The statement made above is true( □□□□□□□ □□□□□ □□□□ ): \_\_\_\_\_

Pradhan

B.L.L.R.O.

Range/Beat Officer

Gram Panchayat

(Signature with seal)

(Signature with Seal)

(Signature with Seal)

□□□□□□ □□□□□ □□□□□□□□□□

(□□□□ □□□□□ □□□□□□)

□□□□. □□. □□ □

(□□□□ □□□□□ □□□□□□)

□□□□□□ /□□□□□□□□ □□□□□□□□

(□□□□ □□□□□ □□□□□□)

Divisional Forest Officer

.....Division.

(□□□□□□□ □□□□□□□)

.....( □□□□□□ )

This pass will be used only by legal heirs and is not transferable (□□ □□□□ □□□□ □□ □□□□□□□□□□□□ □□□□□ □□□□□□□ □□□□ □□□□ □□□□ □□□□□□□□ □□□□ □□□□)



## The West Bengal Forest (Establishment and Regulation of Sawmills and other Wood-Based Industries) Rules, 1982

### 12. Definitions

Rule 2 lays down, inter-alia, the following definitions:

- (1) (a) “the Act” means the Indian Forest Act, 1927 (16 of 1927);
  - (b) “Authorised Officer” means a Forest Officer **not below the rank of an Additional Divisional Forest Officer** whom the State Government or any officer empowered by the State Government in this behalf may, by notification in the Official Gazette, authorize to carry out the provisions of all or any of the purposes of these rules and may assign him such local limits as may be specified in the notification<sup>1</sup>
  - (c) “factory” means any premises including the precincts thereof—
    - (i) wherein **ten or more workers** are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or
    - (ii) wherein twenty or more workers are working or were working on any day of preceding twelve months and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952) or a railway running shed;
  - (d) “Person” includes a body, a company or a society duly registered for the purpose of carrying on a business;
  - (e) “Saw-mill” means a mill for sawing timber or logs into logs or beams or scantlings or planks or battens and includes hand saws whether in a fixed structure or enclosure or not;
- (2) Any expression used in these rules but not defined, and defined in the Act, shall have the same meaning as in the Act.

<sup>1</sup> Vide Notification and subsequent amendment by Notification No.2080-For dated 22.06.2004.



### 13. Circumstances prohibiting establishment of sawmills, etc. and grant of license

**Rule 3(1) prohibits** establishment of saw-mill and other units including factories of the categories mentioned in section 51A\*.—

- (a) within a straight distance of **two kilometres** from the nearest Government forest boundary; and
- (b) without obtaining a license in **Form I** issued by an Authorized Officer.

\*[categories of factories mentioned in sec 51A of IFA 1927

- Ⓐ Katha (catechin) or cutch out of khair wood
- Ⓑ plywood, veneer, and wood panel products
- Ⓒ preparation of match-boxes and match splints
- Ⓓ boxes including packing cases made out of wood]

#### 1.1 Rule 3(2) requires -

- (a) All persons carrying on business in saw-mills and other units including factories immediately **before the commencement of these rules** shall also **obtain license** from the Authorised Officer.
- (b) for the purpose of clause (a) such persons shall apply in **Form II within a period of 5 (five) months<sup>2,3</sup> from the date of commencement of these rules** and may carry on the said business or occupation until a license is granted under these rules or is informed in writing about the refusal thereof.

### 14. Application for license

**Rule 4 stipulates –**

- (1) Every person intending to carry on business or occupation covered by these rules shall apply to the Authorised Officer in **Form II** for a license mentioned in Rule 3.
  - Application should be accompanied by the **clearance certificate** of ST/IT, Panchayat Samity / Municipality / Municipal Corporation/WBSEB/CESC and District Industries Centre with location details, viz PS, sheet No., Mouza, JL No. and Plot No.<sup>4</sup>
- (2) On receipt of an application for license, the Authorised Officer shall after making such **inquiry** as he may think fit and within a period of **sixty days** from the date of receipt of such application **either grant or refuse to grant the licence.**
- (3) For the purpose of inquiry under sub-rule (2) the Authorised Officer may exercise the following powers :
  - (a) enter into or upon any land, survey and demarcate the same, make a map thereof and authorize any other officer to do so;

<sup>2</sup> Amended vide Notification No.6466-For dated 01.10.1982.

<sup>3</sup> Substituted by “in Form IIA within the 31st December, 1986”, vide notification No. 3627-For/F.P/8P-II/82 Pt. I dated 08.09.1986.

<sup>4</sup> Amended vide Notification No.2730-For dated 16.08.2004.

- (b) call for such documents as he deems necessary for ascertaining the merit of the application.
- (4) In disposing of the applications for license, the Authorized Officer **shall consult** the Ban-O-Bhumi Sanskar Sthayee Samiti of the Zilla Parishad and the representative of the Department of Cottage and Small-Scale Industries of the concerned district. In the case of Calcutta, a Committee shall be constituted by the State Government with such members as it may consider necessary for such consultation by the Authorized Officer.<sup>5</sup>

## 15. Change of Ownership

**Rule 4(A)(1)** empowers the Authorized Officer to permit Change of ownership.

### 1.1 Change of name

**Rule 4(A)(2)** provides that if the owner desires to change the name of the unit, the **owner has to apply,**

- stating reasons for doing so, and
- by depositing a fee of Rs.100/- to the Authorised Officer, along with
- relevant papers including Income Tax/Sales Tax clearance certificate.<sup>6</sup>

## 16. Category of Licence<sup>7</sup>

**Rule 4(B)** says that Licence for sawmills and other wood based industries would be issued under **three categories** as—

- 1) Licence for wood based industries of **general category**.
- 2) Licence for **secondary units** of wood based industries.
- 3) Licence for units of wood based industries **dependent completely on imported timber**.

## 17. Terms and conditions for issue of licence under various categories According to Rule 4(C)

### I. General :

- Units of General category would be free to use raw material procured from any source;
- Such units would be free to install machinery of any category subject to prior clearance of the Authorised Officer and also subject to annual installed capacity.

<sup>5</sup> Inserted vide Notification No. 3637-For/FP/8P-11/82 Pt. I date 08.09.1986.

<sup>6</sup> Inserted vide Notification No. 3086-For/FR/O/FP/6M-49/2002 Pt. II dated 12.07.2005.

<sup>7</sup> Inserted vide Notification No. 3086-For/FR/O/FP/6M-49/2002 Pt. II dt. 12.07.2005



## II. Secondary Units:

Besides the provisions of the West Bengal Forests (Establishment and Regulation of Saw Mills and other Wood Based Industries) Rules, 1982 and its amendments made time to time, secondary units shall be subject to following specific regulations—

- (i) The secondary units of saw mills and wood-based industries would be categorized on the basis of the machinery installed.
- (ii) These units will have vertical band saw, for cutting of Blocks of timber (**sawn timber**) into smaller pieces. **No machinery for sawing of round logs (e.g. horizontal saw and trolley) or peeling/slicing of timber for plywood would be permitted.**
- (iii) These units will also include ply board pasting units (without peeling/slicing machines), furniture manufacturing units, handicrafts, toys making units and other ancillary units which use/process sawn timber.
- (iv) Such units would not be eligible to carry out sawing of round logs. **If the unit is found to have used round timber, whether from legal source or otherwise, its licence will be liable to be cancelled in addition to other penalties as applicable.**
- (v) Units having licence under this category would have to procure raw material from those converted by the primary licensed units under General Category.
- (vi) Sawn timber can be brought to the unit only with a valid transit permit. Record of all such TPs will be maintained and made available during the course of inspection/ surprise visit by the authorities.
- (vii) The annual installed capacity of the unit cannot be enhanced.
- (viii) Conversion of licence from this category to any other category of wood based units will not be permissible.

## III. Units running exclusively on imported timber.

Licence for units dependent **completely on imported timber** will be issued for units located in **identified zone as per Annexure**. Besides the provisions of the West Bengal Forests (Establishment and Regulation of Saw Mills and other Wood Based Industries) Rules, 1982 and its amendments made time to time, such units shall be subject to the following regulations:

- (i) The unit will exclusively use only imported timber.
- (ii) If at any point of time, during inspection/surprise check or by other means, the unit is found to have utilized any timber other than the imported timber brought under cover of a valid transit permit, the **licence of such unit shall be cancelled** in addition to other applicable penalties/action.
- (iii) The units will maintain complete and authenticated documents regarding the details of the imported timber and **submit a periodical report** to the Authorised Officer in the prescribed form. In addition, copies of agreement with importer, timber utilized, balance timber, import-export license, transit permits and other relevant documents will be kept at the factory premises by the licensee and make them available during inspection/surprise checks by the authority.
- (iv) Timber will be brought to the factory only under the cover of a valid transit permit. Record of all such TPs should be maintained and made available during the course of inspection/surprise visit by authorities.



- (v) The annual installed capacity of such units will not be enhanced.

Special licence fee may be prescribed by the State Government for this category, to be notified from time to time in Official Gazette.

## 18. Application for renewal of licence

### Rule 5(1) stipulates –

- (1) An application for **renewal of a licence** shall be made **in Form III** along with the declaration in form-VII once a year<sup>8</sup> and with the fee\* specified in Sub-rule (I) of Rule 6 before the expiry of the previous licence.

\*[**Rupees three hundred only**]

**A fine of Rs.10/- per day shall have to be paid** if the application for renewal of licence reaches the office of the Authorised Officer **after the expiry of the licence but within three months from the date of such expiry** beyond which such unit shall be treated as unauthorized.<sup>9</sup>

- (2) The Authorised Officer shall renew or refuse the license **within 30 days** from the date of receipt of the application.<sup>10</sup>
- (3) No application for renewal of a licence shall be rejected unless the holder of such licence has been given an opportunity of presenting his case, and unless the Authorised Officer is satisfied that—
- (i) the application for such renewal has been made after the expiry of the period specified therefor, or
  - (ii) any statement made by the person making application for the grant or renewal of the licence was incorrect or materially false, or
  - (iii) Such person has contravened any of the terms of conditions of the licence or any provision of the Act or these rules, or
  - (iv) Such person does not fulfil the terms and conditions for such licence.
- (4) **Up to six months** the power to renew the license or refuse the renewal shall vest with the concerned Conservator of Forests, subject to payment of Rs.1000/- lump sum and further subject to the conditions laid down in paras (ii), (iii) & (iv) of sub-rule **3** of Rule 5. The Conservator of Forests shall remain empowered up to 6 months of

<sup>8</sup> Inserted vide notification No. 2730-For dated 16.08.2004.

<sup>9</sup> Inserted vide notification No. 2730-For dated 16.08.2004.

<sup>10</sup> Inserted vide notification No. 2730-For dated 16.08.2004.

expiry of the license after which such unit shall be treated as unauthorized and will be liable for closure and the license will automatically be treated as cancelled.<sup>11</sup>



## 19. Procedure for making application for licence or renewal of licence

### According to Rule 6(1)

| Application under  | Requirement   |
|--|---|
| 1. Clause (b) of Sub-rule (2) of Rule 3 (Applicant carrying on business before commencement of the Rules),<br>2. Sub-rule (1) of Rule 4 (Applicant intending to carry on business) and<br>3. Sub-rule (1) of Rule 5 (Renewal of licence) | Application be accompanied by a challan as a token of deposit in the Government treasury or the State Bank of India or the Reserve Bank of India, Calcutta, of a non-refundable application fee of Rs. 300/- (Rupees three hundred) only. <sup>12</sup> |

#### 1.1 Licence Fee

##### Rule 6(2) stipulates that

The licence referred to in Sub-rule (2) of Rule 4\* shall be issued on payment of a licence fee of—

\*[ meaning licence to open a new business]

(α) For **small industries Rs. 1500/-** (Rupees One thousand and five hundred) only.

(β) For **medium industries Rs. 3000/-** (Rupees Three thousand) only.

(χ) For **large industries Rs. 5000/-** (Rupees Five thousand) only.<sup>13</sup>

##### 1.1.2 Further on Licence Fee, Processing Fee etc.

Rule 6(2) further provides

(i) <sup>14</sup>Licence for units under the category of units **dependent completely on imported timber** shall be issued on payment of such licence fee to be prescribed by the State Government by issuing notification from time to time in the Official Gazette.

<sup>11</sup> Inserted vide Notification No. 2730-For dated 16.08.2004.

<sup>12</sup> Modified and inserted vide Notification No. 2730-For dated 16.08.2004.

<sup>13</sup> Modified and inserted vide Notification No. 2730-For dated 16.08.2004.

<sup>14</sup> Inserted vide Notification No. 3086-For/FR/O//FP/6M-49/2002 Pt. II dated 12.07.2005.

- (II) a) Every unit based on imported timber, during the time of issue of licence, shall have to pay a **one time processing fee of Rs. 75,000/-** only for saw mills and Rs. 1.5 lakh only for veneer/plywood mill.
- b) Every unit under **General category**, during the time of issue of licence shall have to pay a **one time processing of Rs. 25,000/-** only, irrespective of its area of operation.
- c) Every unit under the **secondary unit category**, during the time of issue of licence shall have to pay a **one time processing fee of Rs. 5,000/-** only, irrespective of its area of operation: provided that secondary units dealing with **ply board pasting** shall have to pay a one time processing fee of **Rs. 25,000/-**.

## 19.2 Regulations on Licence

### Rule 6(2) also provides

- (III) Units issued licences under all categories will have the category mentioned clearly on the body of the licence;
- Licence will be issued in different coloured papers – **white for general units, pink for secondary units and green for units based on imported timber.**
  - It will be incumbent upon all licensed units to display the licence in original in the office of the unit.

#### 1.1.1 Rule 6(3) stipulates

Licence granted under these rules—

- (α) shall be **valid for one year** from the date it is granted,
- (β) shall not be transferable, and
- (χ) shall be renewable for a period not exceeding one year at a time on payment of **renewal fee** of—
  - (i) for **small industries Rs. 500/-** (Rupees Five hundred) only
  - (ii) for **medium industries Rs. 1000/-** (Rupees One thousand) only
  - (iii) for **large industries Rs. 2000/-** (Rupees Two thousand) only and such renewal shall be in **Form IV** for each unit.

**Note: For the purpose of Sub-rule 2 and 3 of Rule 6<sup>15</sup>**

| Type              | Installed Capacity per year                |
|-------------------|--|
| Small Industries  | Below 300 cu m                             |
| Medium Industries | More than 300 cu m but less than 1500 cu m |
| Large Industries  | Above 1500 cu m                            |



## 20. Shifting<sup>16</sup>

### Rule 6(A) stipulates

- If the owner desires to shift his saw mill/unit from one place to another but within the jurisdiction of the same Authorised Officer, he will apply to the Authorised Officer stating the reasons thereof.
- The Authorised Officer after making such enquiry as he deems fit, in terms of sub-Rule (2) of Rule 4, but within 30 days of receipt of the application, may grant the prayer, provided the nature of the business remains the same;
- or he may refuse it and record the reasons(s) of refusal in writing.
- However, if the application is made to shift the unit outside the jurisdiction of the present Authorised Officer, the Authorised Officer shall forward the application along with all relevant papers/documents together with a report after proper enquiry on the good conduct or otherwise of the unit to the second Authorised Officer in whose jurisdiction the unit is requested to be shifted.
- The second Authorised Officer shall deal with the matter in the same manner as mentioned hereinbefore and within 30 days of the receipt of the documents from the first Authorised Officer, shall grant the application or refuse the same after recording the reasons in writing.
- For units falling under imported timber based category, shifting will not be permissible.

## 21. Suspension or Cancellation of Licence

**Rule 7** provides that the Authorised Officer within whose jurisdiction the unit lies may for reasons to be recorded by him in writing, suspend or cancel any licence granted or renewed under these rules.<sup>17</sup>

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence an opportunity of being heard.

## 22. Appeal

### Rule 8(1) provides

An appeal from an order refusing to grant or to renew a licence under sub-rule (2) of Rule 4 or sub-rule (2) of Rule 5 as the case may be, or an order suspending or cancelling a licence under rule 7, shall lie—

- (α) if the order is made by the Authorised Officer, with the Conservator of Forests of the Circle concerned, or
- (β) if the order is made by the Conservator of Forests of the Circle concerned, with the Chief Conservator of Forests, West Bengal.

<sup>16</sup> Inserted vide Notification No. 3086-For/FR/O//FP/6M-49/2002 Pt. II dated 12.07.2005.





**Rule 8(2) requires** that an appeal under this rule shall be preferred **within 30 days** from the date of communication of the order appealed against and shall be registered in a book to be called the Register of appeal which shall be maintained by the appellate authority in **Form V**:

Provided that the appellate authority may admit any appeal preferred after the expiry of the period as aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

**Rule 8(3) stipulates** that every order passed in appeal under these rules **shall be final**.

### **23. Maintenance of register and submission of declaration to the Authorised Officer**

**Rule 9 requires**

- (1) A licensee under these Rules shall maintain register in Form VI & Form VII.<sup>18</sup>
- (2) Deleted.<sup>19</sup>

### **24. Inspection and verification of records**

**Rule 10 empowers that**

- (1) The Conservator of Forests of the Circle concerned or the **Authorised Officer or any Inspector not below the rank of a Deputy Ranger / Forester duly appointed**, may inspect and verify during working hours **without notice** the following within the premises of the saw-mills and other units including factories of a licensee—
  - (α) records required to be maintained under sub-rule (1) of rule 9;
  - (β) stock of raw materials present; and
  - (γ) stock of sawn timber or manufactured products or processed products.

**Rule 10 also requires that**

- (2) During such inspection and verification, the licensee or his authorized agent, employees and workers shall be lawfully required **to extend all possible assistance and produce all documents and records** as may be required during such inspection and verification.

### **25. Production of licence, permit etc for inspection and verification**

**Rule 11 provides** that for the purpose of rule 10, the licensee shall when required to do so, **produce immediately for inspection and verification-**

- (1) any licence, permit or other documents granted to him or required to be kept by him under the provisions of these rules;
- (2) any forest produce or raw material or manufactured or processed product or any product in the process of manufacture in his control, custody or possession whether located in the premises or not.



## 26. Transit pass for Forest Produce

**Rule 12 stipulates** that all forest produce entering or leaving a saw-mill and other units including factories shall be covered by a transit pass duly issued under the provisions of the West Bengal Forest Produce Transit Rules, 1959.

## 27. Appointment of Forest Officer as Inspector

**Rule 13** authorizes that as soon as may be after the commencement of these rules in any district, the Conservator of Forests of the Circle concerned may, for the purpose of these rules, appoint one or more Forest Officer not below the rank of a **Deputy Ranger / Forester as Inspector or Inspectors for an area** to be specifically mentioned in the order.

## 28. Penalties

**Rule 14 stipulates** that any person contravening any of the provisions of these rules shall be punishable with **imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.**<sup>20</sup>

### 1.1 Further on Penalties

**Rule 14(A)**<sup>21</sup> lays down -

- (i) For violation of any provisions as prescribed above, a notice for closure of such mill would be issued by the Authorised Officer.
- (ii) The owner of the licence would be given an opportunity of being heard for the violation of rule and for the first time, **a penalty in the form of fine may be imposed by the Authorised Officer along with suitable compensation for causing harm to the nature and environment.**
- (iii) **For second violation**, the Authorised Officer will be at his liberty to issue an **order for suspension** of licence for **a period up to six months** along with suitable fine and compensation.
- (iv) **For subsequent violation, the Authorised Officer will be at his liberty to issue an order for the closure of the unit.**
- (v) In such cases, the licensee **would be free to appeal** to the respective Conservator of Forests and Appellate Authority, against the order of the closure within 30 (thirty) days from the date of receipt of the said order. The decision of the Conservator of Forests (CF), in this regard will be final.
- (vi) If the CF finds it appropriate, he may refer the case to a committee comprising three members which would be constituted by the Principal Chief Conservator of Forests, in consultation with the Department of Forests.
- (vii) A defaulting unit will not be given any license in future for any other wood based industries.
- (viii) These provisions will be applicable to licensed units of all categories.

<sup>20</sup> Modified vide Notification no. 2730 dated 16.06.2004.

<sup>21</sup> Inserted vide Notification No. 3086-For/FR/O//FP/6M-49/2002 Pt. II dated 12.07.2005.



- (ix) For units having licence under secondary unit category, if at any point of time, during checking, they are found to have used round timber, whether from legal sources or otherwise, their licence will be cancelled immediately by the Authorised Officer.
- (x) For units having licence under the category of imported timber based units, if at any point of time during the course of checking, they are found to have used indigenous timber, whether from legal source or otherwise, their licence will be cancelled immediately by the Authorised Officer.
- (xi) The rates of compensation would be prescribed by the State Government from time to time, by issuing Government Order through notification.



**FORM I**  
[ See rule 3(1)(b).  
**Form of Licence**

Licence No. \_\_\_\_\_ dated the \_\_\_\_\_ day  
of \_\_\_\_\_ (month) \_\_\_\_\_ (year).

Subject to the provisions of Chapter VIII A of the Indian Forest, 1927 (16 of 1927) and the  
rules \_\_\_\_\_ made \_\_\_\_\_ thereunder

\_\_\_\_\_ (Name /names), inhabitants (s)  
of \_\_\_\_\_ (address to be given in  
details) in the Police Station \_\_\_\_\_ District \_\_\_\_\_  
\_\_\_\_\_, by profession \_\_\_\_\_, is/are hereby p e r -  
mitted to set up /run the following  
\_\_\_\_\_ Mill / Factory / Unit using

\_\_\_\_\_ as raw materials for a period of one year commencing on the \_\_\_\_\_ day of \_\_\_\_\_ a n d  
ending with the \_\_\_\_\_ day of \_\_\_\_\_.

1. Name of the Mill/Factory/Unit :
2. Location :
3. Installed capacity :
4. Capital value of the Mill/Factory . Unit
5. Employment—  
    ① No. of regular employees  
    ② No. of daily workers :
6. Licence fee paid :

Place :  
Date :

Signature of Issuing Authority  
( Seal )

## FORM II

[ See rules 3(2)(b) and 4(1) ]

### Form of application for licence for setting up to manufacture/for existing unit/ Manufacturing products based on forest produce.

To

The Conservator of Forests (or the Authorised Officer)

\_\_Circle, West Bengal Sir,  
I/We, inhabitant(s) of \_\_\_\_\_

(in block letters)

\_\_in the Police Station \_\_\_\_\_,  
District

(address to be given in details)

\_\_, by profession \_\_ apply for a licence for setting up of Factory/Mill/Unit (to manufacture) / manufacturing \_\_\_\_\_ for existing Unit  
/ Factory / Mill / and using

\_\_as raw materials. The particulars of the Factory / Mill/Unit are given herein below:

|    |  |   |  |
|----|--|---|--|
| 1. | Name of the Mill/Factory/Unit  | : |  |
| 2. | Location   | : |  |
| 3. | Whether a Limited Company, a Partnership or a Proprietorship business and the relationship of the applicant(s) with such company or partnership or proprietorship business (documents to be attached). | : |  |
| 4. | Capital value  | : |  |
| 5. | Rated capacity (volume of timber, etc. consumed per year)  | : |  |
| 6. | Expected source/sources of raw materials   | : |  |
| 7. | Labour<br>Strength of regular employees  | : |  |



|    |  |   |  |
|----|--|---|--|
|    | Strength of daily rated workers  |   |  |
| 8. | Source of capital investment   | : |  |
| 9. | Whether convicted of / penalized in any criminal/forest offence case         | : |  |
| 10 | Whether possessing more than one such Factory/Mill/Unit in the same circle   |   |  |
| 11 | Whether the licence fee is attached and if so, No. and date of challan/draft | : |  |

I have read Chapter VIII A of the Indian Forest Act, 1927 (16 of 1927) and the rules made thereunder and undertake to abide by the same.

Yours faithfully,

Date:

Place:

Signature of the Applicant(s)



FORM III  
[ See rule 5(1)  
**Form of Applications for Renewal of Licence.**

To  
The Conservator of Forests  
\_Circle West Bengal  
Sir,

I/We \_\_\_\_\_, inhabitant(s) of

(in block letters)

\_\_\_\_\_ in the Police Station \_\_\_\_\_, District \_\_\_\_\_  
, by profession \_\_\_\_\_ apply for renewal of my/our licence No. \_\_\_\_\_, dated \_\_\_\_\_  
\_\_\_\_\_ the validity of which expired on \_\_\_\_\_. The renewal fee of Rs. \_\_\_\_\_  
\_\_\_\_\_ only is enclosed as per challan/Bank Draft No. \_\_\_\_\_  
dated \_\_\_\_\_.

Yours faithfully,

Date:

Place:

Signature of the Applicant(s)



**FORM IV**  
[ See rule 6(3)(c) ]

No. \_\_\_\_\_

**Form of Renewal of Licence**

Dated : Dated

The licence is renewed and shall be valid up to\_\_\_\_\_. The licensee has paid the renewal fee of Rs. .... (Rupees ..... ) only.

Date: Place:

Signature of the Issuing Authority

( Seal )





**Form V [see  
Rule 8(2)]**

| Ap-<br>peal<br>case<br>no. | Name<br>and ad-<br>dress of<br>the ap-<br>plicant | Name<br>and ad-<br>dress<br>of the<br>respon-<br>dent | Date<br>of re-<br>ceipt | Date of<br>the or-<br>der<br><br>appealed<br>against | Grounds<br>of the<br>appeal<br>in<br>brief | Date<br>of<br>hear-<br>ing | Order<br>passed | Re-<br>marks |
|----------------------------|---|---|-------------------------|--|--|----------------------------|-----------------|--------------|
| 1                          | 2   | 3   | 4                       | 5  | 6  | 7                          | 8               | 9            |
|                            |   |   |                         |  |  |                            |                 |              |

**FORM VI  
( DAILY STOCK )  
[ See Rule 9(1) ]**

| Date | Opening Balance |                                  | Received |                                      |                                  |                               |
|------|-----------------|----------------------------------|----------|--------------------------------------|----------------------------------|-------------------------------|
|      | Round           | Convert-<br>ed cu. m<br>or units | Round    | R e f e r -<br>ence T.P/<br>Challa n | Convert-<br>ed cu. m<br>or units | Reference<br>T.P./Challa<br>n |
|      |                 |                                  |          |                                      |                                  |                               |

| TOTAL |                                | DISPOSAL                       | REF             | BALANCE |                                |
|-------|--------------------------------|--------------------------------|-----------------|---------|--------------------------------|
| Round | Converted<br>cu. m or<br>units | Converted<br>cu. m or<br>units | T.P/Chall<br>an | Round   | Converted<br>cu. m or<br>units |
|       |                                |                                |                 |         |                                |

At the end of the month, an abstract showing totals of receipts and disposals should be prepared.

**FORM VII  
( ANNUAL RETURN )  
[ See Rule 9(1) ]**

| OPENING BALANCE |           | RECEIVED |           | DISPOSED |           | CLOSING BALANCE |           |
|-----------------|-----------|----------|-----------|----------|-----------|-----------------|-----------|
| Round           | Converted | Round    | Converted | Round    | Converted | Round           | Converted |
|                 |           |          |           |          |           |                 |           |



## ANNEXURE

### Prescribed area for setting up of Saw Mills & other Wood Based Industries exclusively with imported timber

| <i>District</i>   | <i>Sub-division</i> | <i>Block/Municipality/Municipal Corporation</i>           |
|-------------------|---------------------|---|
| Purba Medinipore  | Tamluk              | All 7 Blocks & 1 Municipality                             |
|                   | Haldia              | All 5 Blocks & 1 Municipality                             |
| Hooghly           | 1. Sadar            | All 5 Blocks & 2 Municipality                             |
|                   | 2. Chandannagar     | All 3 Blocks & 3 Municipalities & 1 Municipal Corporation |
|                   | 3. Sreerampur       | All 4 Blocks & 5 Municipalities                           |
|                   | 4. Arambag          | All 6 Blocks & 1 Municipality                             |
| Howrah            | 1. Sadar            | All 5 Blocks & 1 Municipality & 1 Municipal Corporation   |
|                   | 2. Uluberia         | All 9 Blocks & 1 Municipality                             |
| North 24-Parganas | 1. Bongaon          | All 3 Blocks & 1 Municipality                             |
|                   | 2. Barasat          | All 7 Blocks & 6 Municipalities                           |
|                   | 3. Barrackpore      | All 2 Blocks & 16 Municipalities                          |
|                   | 4. Salt Lake        | Bidhannagar Municipalities                                |
|                   | 5. Basirhat         | All 10 Blocks & 3 Municipalities                          |
| Nadia             | 1. Ranaghat         | All 4 Blocks & 3 Municipalities                           |
|                   | 2. Kalyani          | All 2 Blocks & 3 Municipalities                           |
| Kolkata           |                     | Entire Area   |
| South 24-Parganas | 1. Sadar            | Entire Area   |
|                   | 2. Diamond Harbour  | Entire Area   |

**Lesson Plan:**

Objective: To

study:

- Powers of Forest Officers
- Miscellaneous rules and orders

Backward linkage:

- Provisions of the Indian Forest Act.
- Provisions of the Wildlife Protection Act

Note: Rules and orders prescribing the powers of the forest officers should be read with the provisions of the corresponding Acts. Certain notifications and orders under IFA are old and the sections of the Act they refer to might have been amended subsequently. In the event of contradictions with the Act (amended version), provisions of the Act, as amended, will prevail over such rules and orders.

Forward Linkage:

- During the tour, the trainees may be shown some case studies on application of the above Rules and orders.

Training materials required:

- Text of the above two Acts to be circulated beforehand
- Copy of lesson 14 to be circulated beforehand. Al-

location of time:

- Powers of the Officers under the Indian Forest Act – 20 mts
- Powers of the officers under the Wildlife protection Act – 15 mts
- Miscellaneous rules and orders – 15 mts.
- Discussion/miscellaneous – 10 mts

**Powers of officers under the Indian Forest Act, 1927 and the Wildlife (Protection) Act, 1972**

(Source: Compendium of Forest Acts, Rules and Orders, March 2012, Forest Department, GoWB; Notifications of State Government)



## 1. Powers of officers under the Indian Forest Act

No. 1922 T. R.—The 3<sup>rd</sup> October, 1912.— In exercise of the power conferred by the definition of “Forest Officer” in section 2 of the Indian Forest Act, 1878 (VII of 1878), the Governor in Council is pleased to appoint the officers of the Forest Department, Bengal, who are mentioned in column 1 of the following table, to discharge the functions of a “Forest Officer” under the sections of the said Act which are mentioned opposite their names in column 2 of the said table :—

| Officers   | Section of the Act                              | Brief description of function   |
|--|---|---|
| 1  | 2   | 3   |
| I. The Conservator of Forest, Bengal   | 25  | Powers to stop ways and water courses in reserved forests<br>(N.B. — This power is exercisable only with the previous sanction of the Commissioner of the Division in which the reserved forest is situated.) |
|  | 25(c) <sup>1</sup>                              | Power to notify the seasons at which fire may be kindled, kept or carried in a reserved forest.   |
|  | All sections mentioned hereafter in this column |   |
| II. All—<br>(i) Deputy Conservators  | 20 <sup>2</sup>                                 | Publication of translation of notifications declaring forests to be reserved.   |
| (ii) Assistant Conservators  | 25, penultimate paragraph <sup>3</sup>          | Power to permit prohibited acts in a reserved forest.   |
| (iii) Extra Deputy Conservators, and   | 33 <sup>4</sup>                                 | Power to permit prohibited acts in Protected Forest.  |
| (iv) Extra Assistant Conservators, in charge of Forest Divisions,<br><br>when within the local limits of their respective divisions. | 45, paragraph 2                                 | Power to notify depots for the receptions of drift and other timber.  |
|  | 46  | Giving notice of timber collected under section 45.   |
|  | 47, paragraphs 1 & 2                            | Powers for dealing with statements of claim to drift and other timber.  |

|   |  |   |
|---|--|---|
|   | 50                                       | Power to receive payments on account of drift and other timber. |
|   | 82, paragraph 2 <sup>5</sup>             | Power to sell forest produce for Government dues.               |
| III. All—   |  |   |
| (i) Deputy Conservators,  |  |   |
| (ii) Assistant Conservators,  |  |   |
| (iii) Extra Deputy Conservators, and  |  |   |
| (iv) Extra Assistant Conservators, and  | 25, penultimate paragraph <sup>6</sup> . | Power to permit prohibited acts in a Reserved Forest.           |
| (v) Rangers in receipt of a salary of at least Rs. 100 per mensem, who are subordinate to any officer mentioned in clause II above, when specially authorized in this behalf by the Conservator of Forests. | 33                                       | Power to permit prohibited acts in a Protected Forest.          |
| IV <sup>7</sup> . All—  |  |   |
| (i) Rangers in receipt of a salary of less than Rs. 100 per mensem.   |  |   |
| (ii) Deputy Rangers, and  | 25, penultimate paragraph. <sup>8</sup>  | Power to permit prohibited acts in a Reserved Forest.           |
| (iii) Foresters, who are subordinate to any officer mentioned in clause II above, when specially authorised in this behalf by the Conservator of Forests.   | 33 <sup>9</sup>                          | Power to permit prohibited acts in Protected Forest.            |
| V <sup>10</sup> . (a) All—  |  |   |
| (i) Deputy Conservators,  | 45, paragraph 2                          | Power to collect drift and other timber.                        |



|  |                 |  |
|--|-----------------|--|
| (ii) Assistant Conservators,   | 52, paragraph 1 | Power to seize property when a forest offence has been committed.                      |
| (iii) Extra Deputy Conservators,   |                 |  |
| (iv) Extra Assistant Conservators,   | 55              | Power to take charge of forest produce on the conclusion of a trial of forest offence. |
| (v) Rangers  |                 |  |
| (vi) Deputy Rangers  | 56              | Power to accept charge of confiscated property when the offender is not known.         |
| (vii) Foresters, and   |                 |  |
| (viii) Forest Guards whether on permanent or temporary establishments.                   | 69              | Power to seize and impound cattle trespassing in a reserved or protected forest        |
| (b) All Revenue Station Officers attached to the Sundarbans Forest Division.             | 82, paragraph 1 | Power to take possession of forest produce until Government dues are paid.             |
| VI. (a) All—   | 63, paragraph 1 | Power to arrest without warrant in cases mentioned in the section.                     |
| (i) Deputy Conservators,   |                 |  |
| (ii) Assistant Conservators,   |                 |  |
| (iii) Extra Deputy Conservators,   |                 |  |
| (iv) Extra Assistant Conservators,   |                 |  |
| (v) Rangers,   |                 |  |
| (vi) Deputy Rangers, and   |                 |  |
| (vii) Foresters, in charge of a Range, whether on permanent or temporary establishments. |                 |  |
| (b) All Revenue Station Officers attached to the Sundarbans Forest Division.             |                 |  |



|   |  |  |
|---|--|--|
| <p>VII. All—</p> <p>a) Foresters not in charge of a Range, and</p> <p>b) Forest Guards,</p> <p>whether on permanent or temporary establishment.</p> |  |  |
|---|--|--|

2. In exercise of the power conferred by section 24<sup>11</sup> of the said Act, the Governor in Council is further pleased to authorise all Commissioners of Divisions to sanction the stoppage of ways and water-courses, in reserved forests, under that section.
3. In exercise of the power conferred by section 60<sup>12</sup> of the said Act, the Governor in Council is further pleased to empower the Forest Officers mentioned in clauses I, II, III and IV in column 1 of the foregoing table to direct at any time the immediate release of any property seized under section 52 of the said Act.
- <sup>13</sup>4. In exercise of the power conferred by sub-section (1) of section 67 of the said Act, the Governor in Council is further pleased to empower—
  - (a) the Forest Officers mentioned in clause I and II in column 1 of the foregoing table, and
  - (b) such of the Forest Officers mentioned in clause III in column 1 of that table as may be specially authorised in this behalf by the Conservator of Forests,

<sup>11</sup> Section 25 of the Indian Forest Act, 1927

<sup>12</sup> Section 61 of the Indian Forest Act, 1927.

<sup>13</sup> Section 68 of the Indian Forest Act, 1927



to accept money by way of compensation for offences, and to release property seized as liable to confiscation.

5. In exercise of the power conferred by section 71<sup>14</sup> of the said Act, the Governor in Council is further pleased to invest the Divisional Forest Officer, Sundarbans, with the powers mentioned in clauses (c) and (d) of that section.
6. In exercise of the power conferred by clause (a) of section 75<sup>15</sup> of the said Act, the Governor in Council is further pleased to direct that the Forest Officers mentioned in clause VII of the foregoing table shall exercise the power to arrest without warrant under section 63 of the said Act in the following cases only—
  - (a) when an offence is committed near the frontier or border of a Native State.
  - (b) incendiary forest fire, and
  - (c) when there is reason to believe that the accused has given a false name or address and is likely to abscond

**93T. For.— The 3<sup>rd</sup> May 1941.**— In exercise of the powers conferred by sub-section (1) of section 72 of the Indian Forest Act, 1927 (Act XVI of 1927), the Governor is pleased to invest, ex-officio, all gazetted officers of the Forest Department, with the powers mentioned in clauses (a), (b), (c) and (d) of that sub-section.

**No. 7456 For.— The 17<sup>th</sup> April 1944.**— exercise of the power conferred by sub-section (1) of section 72 of the Indian Forest Act (Act XVI of 1927), the Governor is pleased to invest, ex-officio, all Rangers of the Forest Department, with the powers mentioned in clause (a) of that sub-section

**No. 3450 For.— 29<sup>th</sup> May 1948.**—In exercise of the power conferred by sub-section (2) of section 2 of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased to appoint the

<sup>14</sup> Section 72 of the Indian Forest Act, 1927.

<sup>15</sup> Section 76 of the Indian Forest Act, 1927





officers of the Directorate of Forests, West Bengal, mentioned in column 1 of the following table, to discharge the functions of a “Forest Officer” briefly described in column 3 of the said table under the provisions of the said Act specified in column 2 thereof opposite such officers, in the areas to which the relevant provisions of the said Act have been, or may from time to time be applied—

**Table**

| Officers |  | Provisions of the Act | Brief description of functions                  |
|----------|--|-----------------------|---|
| 1        |  | 2                     | 3   |
| I.       | Director of Forests <sup>16</sup>  | (1) Section 65        | (1) Power to release on bond a person arrested. |
|          | All Conservators of Forests (iii) All Deputy Conservators of Forests (iv) All Assistant Conservators of Forests (v) All Senior Forest Rangers                              | (2) Section 66        | (2) Power to prevent commission of offence.     |
| II.      | Forest Rangers who are subordinate to any Forest Officer mentioned above when specially authorised in this behalf by Conservators of Forests                               | As in item (1) above  | As in item (1) above.                           |
| III.     | (i) All Forest Rangers, (ii) All Deputy Rangers, (iii) All Foresters, (iv) All Head Forest Guards, (v) All Forest Guards, whether on permanent or temporary establishment. | As in item (2) above  | As in item (2) above.                           |

<sup>16</sup> The post has since been designated as Chief Conservator of Forests.



**2. Authorisation of Divisional Forest Officers for the purpose of sub-section (1) of section 59A of the Indian Forest Act, 1927**

**Government of West Bengal Forests  
Department  
For Branch**

No 1213 –For

Dated 8.4.2003

**NOTIFICATION**

In exercise of the power conferred by sub-section (1), read with sub-section (2) of section 59A of the Indian forest Act 1927 (XVI of 1927), the Governor is pleased hereby to authorise for the purpose of sub-section (1) of the said section, the officers holding the rank of Deputy Conservator of Forests mentioned in column (1) of the schedule below for the area mentioned against each in column (2) of the said schedule.

| <b>Sl No</b> | <b>Name of the Officers<br/>(1)</b>          | <b>Area<br/>(2)</b>  |
|--------------|--|--|
| 1            | DFO, Darjeeling                              | Sadar Sub-division of Darjeeling District                              |
| 2            | DFO, Kurseong                                | Sub-division of Kurseong and Siliguri Sub-divn., Darjeeling District   |
| 3            | Divisional Manager, Kalimpong                | Kalimpong Sub-division of Darjeeling District.                         |
| 4            | DFO , Jalpaiguri Division                    | District of Jalpaiguri   |
| 5            | DFO , Baikunthapur Division                  | District of Jalpaiguri & Siliguri Sub- division of Darjeeling District |
| 6            | DFO, 24-Pgs (South) Division                 | 24-Pgs (South) District  |
| 7            | DFO, 24-Pgs (North) Division                 | 24-Pgs (North) District  |
| 8            | DFO, Nadia and Murshidabad Division          | District of Nadia and Murshidabad                                      |
| 9            | DFO, West Medinipur Division                 | District of Paschim Medinipur  |
| 10           | DFO, East Medinipur Division                 | District of Paschim Medinipur  |
| 11           | DFO, Kharagpur Social Forestry Division      | District of Purba Medinipur and District of Paschim Medinipur          |
| 12           | DFO, Rupnarayan Planning and Survey Division | District of Paschim Medinipur  |
| 13           | DFO, Bankura North Division                  | District of Bankura  |
| 14           | DFO, Bankura South Division                  | District of Bankura  |
| 15           | DFO, Extension Forestry Division             | District of Purulia  |
| 16           | DFO, Panchet Soil Conservation Division      | District of Bankura  |
| 17           | DFO, Purulia Division                        | District of Purulia  |



|    |  |  |
|----|--|--|
| 18 | DFO, Kangsabati Soil Conservation-I Division     | District of Purulia  |
| 19 | DFO, Kangsabati Soil Conservation-II Division    | District of Purulia  |
| 20 | DFO, Birbhum Division                            | District of Birbhum  |
| 21 | DFO, Durgapur Social Forestry Division           | District of Burdwan  |
| 22 | DFO, Howrah Division                             | District of Howrah & Hooghly   |
| 23 | DFO, Burdwan Division                            | District of Burdwan  |
| 24 | DFO, Raiganj Social Forestry Division            | District of Uttar-Dinajpur & Dakshin Dinajpur  |
| 25 | DFO, Malda Division                              | District of Malda  |
| 26 | DFO, Coochbehar Social Forestry Division         | District of Coochbehar   |
| 27 | Deputy Field Director, Sundarbans Tiger Reserve  | District of South 24 Pgs   |
| 28 | Deputy Field Director, Buxa Tiger Reserve (West) | District of Jalpaiguri   |
| 29 | Deputy Field Director, Buxa Tiger Reserve (East) | District of Jalpaiguri   |
| 30 | DFO, Wild Life Division - I                      | District of Darjeeling   |
| 31 | DFO, Wild Life Division – II                     | District of Jalpaiguri & Kalimpong Subdiv. Of Darjeeling District                                  |
| 32 | DFO, Coochbehar Division                         | District of Jalpaiguri   |
| 33 | DFO, Utilisation Division                        | District of Kolkata within the meaning of Kolkata Municipal Corpn. Act 1980 ( W B Act LIX of 1980) |

By order of the Governor  
Sd/- P K Chanda



### 3. Authorization of Conservators of Forests under section 59C of the Indian Forest Act, 1927

#### Forest Branch

Government of West Bengal Forest department

No. 498-For

Dated:16.02.2004

#### NOTIFICATION

In cancellation of this Deptt.'s Notification No. 3935-For dated 11.12.2003 and in exercise of the power conferred by section 59C of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased hereby to specially empower, for the purpose of the said section, the Forest Officers holding the rank of Conservator of Forests mentioned in column (2) of the schedule below for the area mentioned against each in column (3) of the said schedule.

#### The Schedule

| <u>Sl.No.</u> | <u>Officers (s)</u>  | <u>Areas</u>  |
|---------------|--|---|
| 1             | General Manager, West Bengal Forest Development Corp. Ltd    | Sub-divisions of Kalimpong and Kurseong of Darjeeling District                          |
| 2             | Conservator of Forests, Northern circle, West Bengal         | Districts of Jalpaiguri, Cooch Behar and Subdivision of Siliguri of Darjeeling District |
| 3             | Conservator of Forests, Western Circle, West Bengal          | Sub-divisions of Sadar Darjeeling, Siliguri and Kurseong of Darjeeling District         |
| 4             | Conservator of Forests, Western circle, West Bengal          | Districts of Paschim Medinipur & Purba Medinipur.                                       |
| 5             | Conservator of Forests, Central circle, West Bengal          | Districts of Bankura and Burdwan.   |
| 6             | Conservator of Forests, Wildlife (North) circle, West Bengal | Districts of Darjeeling and Jalpaiguri  |
| 7             | Field Director, Buxa Tiger Reserve                           | District of Jalpaiguri  |
| 8             | Field Director, Sunderbans Tiger Reserve                     | District of South 24-Parganas   |



|    |  |  |
|----|--|--|
| 9  | Conservator of Forests, Marketing Cell.  | District of Calcutta within the meaning of Calcutta Municipal Corporation Act, 1980 (West Bengal Act. LIX of 1980) |
| 10 | Conservator of Forests (South), West Bengal and Joint Director, Sundarbans Biosphere Reserve | Districts of 24 Parganas South, 24 Parganas North, Nadia and Murshidabad   |
| 11 | Conservator of Forests, Soil Conservation (South) circle                                     | District of Purulia  |
| 12 | Conservator of Forests, Social Forestry (South) circle                                       | Districts of Birbhum, Burdwan, Howrah and Hooghly  |
| 13 | Conservator of Forests, Social Forestry (North) circle                                       | Districts of Malda, Uttar Dinajpur and Dakshin Dinajpur and Siliguri Sub-division of Darjeeling District           |

This issues in suppression of this Dept.'s Notification No. 132-For,4A-1/95 dated 10<sup>th</sup> January,1997 and all other previous orders issued in this respect.

By order of the Governor, Sd/- (P.

K. CHANDA)  
Joint Secy. to the Govt. of  
West Bengal

**3a. Corrigendum to Notification No. 498-For dated 16.02.2004  
Government of West Bengal Forest  
department  
Forest Branch**

**No. 881-For**

**Dated:11.03.2004**

**CORRIGENDUM**

The undersigned is directed by order of the Governor to say that in this Deptt.'s Notification No. 498- For dated 16<sup>th</sup> Feb., 2004 under the schedule in serial No. 1 "General Manager", West Bengal, Forest Development Corpn. Ltd." should be read as "General Manager (North), West Bengal Forest Development Corpn. Ltd." and in serial No. 3 under the same schedule "Conservator of forests, Western Circle, West Bengal," should be read as "Conservator of Forests, Hill Circle, West Bengal".

By order of the Governor, Sd/- P.

K. CHANDA  
Joint. Secy. to the govt. of West Bengal



#### 4. Appointment of Bana Shramiks / Bana Majoors to discharge the functions of Forest Officers

GOVERNMENT OF WEST BENGAL  
FORESTS DEPTT. FOR BRANCH  
G-Block, top floor, Writers'  
Buildings, Kol-1

No. 199-For/6M-1/05

Dated, Kolkata, the 19<sup>th</sup> January, 2005

#### NOTIFICATION

In exercise of the power conferred by Sub-section (2) of Section 2 of the Indian Forest Act, 1927 (XVI of 1927), the Governor is pleased to appoint the officers of Directorate of Forests, West Bengal mentioned in column 1 of the following table, to discharge the functions of a "Forest Officer" briefly described in column 3 of the said table under the provisions of the said Act specified in column 2 thereof opposite such officers, in areas to which relevant provisions of the said Act have been, or may from time to time be applied :-

#### TABLE

| Officers                     | Provision of the Act | Brief description of function  |
|------------------------------|----------------------|--|
| Bana Shramik/<br>Bana Majoor | Section – 57         | Power to accept charge of confiscated property when the offender is not known    |
|                              | Section – 69         | Power to seize and impound cattle trespassing in a reserved or protected forest. |
|                              | Section – 66         | Power to prevent commission of an offence.                                       |

By order of the Governor Sd/-  
S.Nag

Dy. Secy. to the Govt. of West Bengal

**5. Authorisation of officers for the purposes of various sections of the Wildlife (Protection) Act, 1972**

**Authorisation of officers for the purposes of section 55 of the Wildlife (Protection) Act, 1972**

GOVERNMENT OF WEST BEN-  
GAL FORESTS DEPARTMENT  
FOREST BRANCH

**NOTIFICATION**

No. 1269 – For/4A – 1/72

Calcutta, the 15<sup>th</sup> February, 1977

In exercise of the power conferred by the provisions of section 55 of the Wildlife (Protection) Act, 1972 (53 of 1972), the Governor is pleased hereby to authorise the following officers of the Forests Department, Government of West Bengal, for the purposes of the aforesaid section.

**Please see the government notifications in the Appendix**

1. Assistant Wildlife Wardens,
2. Additional Divisional Forest Officers,
3. Assistant Divisional Officers,
4. Assistant Forest Officers, and
5. Forest Rangers.

By order of the Governor, P.Bhattacharyya, Commissioner & Ex-officio Secretary to the Government of West Bengal



**6. Authorisation of police officers for the purposes of section 55 of the Wildlife (Protection) Act, 1972**

GOVERNMENT OF WEST BENGAL  
FOREST DEPARTMENT  
FOREST BRANCH  
NOTIFICATION

No. 2617 – For/11B – 12/84

Calcutta, the 25<sup>th</sup> June, 1986.

In exercise of the power conferred by section 55 of the Wild Life (protection) Act, 1972 (53 of 1972), the Governor is pleased hereby to authorise all police officers of the Government of West Bengal of and above the rank of Sub-Inspector for the purpose of the aforesaid section with respect to the areas under their respective jurisdiction.

By order of the Governor, Sd/-  
A.K.Mitra  
Dy. Secretary to the Govt. of West Bengal.

**Miscellaneous Rules and orders**

**7. Rules prescribing the procedure to be followed in case of firing by Forest officers**

(Government of Bengal, Forest and Excise Department, Forest Branch, letter No. 1297-For, dated the 3<sup>rd</sup> February 1940.)

If in the course of his official duties a forest officer, in the exercise of his right of private defense of person or property, has been compelled to resort to the use of firearms, the following procedure shall be adopted:

- (1) The wounded must be given first-aid. The wounded and the dead, if any, must be removed as quickly as possible to the nearest hospital.
- (2) As soon as this has been done, the senior forest officer present at the firing shall draw up a full report of the occurrence, stating-
  - a) The place of occurrence,
  - b) The names of the forest officers present,
  - c) The number of rounds fired,
  - d) The number and the names of the persons killed and /or wounded,
  - e) The measures taken to render first-aid and the hospital to which the casualties have been sent,



- f) An account of the events preceding and leading to the firing including an explanation of the reasons for the resort to firearms, and
  - g) Any other relevant details.
- (3) This report should be taken by the reporting officer to the nearest Range Officer who will immediately forward it in original to the officer-in-charge of the police-station within the jurisdiction of which the firing took place and shall also send a copy to the Divisional Forest Officer and to the District Magistrate.
  - (4) On receipt of his copy of the report the District Magistrate shall, if injuries have been inflicted as a result of the firing, depute a Magistrate to make a full inquiry to ascertain whether the firing was justified. This enquiry shall be executive or quasi-departmental and not a judicial enquiry. It should be independent of enquires made by the police or Magistrate under section 174 or 176 or other sections of the criminal procedure code, but the evidence recorded in such enquiries may be used. The report described in rule
    - (2) shall be laid before the enquiring officer without delay to assist him in his enquiry. The representation of parties by pleaders or other legal practitioners shall not be allowed, but officers whose conduct is at issue in the enquiry shall be allowed to examine or cross-examine witnesses and submit statements. On completion of the enquiry a report shall at once be sent to government by the enquiring officer through the usual channel and a copy made over to the Divisional Forest Officer for submission to the conservator of forests.
    - (5) The Divisional Forest Officer shall attend the enquiry and assist the enquiring officer.

### **8. Officers of the Forest Directorate in West Bengal who are exempted from prohibition under the Indian Arms Act, 1878 (xi of 1878)**

Government of West Bengal, Home Department (Police), Notification No. 1650-P1.— The 8<sup>th</sup> April, 1950— In exercise of the power conferred by item (4) of Schedule VII to the Indian Arms Rules, 1951, read with Government of India, Ministry of Home Affairs notification No. 19/1/58-Police (IV), dated the 23<sup>rd</sup> April 1958, the Governor is pleased hereby to declare to be in the public interest the possession of the one smooth bore gun by every such officer of the Forest Directorate of the Government of West Bengal as is eligible for the grant of an arm license and is certified by the Divisional Forest Officer, Government of West Bengal to be a Forest Rangers, Deputy Ranger/Forester, Head Forest Guard or Forest Guard and to require fire arms for the purpose of self-protection in the course of his duties.\*

[ \*Under rule 44(7) of the Indian Arms Rules, 1951, no fee shall be chargeable in respect of the grant or renewal of any license for the possession of the smooth bore gun. ]

Exemption of Police Officers and other Officers under section 1(b) of the Indian Arms Act, 1878 (XI of 1878).— Police Officers of and above the rank of sub-inspector, including sergeants, are authorised to possess one revolver as part of their equipment. They are, therefore, exempted under section 1(b) of the Arms Act from the obligation to take out a license in respect of a weapon so possessed.

The Government of India have held that section 1(b) covers cases where firearms are issued by Government to subordinate officers, including forest subordinates, for protection in the execution of their duty but do not form part of the officer's equipment. Such officers, therefore, do not require a license in respect of any firearms so issued.

[ Letter NO. 3863 P.J., dated the 21<sup>st</sup> September 1920, and the Government of India, Home Department, Letter No. F. 21/XXIII/24-Police, dated 14<sup>th</sup> April, 1925]



## 9. Issuance of single barrel rifles to Forest Rangers/ Deputy Rangers and Foresters

I. Govt. of West Bengal. Home Department's Order No. 4177-PL dated 5.5.1989

Government of West Bengal Home  
Department  
Police

### ORDER

No. 4177-PL.

In exercise of the powers conferred by sub-clause (1) of clause (b) of section 45 of the Arms Act, 1959 (Act 54 of 1959), (hereinafter referred to as the said Act), read with the Government of India, Ministry of Home Affairs, Notification vide GSR 1309 dated the 1st October, 1962, the Governor is hereby pleased to order that nothing in the said act shall apply to the acquisition, possession and transport of twenty single barrel rifles of .315 mm. bore with fifty rounds of ammunition for each, by the Principal Chief Conservator of Forests, Government of West Bengal, for issuing them to the Forest Rangers/Deputy Rangers/Foresters for possession and carrying in the course of their duties as such Forest Rangers/Deputy Rangers/Foresters within the limits of (i) Buxa Tiger Reserve, (ii) Gorumara Sanctuary, (iii) Chapramari Sanctuary and (iv) Mahananda Wild Life Sanctuary, for self-protection and protection of wild life.

By order of the Governor,

Sd/-

B. Dhar 5.5.89

Jt. Secy. to the Govt. of West Bengal

No. 4173(3)-PL.

Copy forwarded to the :

1. Forests Department of this Govt.
2. Director General & Inspector General of Police, West Bengal
3. Commissioner, Jalpaiguri Division for information.

**II. Govt. of West Bengal, Home Department's Order No. 7186-PL/PE/51-116/84 dated  
22.08.1991**

**Government of West Bengal Home  
Department  
Police  
ORDER**

No. 7186-PL/PE/51-116/84

In exercise of the powers conferred by sub-clause (1) of Clause (b) of section 45 of the Arms Act, 1959 (Act 54 of 1959), (hereinafter referred to as the said Act), read with Govt. of India, Ministry of Home Affairs, Notification vide GSR 1309 dated 1st October, 1962, the Governor is hereby pleased to order that nothing in the said Act shall apply to acquisition, possession and transport of three hundred and eleven single barrel rifles of .315 mm. bore with fifty rounds of ammunition for each by the Principal Chief Conservator of Forests, Government of West Bengal, for issuing them to the Forest Rangers/Deputy Rangers/Foresters for possession and carrying in the course of their official duties as such Forest Rangers/Deputy Rangers/Foresters under the five territorial Forest Divisions viz. (1) Jalpaiguri Division (2) Baikunthapur Division (3) Buxa Division (4) Cooch Behar Division (5) Kurseong Division for self-protection and protection of wildlife subject to the conditions:

(a) the D.F.O. should personally satisfy himself about the eligibility, age, physical fitness of the person to whom a rifle is issued.

(b) such person should be put through some training course before being given a rifle (such training may be arranged by the DFO with the assistance of the local S.P., a minimum period of training of, say, 15 days being prescribed).

(c) issue of rifles should be on absolute need basis.

(d) a system of periodical physical check on such arms and ammunition by a gazetted officer of Forest Deptt. may be desired. This check may be done once in every three months, if not once a month.

(e) a list of all such persons being issued with rifle should be maintained in the office of the D.F.O. a copy of which should be forwarded to the S.P. of the District.

No. 7186/1(3)-PL

Copy forwarded to the:

1. Forest Department of this Govt.

By order of the Governor,

Sd/-

S.K. Mukherjee

Jt. Secy. to the Govt. of West Bengal

2. Director General and Inspector General of Police, West Bengal
3. Commissioner, Jalpaiguri Division, P.D. & Dist. Jalpaiguri for information.

Calcutta,

The 22nd August, 1991



## 10. Order regarding compensation to forest personnel

Government of West Bengal  
Forest Department  
Forest Branch

No.6330-For. N/6M-11/82

Calcutta, the 31st August, 1989

From : The Deputy Secretary to the Govt. of West Bengal

To : The Principal Chief Conservator of Forests, West Bengal

Sub : **Proposal for sanction of compensation against death or injury of forest personnel sustained in course of performance of their official duties or on account of special nature of their job.**

The officers and staff under the Forest Department are, because of the special nature of their job, often exposed to danger and risk of life from the hands of miscreants who are involved in the theft of forest produce and poaching of wild animals. In fact, there are several instances where forestry personnel were hurt or lost their lives during the last few years in course of performing their official duties or on account of special nature of their job. The matter of awarding compensation against such death or injury sustained by the Forestry Personnel in course of performance of their official duties or on account of special nature of their job was decided individually by granting ex-gratia payments in such cases in addition to the usual benefits admissible under the existing rules and orders of the Govt. The question of bringing about uniformity in the rate of payment of such compensation for death and injury of Forestry Personnel has been under consideration of the Government for some time past.

2. In terms of the Govt. orders in force, a sum of Rs. 25,000.00 (Rupees twenty five thousand) only is payable to the families of the police personnel killed in course of due performance of their official duties or on account of special nature of their job, in addition to the benefits admissible under the Group Insurance-cum-Savings Scheme and other benefits like family pension and death gratuity to which they are normally entitled. Besides, compensation at certain prescribed rates is also admissible to the police personnel for injuries sustained by them in course of performance of their official duties.
3. As the duties performed by the officers and staff under the Forest Deptt. are very similar to those performed by the Police Personnel; and as the risk involved in both the cases are almost identical, the question of extension of the same benefits under similar circumstances to the forest personnel has been under consideration of Govt. for some past.
4. After careful consideration of the matter, the Governor has been pleased to accord approval to the payment of a compensation amounting to Rs. 25,000.00 (Rupees twenty five thousand) only to each of the families of the Officers and Staff under the Forest Deptt. killed in course of performance of their official duties on account of the special nature of their job, in addition to the benefits under the Group Insurance-cum-Savings Scheme and other benefits like family pension and death gratuity as normally admissible to them.



5. The Governor has been further pleased to decide that the Officers and Staff under the Forest Deptt. sustaining injuries under the circumstances mentioned above shall be insured against risk of injury, and thereby entitled to the compensation at the following rates :

| <b>Nature of injury</b>  | <b>Amount of compensation payable</b>              |
|--|--|
| A) Total permanent disablement disqualifying such officers and staff to continue in Govt. service  | Rs. 3,500.00                                       |
| B) Grievous hurts  |  |
| i) Emasculation  | Rs. 3,000.00                                       |
| ii) Permanent privation of the sight of either eye   | Rs. 1,050.00                                       |
| iii) Permanent privation of the hearing of either ear  | Rs. 1,050.00                                       |
| iv) Privation of any member or joint   | Rs. 800.00   |
| v) Deterioration or permanent impairing of the powers of any member or joint   | Rs. 1,200.00                                       |
| vi) Permanent disfiguration of head or face  | Rs. 600.00   |
| vii) Grievous hurts excluding those mentioned above, viz. fracture or dislocation of a bone or tooth or any hurt which causes the sufferer to be within the space of 20 days in severe bodily pain or unable to follow his ordinary pursuits | Rs. 10.00 per diem subject to a maximum of 50 days |

6. Compensation on daily basis shall be payable only when officers and staff under the Forest Department concerned are unable to attend their official duties as a direct result of the injuries sustained by them, subject to production of a medical certificate from the concerned medical authorities as indicated below :

(a) For officers and staff posted in Calcutta area— Presidency Surgeon

(b) For officers and staff posted outside Calcutta area— Chief Medical Officer of Health of the district concerned.

7. For the purpose of the order, the word “family” shall include—

(i) Wife in case of a male officer/staff.

(ii) Husband in case of a female officer/staff.

(iii) Minor sons and unmarried daughters, mother, father.

8. The charge will be debited to the head, “2406—Forestry and Wildlife-01-Forestry-001- Direction and Administration-Non-plan-1. GENERAL DIRECTION-Ex-gratia” during the current financial year (1989-90).

9. Sanction to the payment to be made in terms of the decisions in paragraphs 4 and 5 above, will be accorded by the Govt. in the Forest Department on the strength of this Standing Order on the basis of merit of each case.

10. This order issues with the concurrence of the Finance Deptt.— vide that Deptt.’s U/O No. 4744-Group A-II dated 7.8.84 and U/O No. 2503 Group ‘J’ dated 23.5.89.

11. The Accountant General, West Bengal is being informed.



## 11. Grant of rewards in forest offence cases

Sd/-

Deputy Secretary to the Government of West Bengal

(Bengal Government, Forest and Excise Department, Forests, Memo No. 10785-For./15R- 5/41, dated the 16th/23rd June 1944)

In supersession of all existing rules, the following rules shall regulate the grant of rewards for the prevention and detection of offences under the Indian Forest Act, 1927 (Act XVI of 1927):

1. **Persons eligible for rewards.**—All non-gazetted Government officers and persons not in the employ of Government are eligible for rewards under these rules.

2. **Rewards by whom granted.**—Rewards for the prevention and detection of offences under the Indian Forest Act, 1927 (Act XVI of 1927) may be granted by Divisional Forest Officers and Conservators of Forests or in the case of forests under the management of the Civil Department, by the District Officers.

3. **Information of cases, etc., to the Forest Officer or the District Officer.**—The District Officer shall arrange the information regarding prosecutions and convictions under the Forest Act and the imposition and realization of fines and confiscations thereunder shall be conveyed promptly by all Magistrates and Courts to the Forest Officer or the District Officer within whose jurisdiction the offence is committed.

4. **Limitations of powers to grant rewards.**—Subject to budget provisions, a Forest Officer or a District Officer may, in accordance with the instructions below, grant rewards to persons instrumental in the detection of an offence, the seizure of articles or the capture of offenders :—

(1) **Powers when fine is imposed and realised :** In a case in which a fine is imposed or property is confiscated the Forest Officer or the District Officer having jurisdiction may grant to a non-official or non-gazetted officer a reward not exceeding the amount of fine realized together with the sale proceeds of confiscated property.

(2) **Powers when fine is not imposed or realised :** When the offender on conviction is sentenced to imprisonment and no fine is imposed upon him, or if a fine is imposed, but the amount of fine imposed or the amount realised, is in the opinion of the Forest Officer or the District Officer inadequate as a reward, or if a fine is set aside on appeal, or no value of confiscated property is realised, and if the Forest Officer or the District Officer considers that the case is sufficiently important to justify the grant of rewards subject to budget provision, rewards may be given to any non-gazetted Government officer or to any person not in the employ of Government who may have contributed to the detection of the

offence or the discovery of the offender; but in such cases rewards, up to the limit specified below, shall be disbursed only under the sanction of the Conservator of Forests and shall be distributed in such proportions as he may think fit among the persons eligible for reward—

(a) In the case of non-officials up to a limit of Rs. 200 in each forest offence case.

(b) In the case of non-gazetted Government servants up to a limit of Rs. 50 in each forest offence case.

Divisional Forest officers and District Officers are not empowered to sanction rewards in such cases. Rewards to non-officials exceeding Rs. 200 in any single forest offence case or rewards to non-gazetted Government servants exceeding Rs. 50 in any one case require the previous sanction of Government.



(3) **Payment of rewards out of compensation realized under section 68 of the Indian Forest Act, 1927 (Act XVI of 1927) :** In cases where under section 68 of the Indian Forest Act, 1927 (Act XVI of 1927) a Forest Officer has accepted a sum of money as compensation for any damage which has been committed, the Conservator of Forests may authorise the payment of a portion of the amount realised as a reward to any person who may have contributed to the discovery of the offender. In the case of forests under the management of the Civil Department, the District Officer in charge of the forests is authorised to pay similar rewards out of the money realised as compensation for any damage committed.

5. **Period of appeal to be awaited.**—In a case in which an appeal lies against the order of the first Court, no reward shall be distributed to Government Officers, and no reward exceeding Rs. 100 shall be disbursed to private persons till the period of appeal is over or, if an appeal be made, till the result of such appeal is known.

In the event of the conviction being reversed on appeal, any amount paid in rewards shall not be recovered from a person to whom it has been disbursed unless it shall appear that he has acted fraudulently.

6. **Prompt payment of rewards.**—Rewards granted and ordered to be disbursed shall be paid promptly. Every endeavour shall be made by the Forest Officer or the District Officer, as the case may be, to disburse rewards granted up to 28<sup>th</sup> February before the close of the financial year.

7. **Rule governing payment.**—The payment of rewards is dependent in all cases on the existence of the necessary budget provision; but, if a reward has been sanctioned by a competent authority, rules 315 and 316 of the Bengal Financial Rules (rules 387 and 389 of the West Bengal Financial Rules, Volume 1) become applicable and it must be disbursed without delay.

8. **Account instructions.**—Fines and confiscations under the Forest Law are on realisation credited (1) to “Law and Justice” when imposed and realised by Judicial Officers (should such cases occur); and (2) to Forest Revenue when imposed and realised by Forest Officers. Rewards are, however, charged to the department ordering the payment.

- “**Public Prosecutor**” means any person appointed under section 24, and includes any person acting under the directions of a Public Prosecutor.
- “**Summons-case**” means a case relating to an offence, and not being a warrant- case.
- “**Warrant-case**” means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years.

## 2. Of Arrest:

The police officer or other person making the arrest touches or confines the body of the person to be arrested, unless he submits to the custody by word or action. If he forcibly resists or attempts to evade the arrest, such police officer or other person may use all means necessary to affect the arrest (Sec 46). Sub Section (3) of Sec 46 however stipulates that nothing in sec 46 gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life. The person arrested is not to be subjected to unnecessary restrained (Sec 49).

1.1. Every police officer or other person arresting any person without warrant shall forthwith communicate to him the grounds for his arrest and also, in case of bailable offence, his right to bail (Sec 50).



- 1.2.** Where the person arrested is not admitted to bail or cannot provide bail, he may be searched and all articles other than necessary wearing –apparel found upon him may be placed in safe custody. He should be given a receipt of articles seized from him. Whenever it is necessary to cause a female to be searched, it shall be made by another female with strict regard to decency (Sec 51).
- 1.3.** Any weapons about the person of the arrested person may be seized and delivered to the court or officer before which or whom he is produced (Sec 52).
- 1.4. Medical examination on arrest:** Where the examination of the person becomes necessary for evidence as to the commission of an offence, a registered medical practitioner may examine him acting on request of a police officer, not below the rank of Sub-Inspector. In case of females, such examinations should be by a lady registered practitioner or under her supervision (Sec 53).

### 1.5 Detention

Please refer to **section 64(2) of the IFA, 1927**, which states that 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.

**According to section 56 of CrPC**, a police officer must send without delay the person arrested before a Magistrate or the officer-in-charge of a police station. **Section 57 of CrPc** further states that the police officer cannot detain such person in custody for more than **twenty-four hours** in the absence of a special order of a Magistrate. Section 57 of CrPC will apply to arrest made by a forest officer under section 64(2) of the IFA. That means, he is required to send the person arrested before a Magistrate without unnecessary delay and within twenty-four hours.

**15.1 Human Rights Issues-** It is required to ensure that while in detention, the human rights of the person arrested are by no means violated. According to Protection of Human Rights Act, 1993, “human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

[Note:

- Persons arrested must be informed of the full particulars of the offence committed and the grounds for arrest. (Sec.50 Cr. P.C. & Art 22 (1) - Constitution of India)
- Persons arrested cannot be detained for more than 24 hours in Police Custody (Sec.56/57 Cr.P.C. & Art 22 (2) Constitution of India).
- The arrested person has a right to consult and be defended by a legal practitioner of his choice (Article 22 (1) of the Constitution of India).
- If the arrested person is poor, he can get free Legal Assistance from the Legal Services Authority (Art 39 A Constitution of India).
- The person arrested, has a right to be examined by a registered medical practitioner to disprove the commission by him of any Offence or to establish commission by any other person of any offence against his body.
- In the case of a woman the medical examination has to be made only by a female registered medical practitioner.]





### 3. General Provisions relating to Search (sec 100):

Persons in charge of closed places must allow free ingress and egress and facilities to the officer and person executing the search warrant. The officer or the person making the search must

- (1) call two or more independent and respectable inhabitants of the locality, or of another locality, to witness the search;
- (2) make the search in their presence;
- (3) prepare a list of all things seized and have it signed by the witnesses;
- (4) permit occupant of the place searched or some person in his behalf to attend during the search, and
- (5) deliver a copy of the list to him;

If the person is a woman, search shall be made by another woman with strict regard to decency.

### 4. First Information Report

Though “First Information Report” or FIR is not mentioned in the Criminal Procedure Code, these words are understood to mean information recorded under section 154 of CrPC. According to section 154 of CrPC, every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, is (1) reduced to writing by him or under his direction, (2) read over to the informant, (3) signed by the informant, whether information given in writing or reduced to writing as aforesaid, and

(4) its substance is entered in a prescribed book. A copy of the information as recorded is given forthwith, free of cost, to the informant.

**4.1** [Note: The principal object of FIR from the point of view of the informant is to set the criminal law in motion. Thus while preparing FIR in writing, addressed to the officer-in-charge of the Police Station, the same may contain

1. Date, time and place of detection of offence
2. Names and designations of the forest officers present
3. A brief account of events preceding and leading to detection
4. A brief statement of offence committed
5. Name and other particulars of offender(s), if known.
6. Whether any arrest has been made, if yes, statement that such arrested person(s) being presented before the officer-in-charge of the police station.
7. Whether any seizure has been made, if yes, providing copy of seizure report as enclosure and information on the status of custody of seized produce.
8. Request to take necessary action under the law.]

**Some issues relating to forest offence**

### 5. Seizure Report

A seizure report should contain the following information.

- (1) Name of the officer making seizure, his signature and office seal of his designation should appear at the end.



- (2) Reference to the Act or rule or search warrant on the strength of which seizure is made.
- (3) Date and time when seizure is made.
- (4) Place where seizure is made. Location, address and such other description as may uniquely identify the place/spot and is readily available may be provided.
- (5) List of articles with description and measurement that have been seized.
- (6) Facsimile of seizure mark placed on seized articles (seizure hammer mark In case of timber, for other seized articles, facsimile of seizure hammer on a piece of paper pasted on such articles)
- (7) Signature, names and addresses of witnesses in whose presence seizure is made. (8). Acknowledgement with signature by the person (from whose charge or custody seizure is made) to the effect that the seizure has been made in his presence and that a copy of the seizure report has been received by him.
- (9) Name and particulars of the person under whose custody seized articles have been kept.
- (10) Reference to page(s) of Timber Measurement Notebook (TMNB) including the book number, where seizure has been recorded.

## 6. Prosecution Offence Report (POR)

What is commonly known as POR in forest offence is referred to as complaint in Cr PC. A complaint means an allegation made to a Magistrate about an offence committed by some person(s)(please see definition in paragraph 1). A forest officer makes this complaint in his capacity as a public servant. Based on this complaint or POR, if the Magistrate is satisfied that there is sufficient ground for proceeding, he may order issue of process. The Magistrate (a) in a summons case issues a summons for attendance of the accused, or (b) in a warrant case issues a warrant or summons as he thinks fit. Section 204 of Cr PC, however, says that no summons or warrant shall be issued until a list of the prosecution witnesses has been filed.

### 6.1 Preparation of POR

A POR should ideally contain the following information. (1).

Date and time of detection of offence.

- (2) Names of the forest officers present
- (3) A brief account of (a) the events preceding and leading to detection and (b) commission of offence.
- (4) Place of occurrence of the offence. If it is forest land, status of the forest, that is whether wild-life protected area, or reserved forest, or protected or unclassified forest etc, may be indicated along with a sketch map of the place of occurrence. A copy of the notification declaring the status of the forest land in question may also be enclosed.
- (5) Whether any inquiry into the said offence was held and the evidence received and recorded during such inquiry.
- (6) Mention of the section(s) and the Act which has been violated and provision of penalty under such section(s).
- (7) Names and other particulars of the offender(s), and if the identity of other offenders is established after inquiry, names of such offenders may be mentioned.
- (8) Whether any offender has been arrested, if so (a) reference to section and the Act which authorized the officer making such arrest, and (b) information about sending the arrested person to the Magistrate or releasing the accused on bond including reference to relevant section and Act, as the case may be, need be mentioned.

- (9) In case of arrest, issue of Memo of arrest and medical examination of the arrested person. Memo of arrest and certificate of medical examination may be enclosed.
- (10) Separate mention should be made of persons who upon inquiry or otherwise were known to have been involved in the offence but could not be arrested/interrogated.
- (11) Whether any seizure has been made, if so (a) reference to section and the Act which authorized the officer making such seizure, (b) seizure report, (c) report of identification of the seized produce by a competent authority, especially in case of wildlife articles (d) present status with regard to custody of seized produce and (e) reference to report of such seizure made to the Magistrate.
- (12) Whether the offender(s) had taken resort to any violent means, or forcibly resisted arrest or seizure or by any means prevented or attempted to prevent the forest officers from discharging their official duties.
- (13) List of prosecution witnesses (which should preferably include at least two non- official witnesses, if available) by whom the complaint is proposed to be established
- (14) List of documents /evidence in support of the complaint
- (15) Copy of Government notification authorizing the officer to submit complaints relating to the offence under the Act.
- (16) Prayer for issue of process under the law.

6.2. At least six copies of POR may be drawn- one copy each for (1) the Hon'ble Court, (2) Office copy bearing acknowledgement of receipt by the court, (3) DFO, (4) Law Cell, (5) APP, and (6) the Accused.



# APPENDIX

*[Handwritten signature]*  
20/11/14  
20/11/14  
20/11/14

Government of West Bengal Department of  
Forests  
For Branch  
Aranya Bhawan, Kolkata 700 098.

No. 2379 For/FR/O/11M-98/13

Kolkata, the 25<sup>th</sup> November, 2014

## NOTIFICATION

In exercise of the power conferred by Sub- Section ( 1) of the Section 4 of the Wildlife (Protection) Act, 1972 as amended upto date and in supersession of this Department's Notification issued previously in this respect, the Governor is pleased to appoint and delegate the power, with effect from the date of issues of this notification and until further orders, the officers holding the rank of Deputy Conservator of Forests mentioned in column (2) of the "the schedule" hereunder as Ex-officio Wildlife Wardens, West Bengal for their respective jurisdiction, comprising both forests and non-forests areas for the purpose of the aforesaid Act.

### "THE SCHEDULE"

| <b>Sl.No.</b><br><b>(1).</b> | <b>Name of the Posts</b><br><b>(2)</b>                     |
|------------------------------|--|
| 1                            | Divisional Forest Officer, Darjeeling Division             |
| 2                            | Divisional Forest Officer, Kurseong Division               |
| 3                            | Divisional Forest Officer, Wildlife Division-I             |
| 4                            | Divisional Forest Officer, Baikunthapur Division           |
| 5                            | Divisional Forest Officer, Jalpaiguri Division             |
| 6                            | Divisional Forest Officer, Wildlife Division-II            |
| 7                            | Divisional Forest Officer, Coochbehar Division             |
| 8                            | Divisional Forest Officer, Maida Division                  |
| 9                            | Divisional Forest Officer, Nadia-M.urshidabad Division     |
| 10                           | Divisional Forest Officer, 24-Parganas (North) Division    |
| 11                           | Divisional Forest Officer, 24-Parganas (South) Division    |
| 12                           | Divisional Forest Officer, Howrah Social Forestry Division |
| 13                           | Divisional Forest Officer, Purulia Division                |
| 14                           | Divisional Forest Officer, Bankura (South) Division        |
| 15                           | Divisional Forest Officer, Bankura (North) Division        |

|    |                            |                                      |
|----|----------------------------|--------------------------------------|
| 16 | Divisional Forest Officer; | Burdwan Division                     |
| 17 | Divisional Forest Officer, | Birbhum Division                     |
| 18 | Deputy Field Director,     | Sundarban Tiger Reserve              |
| 19 | Deputy Field Director,     | Buxa Tiger Reserve (East)            |
| 20 | Deputy Field Director,     | Buxa Tiger Reserve (West)            |
| 21 | Divisional Forest Officer, | Urban Recreational Forestry Division |
| 22 | Divisional Forest Officer, | Durgapur Division                    |
| 23 | Divisional Forest Officer, | Panchet Division                     |
| 24 | Divisional Forest Officer, | Kangsabati (North) Division          |
| 25 | Divisional Forest Officer, | Kangsabati (South) Division          |
| 26 | Divisional Forest Officer, | Medinipur Division                   |
| 27 | Divisional Forest Officer, | Jhargram Division                    |

Page 1 of 2

- 28 Divisional Forest Officer,  
 29 Divisional Forest Officer,  
 30 Divisional Forest Officer,  
 31 Divisional Forest Officer,  
 32 Divisional Forest Officer,

Kharagpur Division Rupnarayan Division Wildlife-II Division  
 Wildlife (Headquarters) Division Purba-Medinipur Division

- 33 Divisional Forest Officer, Raiganj Division  
 34 All the Divisional Forest Officers within their territorial jurisdictions in the State of West Bengal.

2. All the officers so appointed as Ex-officio-Wildlife Wardens, West Bengal shall be subordinate to the Chief Wildlife Warden, West Bengal in terms of Sub-Section (3) of Section-4 of the said Act.

3. In accordance with the provisions under Section - 5 (2) of the 'Wildlife (Protection) Act, 1972, as amended upto date, the Ex-officio-Wildlife Wardens, West Bengal are hereby delegated with the following powers and duties:-

All the powers delegated to Sub ordinate Ranks and Officers and the following Sections of the Wildlife (Protection) Act, 1972 as amended upto date:-

- 27(1)(b),  
 41(1),  
 50(3A),  
 34 (1),  
 44(2),



50(4),  
34(2),  
50(3),  
54,

By Order of the Governor,

Sd/-  
Principal Secretary to the Govt. of West Bengal  
Kolkata!

No. 2379 For/i (3),

Kolkata, the 25<sup>th</sup> Nov., 2014.

Copy forwarded for information to :-

1. The P.S. to MIC, Department of Forests, Govt. of West Bengal.
2. The Principal Chief Conservator of Forests (HoEF), West Bengal.
3. The Principal Chief Conservator of Forests, Wildlife & Chief Wildlife Warden, West Bengal..

Sd/-  
Joint Secretary to the Govt of West Bengal  
Kolkata,

Government of West Bengal

Government of West Bengal  
Department of Forests  
For Branch  
Aranya Bhawan, Kolkata 700 098.

#### NOTIFICATION

No. 2380 For/FR/O/11M-98/13

Kolkata, the 25<sup>th</sup> November, 2014

In exercise of the power conferred by Sub -Section (1) of the Section 4 of the Wildlife (Protection) Act, 1972 as amended upto date and in supersession of this Department's Notification issued previously in this respect, the Governor is pleased to appoint and delegate the power, with effect from the date of issues of this notification and until further orders, the officers holding the rank of Chief Conservator of Forests & Conservator of Forests mentioned in column (2) of the "The Schedule" hereunder as Ex-officio Deputy Chief Wildlife Wardens, West Bengal for their respective jurisdiction, comprising both forests and non forests areas for the purpose of the aforesaid Act .

#### " THE SCHEDULE "

Sl No

Name of the posts

## (2)

|  |                                      |
|--|--------------------------------------|
| Chief Conservator of Forests,  | South-East Circle                    |
| 2 Chief Conservator of Forests,  | South-west Circle                    |
| 3 Chief Conservator of Forests,  | Western Circle                       |
| 4 Chief Conservator of Forests,  | Wildlife (North)                     |
| 5 Chief Conservator of Forests,  | Central Circle                       |
| 6 Chief Conservator of Forests,  | Conservation & Extension             |
| 7 Chief Conservator of Forests<br>& Field Director   | Buxa Tiger Reserve ,                 |
| 8 Chief Conservator of Forests<br>& Field Director,  | Sundarban Tiger Reserve              |
| 9 Chief Conservator of Forests,  | Hill Circle                          |
| 10 Chief Conservator of Forests,   | Northern Circle                      |
| 11 Conservator of Forests,   | Wildlife (Headquarters)              |
| 12 Conservator of Forests<br>& Joint Director,   | Sundarban Biosphere-Reserve          |
| 13 Conservator of Forests,   | Parks & Gardens                      |
| 14 Conservator of Forests,   | Wildlife (North)Circle               |
| 15 Conservator of Forests,   | Administration Publicity & Marketing |
| 16 Conservator of Forests1   | North-West Circle                    |
| 17 All the Chief Conservator of Forests & Conservator of Forests<br>within their territorial jurisdiction in the State of West Bengal. |                                      |

2. All the officers so appointed as Ex-officio Deputy Chief Wildlife Wardens, West Bengal shall be subordinate to the Chief Wildlife Warden, West Bengal in terms of Sub-Section (3) of Section-4 of the said Act.

3. In accordance with the provisions under Section - 5 (2) of the Wildlife (Protection) Act, 1972, as amended upto date, the Ex-officio Deputy Chief Wildlife Wardens, West Bengal are hereby delegated with the following powers and duties :-

All the powers delegated to Sub ordinate Ranks and Officers and the following Sections of the Wildlife (Protection) Act, 1972 as amended upto date :-



11 (1)(b),  
31, 39 (3),  
40 (1),  
40 (2),  
40 (4),  
44 (7),  
43 (2),  
45,  
44 (3),  
47 (a) (ii),  
44 (4)(a),  
44 (4)(b),

By Order of the Governor,

Sd/-  
Principal Secretary to the Govt. of West Bengal Kolkata,

No. 2380 For/1(3) ;

Kolkata, the 25<sup>th</sup> .November.....,2014.

Copy forwarded for information to :-

1. The P.S. to MIC, Department of Forests, Govt. of West Bengal.
2. The Principal Chief Conservator of Forests (HoEF), West Bengal.
3. The Principal Chief Conservator of Forests, Wildlife & Chief Wildlife Warden, West Bengal.

Sd/-  
Joint Secretary to the Govt of West Bengal  
Kolkata,

Page 2 of 2





*one*  
*22/11/14*  
*D. K. Ghosh*  
Government of West Bengal Department of Forests  
For Branch  
Aranya Bhawan, Kolkata 700 098.

No. **2381 For/FR/O/11M-98/13**  
Kolkata, the 25<sup>th</sup> Nov., 2014.



## NOTIFICATION

In exercise of the power conferred by Sub-Section (1) of the Section 4 of the Wildlife (Protection) Act, 1972 as amended upto date and in supersession of this Department's Notification issued previously in this respect, the Governor is pleased to appoint and delegate the power, with effect from the date of issues of this notification and until further orders, the officers holding the rank of Additional Principal Chief Conservator of Forests mentioned in column (2) of the "The Schedule" hereunder as Ex-officio Additional Chief Wildlife Wardens, West Bengal for their respective jurisdiction, comprising both forests and non-forests areas for the purpose of the aforesaid Act.

Sl No.

**(1)**  
1  
2  
3

### "THE SCHEDULE"

#### Name of the posts

**(2)**

Additional Principal Chief Conservator of Forests,

Additional Principal Chief Conservator of Forests & Director, Additional Principal Chief Conservator of Forests,

Wildlife, West Bengal Sundarban Biosphere Reserve North Bengal

4 All the Additional Principal Chief Conservator of Forests within their territorial jurisdiction in the State of West Bengal.

2. All the officers so appointed as Ex-officio Additional Chief Wildlife Wardens, West Bengal shall be subordinate to the Chief Wildlife Warden, West Bengal in terms of Sub-Section (3) of Section-4 of the said Act.

3. In accordance with the provisions under Section - 5 (2) of the Wildlife (Protection) Act, 1972, as amended upto date, the Ex officio Additional Chief Wildlife Wardens, West Bengal are hereby delegated with the following powers and duties.

All the powers delegated to Subordinate Ranks and Officers and the following Sections of the Wildlife (Protection) Act, 1972 as amended upto date: -

28 (1)(a),                      28 (1)(b),                      28 (1) (c),                      28 (1)(d),                      28 (1) (e).

By Order of the Governor,

Sd/-

Principal Secretary to the Govt. of West Bengal  
Kolkata.

No.2381: \_ For/ I (3)

Copy forwarded for information to :-

Kolkata , the 25<sup>th</sup> Nov., 2014.

1. The P.S . to MIC, Department of Forests, Govt. of West Bengal.
2. The Principal Chief Conservator of Forests (HoEF), West Bengal.
3. The Principal Chief Conservator of forests, Wildlife & Wildlife Warden, West Bengal.

Sd/-  
Joint Secretary to the Govt. of West Bengal  
Kolkata.

Government of West Bengal  
Department of Forests  
For Branch  
Aranya Bhawan, Kolkata 700 098.

No. 2382 For/FR/O/11M-98/13

Kolkata, the 25<sup>th</sup>

November, 2014

**NOTIFICATION**

In exercise of the power conferred by Sub-Section (2) of Section- 5 of the Wildlife (Protection) Act, 1972 as amended upto date and in supersession of this Department's Notification issued previously in this respect, the Governor is pleased to delegate the power, with effect from the date of issues of this notification and until further orders, mentioned in table below of the "The Schedule" hereunder for their respective jurisdiction, comprising both forests and non-forests areas for the purpose of the aforesaid Act.

**" THE  
SCHEDULE"**

| Sl. No. | Power delegated to   | Section of Wildlife (Protection) Act, 1972  | Name of the Posts   |
|---------|--|---|---|
| 1       | Deputy Ranger/Forester,<br>Forest Guard,<br>Wildlife Guard,  | 50 (1) (a),<br>50 (1) (b),<br>50 (1) (c)  | Beat Officer,<br>Forest Guard,<br>Wildlife<br>Guard.                                    |
| 2       | Forest Ranger-   | All the Sections under Wildlife (Protection) Act, 1972 as amended upto date delegated to the Sub ordinate officers and<br>27 (2) (c),<br>47 (b),<br>55. | Range Officer,<br>Range Warden.   |
| 3       | Assistant Wildlife Warden,<br>Assistant Divisional Forest Officer,<br>Assistant Conservator of Forest. | All the Sections under Wildlife (Protection) Act, 1972 as amended upto date delegated to the Sub ordinate   | Assistant Wildlife Warden,<br>Assistant Divisional Forest Officer,<br>Attached Officer. |



|  |   |  |
|--|---|--|
|  | <p>officers and<br/>34 (A)<br/>39 (2),<br/>50 (6),<br/>50 (8) (a),<br/>50 (8) (b),<br/>50 (8) (c),<br/>50 (8) (d).”</p> |  |
|--|---|--|

2. All the officers so delegated with powers shall be subordinate to the Chief Wildlife Warden, West Bengal in terms of Sub-Section (3) of Section-4 of the said Act.

By Order of the Governor,

No.2382\_\_For/ 1 (3)

Copy forwarded for information to :-

Sd/-

Principal Secretary to the Govt. of West Bengal Kolkata,

Kolkata, the 25<sup>th</sup> Nov,2014.

1. The P.S . to MIC, Department of Forests, Govt. of West Bengal.

2. The Principal Chief Conservator of Forests (HoEF), West Bengal.

3. The Principal Chief Conservator of Forests, Wildlife & Chief Wildlife Warden, West Bengal.

Sd/-

Joint Secretary to the Govt of West Bengal

Kolkata,

(Footnotes)

- 1 Section 26(c) of the Indian Forest Act, 1927 (16 of 1927).
- 2 Section 21 of the Indian Forest Act, 1927 (16 of 1927).
- 3 Section 26 of the Indian Forest Act, 1927 (16 of 1927).
- 4 Section 34 of the Indian Forest Act, 1927 (16 of 1927).
- 5 Section 83(2) of the Indian Forest Act, 1927 (16 of 1927).
- 6 Section 26(2) of the Indian Forest Act, 1927 (16 of 1927)
- 7 Amended by notification No. 193-M.R., dated the 13th January 1913
- 8 Section 26(2) of the Indian Forest Act, 1927 (16 of 1927)
- 9 Section 34 of the Indian Forest Act, 1927 (16 of 1927)
- 10 Amended by notification No. 193-M.R., dated the 9th January 1913.

