

Fifteenth Kerala Legislative Assembly

Bill No. 228

THE KERALA FOREST (AMENDMENT) BILL, 2024

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BILL

further to amend the Kerala Forest Act, 1961.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Forest Act, 1961 (4 of 1962) for the purposes hereinafter appearing;

BE it enacted in the Seventy-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Forest (Amendment) Act, 2024.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In the Kerala Forest Act, 1961 (4 of 1962) (hereinafter referred to as the principal Act), in section 2,—

(a) clause (a) shall be renumbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

"(a) "bark" means the hard outer covering of the woody stem or root;"

(b) after clause (b), the following clause shall be inserted, namely:—

"(ba) "fishing" includes catching of fish by poisoning of rivers or by planting poisonous substances in rivers or any other water bodies or by using explosives or by electrocution and every such attempt to catch fish;"

(c) for clause (c), the following clause shall be substituted, namely:—

"(c) "Forest Officer" means any person appointed by name or as holding an office by or under the orders of the Government to be a Principal Chief Conservator of Forests, Additional Principal Chief Conservator of Forests, Chief Conservator of Forests, Conservator of Forests, Deputy Conservator of Forests,

Assistant Conservator of Forests, Divisional Forest Officer, Deputy Director (Wildlife), Wildlife Warden, Wildlife Assistant, Range Forest Officer, Deputy Range Forest Officer, Section Forest Officer, Timber Depot Officer, Beat Forest Officer, Tribal Watcher and Watcher, or to discharge any function of a Forest Officer under this Act or any rules made thereunder;";

(d) in clause (f),—

(I) for sub-clause (i), the following sub-clause shall be substituted, namely:—

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

(a) ivory;

(b) timber, charcoal, wood-oil, sandalwood oil, gum, resin, natural varnish, bark, lac, fibres and roots of sandalwood and rosewood; and";

(ii) in sub-clause (ii),—

(a) for the words and symbols "the following when found in, or brought from, a forest," the words and symbols "the following whether found in, or anybody brings from, a forest," shall be substituted;

(b) in item (d), after the words and symbol "surface soil," the word and symbol "sand," shall be inserted;

(e) in clause (l), for the word and symbol "bamboos," the words and symbols "bamboos excluding bamboos grown outside forest, reeds," shall be inserted;

(f) after clause (l), the following clauses shall be inserted, namely:—

"(m) "waste material" includes solid, liquid or gaseous substances which are discarded after primary use, any poisonous material, rubbish, junk, garbage, filth, excreta, toxic industrial rejection, unwanted or undesired or unusable material or any substance which causes injury or harm or damage or otherwise adversely affects the human beings or wildlife or forests or environment;

(n) "wild animal" means a 'wild animal' as defined in clause (36) of section 2 of the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972).”.

3. *Amendment of section 27.*—In section 27 of the principal Act, in sub-section (1),—

(a) for the words “one thousand rupees”, the words “five thousand rupees” shall be substituted;

(b) for the words “five thousand rupees”, the words and symbol “twenty-five thousand rupees” shall be substituted;

(c) in clause (e),—

(i) in item (ii), for the words “hedge or railing”, the words and symbols “hedge, railing or any structure, temporary or permanent in nature constructed for demarcation of boundary, including cairns and kayyalas” shall be inserted;

(ii) in item (v), after the word “stones”, the words “or sand” shall be inserted;

(iii) in item (vi), for the word and symbol “timber;”, the words and symbol “timber; or” shall be substituted;

(iv) after item (vi), the following items shall be inserted, namely:—

“(vii) litters or dumps plastic or any other waste material on the ground or poisons or dumps plastic or any other waste material into the water bodies and streams within or flowing into them, or uses explosives; or

(viii) enters with gun or explosives; or

(ix) feeds, teases or molests any wild animal; or

(x) enters for fishing, poisoning rivers or any other water bodies or collects fish from the rivers or any water bodies or attempts to do so, except for such right recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Central Act 2 of 2007).”.

4. *Amendment of section 29.*—In section 29 of the principal Act, in subsection (2), for the words “two hundred rupees”, the words “two thousand rupees” shall be substituted.

5. *Amendment of section 32.*—In section 32 of the principal Act, for the words “one hundred rupees”, the words “one thousand rupees” shall be substituted.

6. *Amendment of section 40.*—In section 40 of the principal Act, in subsection (1), for the words “five hundred Rupees”, the words “five thousand rupees” shall be substituted.

7. *Amendment of section 47A.*—In section 47A of the principal Act, after clause (a), the following clause shall be inserted, namely:—

“(aa) “Appellate Officer” means the Principal Chief Conservator of Forests or any other officer not below the rank of Conservator of Forests authorised by the Government by notification in the Gazette for the purpose of this Chapter;”.

8. *Amendment of section 47B.*—In section 47B of the principal Act, in subsection (2),—

(a) after the words “for his own use”, the words and symbols “or for sale through the Forest Department or, subject to the provisions of this Act and the rules made thereunder, for any other bonafide use, irrespective of the age of the tree” shall be inserted;

(b) for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that the provision for sale and bonafide use under subsection (2) shall not apply to sandal trees, if any, reserved by the Government at the time of assignment of such lands or trees standing on any land notified under section 5 of the Kerala Preservation of Trees Act, 1986 (35 of 1986) or the areas notified by the custodian under the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (21 of 2005).”.

9. *Amendment of section 47C.*—In section 47C of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Any person aggrieved by the decision of the authorised officer refusing to grant or renew a licence or cancelling or suspending such a licence under this section may, within two months from the date of receipt of the order of such decision, appeal to the Appellate Officer and the Appellate Officer may, within one month from the date of receipt of the appeal, make such order as he may think fit. An appeal against the decision of the Appellate Officer may be filed before the Government within three months from the date of receipt of such order and the Government may make such order as they may think fit."

10. *Amendment of section 47E.*—In section 47E of the principal Act,—

(a) in the marginal heading, for the words “authorised officer”, the words “Forest Department” shall be substituted;

(b) for the words “authorised officer”, the words “Forest Department” shall be substituted.

11. *Amendment of section 47G.* —In section 47G of the principal Act,—

(a) in sub-section (1),—

(i) for the words “ten thousand rupees”, the words “twenty thousand rupees” shall be substituted;

(ii) for the words and symbol “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(iii) in the proviso, for the words “twenty thousand rupees”, the words “forty thousand rupees” shall be substituted;

(b) in sub-section (2),—

(i) for the words and symbol “twenty-five thousand rupees”, the words “thirty thousand rupees” shall be substituted;

(ii) for the words “rupees one lakh”, the words “one lakh fifty thousand rupees” shall be substituted;

(iii) in the proviso, for the words “fifty thousand rupees”, the words “sixty thousand rupees” shall be substituted;

(c) in sub- section (3),—

(i) for the words and symbol “twenty-five thousand rupees”, the words “thirty thousand rupees” shall be substituted;

(ii) for the words “rupees one lakh”, the words “one lakh fifty thousand rupees” shall be substituted;

(iii) in the proviso, for the words “fifty thousand rupees”, the words “sixty thousand rupees” shall be substituted.

12. *Amendment of section 52.*—In section 52 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) When there is reason to believe that any person has committed a forest offence, any Forest Officer not below the rank of a Beat Forest Officer or a Police Officer may,—

(a) require such person to produce for inspection any forest produce in his control, custody or possession or any permit or records or other documents granted to him or required to be kept by him under the provisions of this Act;

(b) stop any vehicle or conduct search or inquiry or enter upon and search any building, premises, land, vehicles or vessels in occupation of such person, open and search any baggage or other containers in his possession;

(c) seize any timber or other forest produce along with any weapons, tools, ropes, chains, boats, vehicles and cattle used in committing any such offence in violation of the provisions of the Act.

Explanation.— The terms “boats” and “vehicles” in this section, section 53, section 55, section 61A and section 61B shall include all the articles and machinery kept in it whether fixed to the same or not."

13. *Amendment of section 53.*—In section 53 of the principal Act, for the word "Ranger", the words "Range Forest Officer" shall be substituted.

14. *Amendment of section 61A.*—In section 61A of the principal Act,—

(a) in sub-section (1), for the word “firewood”, the words and symbols “firewood, bark, sand” shall be substituted;

(b) in sub-section (2), for the word “firewood”, the words and symbols “firewood, bark, sand” shall be substituted.

15. *Amendment of section 61B.*—In section 61B of the principal Act,—

(a) in sub-section (1)—,

(i) after the word and symbol “firewood,”, the words and symbols “bark, sand,” shall be inserted;

(ii) in clause (a), after the word and symbol “firewood,”, the words and symbols “bark, sand,” shall be inserted;

(b) in sub-section (2), for the word “firewood”, the words and symbols “firewood, bark, sand” shall be substituted.

16. *Amendment of section 62.*—In section 62 of the principal Act, for the words “one thousand rupees”, the words and symbol “twenty-five thousand rupees” shall be substituted.

17. *Substitution of new section for section 63.*—For section 63 of the principal Act, the following section shall be substituted, namely:—

“63. *Power to arrest without warrant.*—(1) Any Forest Officer not below the rank of a Beat Forest Officer or any Police Officer may, without orders from a Magistrate or without a warrant, arrest and detain any person reasonably suspected of having been indulged in any forest offence, unless he is satisfied that such person will appear and answer any charge which may be preferred against him.

(2) Any Forest Officer, not below the rank of a Section Forest Officer may, without an order or without a warrant from a Magistrate, arrest and detain any person who obstructs him or any other Forest Officer or officer subordinate to him while in execution of discharge of his duties or who has escaped from his lawful custody, if the situation so warrants.

(3) Any person arrested under any provisions of this Act shall be informed, as soon as may be, of the grounds of arrest and shall without delay be produced before the officer-in-charge of the nearest forest station or police station, as the case may be, or before the investigating officer and such officer shall thereupon act according to law.

(4) All arrests under this Act shall be made in accordance with the procedure laid down in the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act 46 of 2023).”.

18. *Amendment of section 64.*—In section 64 of the principal Act, for the word “Ranger”, the words “Range Forest Officer” shall be substituted.

19. *Amendment of section 68.*—In section 68 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any Forest officer not below the rank of an Assistant Conservator of Forests may,—

(a) accept from any person, reasonably suspected of having committed any forest offence, other than an offence punishable under section 47G, section 62 or section 65, a sum of money equivalent to the maximum fine amount prescribed for the offence under the Act or the rules made thereunder by way of compensation for the offence which may have been committed and where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer or confiscate such property to the Government;

(b) after institution of the prosecution, on an application from the accused, compound, with the permission of the court, any offence other than an offence punishable under section 47G, section 62 or section 65, alleged against such accused, by accepting a sum of money and value of property assessed in the manner as specified in clause (a):

Provided that though an offence has been compounded under this sub-section, it shall be deemed to be a previous commission of the same offence for the purpose of determining whether a second or subsequent offence has been committed and no such second or subsequent offence shall be compounded under this clause.”.

20. *Amendment of section 69.*—In section 69 of the principal Act, the existing section shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) When, in any prosecution of an offence punishable under this Act, it is found that a person is in possession, custody or control of any forest produce, it shall be presumed that such person is in unlawful possession, custody or control of any forest produce, until the contrary is proved."

21. *Amendment of section 72.*—In section 72 of the principal Act, the existing section shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) The Government may invest with any Forest Officer not below the rank of a Range Forest Officer, the power to issue a certificate, in such form as may be prescribed, on the identity in respect of any forest produce on an application submitted before him for examination of such forest produce. Such certificate may be used as evidence of the facts stated therein, in any proceedings under this Act."

STATEMENT OF OBJECTS AND REASONS

The forest area in the State are often used by a section of people as a place for dumping waste materials such as plastics and biodegradable and non degradable wastes thereby polluting the forest areas. The aforesaid situation, if left uncontrolled, will endanger the very existence of various rare types of flora and fauna in forest areas. Hence, littering, dumping plastic or any other waste material on the ground or dumping plastic and waste material into, or poisoning, the water bodies and rivers within or flowing into them in the forest areas are to be made offences under the Act.

2. Section 27 of the Act provides penalties for offences committed in Reserved Forests and acts prohibited in such forests. The Government have decided to include damaging, altering or removing structures of boundary demarcation like cairns, kayyalas etc. and quarrying of sand also as offences under the Act.

3. It was also decided to include entry with gun or explosives, feeding, teasing or molesting any wild animals, entry for fishing, poisoning rivers or water bodies or collecting fish from the rivers or any water bodies within or attempting to do so in the Reserved Forest areas, as offences under the Act.

4. In remote forest areas the protective staff has to face severe resistance including attack from organised gangs. Most forest offences takes place inside interior forest and waiting for orders from a Magistrate or Superior Officers to arrest and detain the person may lead to the escape of culprits. Hence, such officers are to be empowered to arrest the culprits if found necessary. Therefore Government have decided to give some more powers to Forest Officers so as to overcome the practical difficulties and legal issues being faced.

5. As the amount of fine that can be imposed for various offences under the Act are found to be meagre in the present scenario, the Government have decided to enhance the amount of fine. It is also decided to make clarity in the provisions for compounding of certain offences under the Act.

6. Government have also decided to relax the restrictions for cutting sandal trees from private lands, other than those reserved to Government during assignment of such land and those in the notified areas under the Kerala Preservation of Trees Act, 1986, so as to promote planting of sandal trees. Provision has also to be made for granting permission to the land owners to sell their sandal tree through the Forest Department.

7. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause (aa) of section 47A proposed to be inserted in the Kerala Forest Act, 1961 by clause 7 of the Bill seeks to empower the Government to authorise the Principal Chief Conservator of Forests or any other officer not below the rank of

Conservator of Forests as the Appellate Officer by notification in the Gazette for the purpose of Chapter VI A of the said Act.

2. Sub-section (2) of section 72 proposed to be inserted in the said Act by clause 21 of the Bill seeks to empower the Government to prescribe the form of the certificate to be issued by the Forest Officer, on the identity in respect of any forest produce.

3. The matters in respect of which rules may be made, or notifications may be issued, are matters of procedure and are of routine or administrative in nature. Moreover, the rules so made and the notifications issued are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

A. K. SASEENDRAN.

EXTRACT FROM THE KERALA FOREST ACT, 1961

(4 OF 1962)

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2. *Definitions.*—In this Act, and in all rules made thereunder, unless the context otherwise requires,—

(a) “cattle” means cows, oxen and bulls and includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, kids and fowls and such other kinds of animals as the Government may, by notification in the Gazette specify;

(b) “Collector” means the Chief Revenue Officer of a District and includes an acting or officiating Collector, and also any Officer appointed by the Government to exercise the functions of the Collector;

(c) “Forest Officer” means any person appointed by name or as holding an office by or under the orders of the Government to be a Chief Conservator, a Conservator, Deputy Conservator, Assistant Conservator, Divisional Forest Officer, Ranger, Deputy Ranger, Forester, a Timber Depot Officer, Forest Guard, Forest Plantation Maistry, Watcher, Game Warden, Assistant Game Warden, Game Ranger, Game Forester, Game Guard, or to discharge any function of a Forest Officer under this Act or any rule made thereunder;

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(f) “forest produce” includes—

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

timber, charcoal, wood-oil, gum, resin, natural varnish, bark, lac, fibers and roots of sandalwood and rosewood; and

(ii) the following when found in, or brought from, a forest, that is to say,—

(a) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees;

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

(c) silk cocoons, honey and wax;

(d) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries);

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(l) “tree” includes palms, bamboos, stumps, brushwood and canes.

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27. *Penalties for trespass or damage in Reserved Forest and acts prohibited in such forests.*—(1) Any person who —

(a) does any act prohibited by section 7; or

(b) sets fire to a Reserved Forest or kindles or leaves burning any fire in such manner as to endanger the same; or

(c) sets fire to jungles or forests other than Reserved Forest and a land proposed to be constituted a Reserved Forest, without taking precautionary measures to prevent the spread of fire into Reserved Forest and land proposed to be constituted a Reserved Forest; or

(d) knowingly receives or has in possession of any forest produce illicitly removed from a Reserved Forest or a land proposed to be constituted a Reserved Forest; or

(e) in a Reserved Forest or in a land proposed to be constituted a Reserved Forest—

(i) cultivates or clears or breaks up any land for cultivation or for any other purpose or puts up any shed or other structures or plants trees; or

(ii) damages, alters or removes any wall, ditch, embankment, fence, hedge or railing; or

(iii) cuts or fells any trees or girdles, marks, lops, taps, uproots, burns, saws, converts or removes any tree including fallen or felled, or strips off the bark or leaves from or otherwise damages the same;

(iv) trespasses or pastures cattle or permits or causes cattle to trespass; or

(v) quarries stones, burns lime or charcoal or collects or subjects to any manufacturing process or removes any forest produce; or

(vi) causes any damage by negligence in felling any tree, reed or cutting or dragging any timber,

shall be punished with imprisonment for a term which shall not be less than one year but may extend to five years and with fine which shall not be less than one thousand rupees but may extend to five thousand rupees in addition to such compensation for damage done to the forest as the convicting court may direct to be paid.

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29. *Persons bound to assist Forest Officer and Police Officer.*—(1) ** **

(2) Any person who being bound so to do, without lawful excuse, the burden of proving which shall be upon such person, fails—

(a) to furnish without unnecessary delay to the nearest Forest Officer or Police Officer any information required by sub-section (1);

(b) to take steps as required by sub-section (1), to extinguish any forest fire in a Reserved Forest;

(c) to prevent as required by sub-section (1) any fire in the vicinity of such forest from spreading to such forest ; or

(d) to assist any Forest Officer or Police Officer demanding his aid in preventing the commission in such forest of any forest offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender,

shall be punished with fine which may extend to two hundred rupees.

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32. *Penalties.*—Whoever pastures cattle or permits or causes cattle to trespass in land closed under section 31 shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

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40. *Penalty for breach of rules made under section 39.*—(1) The Government may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred Rupees or both.

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47A. *Definitions.*—In this Chapter, unless the context otherwise requires,—

(a) “sandalwood” means any portion of timber of sandal (*santalum album*) tree and includes bark, leaves and roots thereof, whether containing heartwood or not and whether in the form of roots, billets, pieces (sawn or otherwise) chips, (whether coloured or not and whether mixed with other ingredients or not) sawdust, spent wood, flakes, pulp or derivatives of sandalwood such as sandalwood oil;

(b) “authorised officer” means the Principal Chief Conservator of Forests or any other officer not below the rank of Divisional Forest Officer authorised by the Government for the purpose of this Chapter;

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47B. *Restriction on cutting and sale of sandal trees.*—(1) ** **

(2) The permission under sub-section (1) shall not be refused if the tree is dead or wind fallen or constitutes a danger to life or property or such cutting is to enable the owner of the land in which the tree stands to use the area cleared for the construction of a building for his own use:

Provided that before taking a decision under sub-section (2), a report as to the genuineness of the matter shall be obtained from a committee for each district

consisting of three members as may be authorised by the Government in that behalf.”.

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47C. *Prohibition of possession and transport of sandalwood and sandalwood oil.*—(1) ** **

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(4) Any person aggrieved by the decision of the authorised officer refusing to grant or renew a licence or cancelling or suspending such a licence under this section may, within such time as may be prescribed appeal to the Government and the Government may make such order as they may think fit.

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47E. *Price to be paid by the authorised officer.*— Where any quantity of sandalwood is offered under section 47B or any quantity of sandalwood or sandalwood oil surrendered under section 47D, the authorised officer shall pay the price thereof at the rates, as may be fixed by the Government from time to time.

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47G. *Penalty for offences in regard to sandalwood.*— (1) In any case of forest offence having reference to the cutting, uprooting or removal of a sandal tree or any part of sandal tree, the offender on conviction, shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with fine which shall not be less than ten thousand rupees but may extend to twenty-five thousand rupees:

Provided that in case of a second or subsequent offence, the term of imprisonment shall not be less than five years and the amount of fine shall not be less than twenty thousand rupees.

(2) Whoever contravenes the provisions of sub-section (1) and sub-section (2) of section 47C, shall on conviction, be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with

fine which shall not be less than twenty-five thousand rupees but may extend to rupees one lakh:

Provided that in case of second or subsequent offence, the term of imprisonment shall not be less than five years and the amount of fine shall not be less than fifty thousand rupees.

(3) Whoever contravenes the provisions of section 47D and section 47F shall on conviction be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with fine which shall not be less than twenty-five thousand rupees but may extend to rupees one lakh:

Provided that in case of a second or subsequent offence, the term of imprisonment shall not be less than five years and the amount of fine shall not be less than fifty thousand rupees.

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52. *Seizure of property liable to confiscation.*—(1) When there is reason to believe that a forest offence has been committed in respect of any timber or other forest produce, such timber or produce, together with all tools, ropes, chains, boats, vehicles and cattle used in committing any such offence may be seized by any Forest Officer or Police Officer.

Explanation.—The terms 'boats and vehicles' in this section, section 53, section 55, section 61A and section 61B shall include all the articles and machinery kept in it whether fixed to the same or not.

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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, boats, vehicles or cattle under the provisions of section 52, may release the same on the execution by the owner thereof 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.

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61A. *Confiscation by Forest Officers in certain cases.*—(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, where a forest offence is believed to have been committed in respect of timber, charcoal, firewood or ivory which is the property of the Government, the officer seizing the property under sub-section (1) of section 52 shall, without any unreasonable delay, produce it, together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence, before an officer authorised by the Government in this behalf by notification in the Gazette, not being below the rank of an Assistant Conservator of Forests (hereinafter referred to as the authorised officer).

(2) Where an authorised officer seizes under sub-section (1) of section 52 any timber, charcoal, firewood or ivory which is the property of the Government, or where any such property is produced before an authorised officer under sub-section (1) of this section and he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence.

61B. *Issue of show cause notice before confiscation under section 61A.*— (1) No order confiscating any timber, charcoal, firewood, ivory, tools, ropes, chains, boats, vehicles or cattle shall be made under section 61A unless the person from whom the same is seized—

(a) is given a notice in writing informing him of the grounds on which it is proposed to confiscate such timber, charcoal, firewood, ivory, tools, ropes, chains, boats, vehicles or cattle;

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(2) Without prejudice to the provisions of sub-section (1), no order confiscating any tool, rope, chain, boat, vehicle or cattle shall be made under section 61A if the owner of the tool, rope, chain, boat, vehicle or cattle proves to the satisfaction of the authorized officer that it was used in carrying the timber, charcoal, firewood or ivory without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat,

vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

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62. *Penalty for counterfeiting or defacing marks on trees and for altering boundary marks.*—Whoever, with intent to cause damage or injury to the public or any person or to cause wrongful gain as defined in the Indian Penal Code—

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

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

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

(d) alters, moves, destroys or defaces any boundary mark of any forest or any land to which any provisions of this Act apply,

shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

63. *Power to arrest without warrant.*—(1) Any Forest Officer or Police Officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence, if such person refuses to give his name and residence, or gives his name or residence which there is reason to believe to be false, or if there is reason to believe he will abscond.

(2) Any person arrested under this section shall be informed, as soon as may be, of the grounds of arrest and shall forthwith be taken or sent to the nearest Police Station and the Officer-in-charge of such Station shall thereupon act according to law.

64. *Power to release on bonds persons arrested under section 63.*—Any Forest Officer of a rank not inferior to that of a Ranger who or whose subordinates have arrested any person under the provisions of section 63 may release such person on bail 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.

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68. *Power to compound offences.*—(1) Any Forest Officer not below the rank of an Assistant Conservator of Forests may accept from any person, reasonably suspected of having committed any forest offence other than an offence under section 62 or section 65, a sum of money by way of compensation for the offence which may have been committed and where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer or confiscate such property to the Government.

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69. *Presumption that timber or 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 Central or State Government, such produce shall be presumed to be the property of the Central or State Government, as the case may be, until the contrary is proved.

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72. *Investing Forest Officers with powers.*— The Government may invest any Forest Officer not below the rank of an Assistant Conservator of Forests with all or any of the following powers, and may withdraw the same:-

(a) power to enter upon any land and survey, demarcate and make a map of the same;

(b) powers of a Forest Settlement Officer;

(c) powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(d) power to hold inquiries into forest offences and, in the course of such inquiries, to receive and record evidence and to issue search-warrants which may be executed in the manner provided by the Code of Criminal Procedure, 1898;

(e) power to accept compensation for forest offences under section 68 of this Act.

Any evidence recorded under clause (d) of this section shall be admissible in any subsequent trial of the alleged offender before a Magistrate; provided that it has been taken in the presence of the accused person and recorded in the manner provided by the Code of Criminal Procedure, 1898.

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