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FOREST UPDATE

THE FOREST (AMENDMENT) ACT, 2010 (XVII OF 2010)

Provincial Assembly Punjab wide Notification No. PAP-Legis-2(56)/2010/278 dated 21.10.2010



Part - 02 An Act.

12. Amendment in section 33 of Act XVI of 1927.- In the said Act, section 33 shall be substituted by the following:

“33. Offences relating to protected forests.- (1) A person, who in a protected forest:

- (a) fells, girdles, lops, taps or burns a tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, the tree;
 - (b) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest produce;
 - (c) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land of the forest;
 - (d) sets or kindles fire without taking reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of the forest;
 - (e) leaves any fire burning in the vicinity of any reserved tree or closed portion of the forest;
 - (f) fells any tree or drags any timber and damages any reserved tree;
 - (g) permits cattle to damage any reserved tree; and
 - (h) infringes any rule made under section 32;
- shall be punished in accordance with the provisions of this section.

(2) If a person contravenes any provision of sub-section (1), the person shall be liable to punishment of imprisonment for a term which may extend to six months or fine mentioned in sub-section (3) or to both.

(3) The value of the damage caused due to the offence and corresponding amount of fine for the offence shall be as follows:

- (a) if the damage is worth one thousand rupees or less, the fine may extend to ten thousand rupees;
- (b) if the damage is worth more than one thousand rupees but less than ten thousand rupees, the fine may extend to fifty thousand rupees;
- (c) if the damage is worth more than ten thousand rupees but less than twenty-five thousand rupees, the fine may extend to one hundred and fifty thousand rupees;
- (d) if the damage is worth more than twenty five thousand rupees but less than one hundred thousand rupees, the fine may extend to five hundred thousand rupees; and
- (e) if the damage is worth more than one hundred thousand rupees, the fine may extend to **ten times value of the damage**.

(4) If a person commits any offence under this section after sunset and before sunrise or where the person has been previously convicted for a forest offence, the person shall be liable to punishment of imprisonment which may extend to one year or double of the fine mentioned in sub-section (3) or to both.

(5) Nothing in this section shall be deemed as an offence, if the act is done-

- (a) with the permission in writing of the forest officer, or in accordance with the rules; and
 - (b) in exercise of any right under the Act, rules, grant or contract made by the Government.
- (6) If fire in a protected forest is caused willfully or by gross negligence, the Government may suspend exercise of any or all rights of pasture or to forest produce, for such period as it may determine.”

13. Amendment in section 33-A of Act XVI of 1927.- In the said Act, in section 33-A, sub-section (2) shall be substituted by the following:-

“(2) If a person fails to deliver possession of land to the forest officer or to remove the encroachment in contravention of the order of the Court under sub-section (1)-

- (a) the Court may order ejection of the person from the land or removal of the encroachment with such force as may be necessary and in the manner as may be prescribed;
- (b) the person shall be liable to fine which may extend to one thousand rupees for every day during which the person remains in possession of the land or fails to remove the encroachment after the expiry of the period fixed by the Court under sub-section (1); and
- (c) the Government may recover from the person the expenditures incurred on removal of the encroachment as arrears of land revenue.”

14. Insertion of section 34-A in Act XVI of 1927.- In the said Act, after section 34, the following section 34-A shall be inserted:

“34-A. Power to declare forest no longer protected.- (1) The Government shall not declare or notify a protected forest or any part of the protected forest as being no longer protected forest.

(2) The Government shall not allow change in land use of a protected forest, except for the purposes of right of way, building of roads and development of a forest park but the Government shall not allow construction of concrete building or permanent structure in the protected forest.”

15. Amendment in section 41 of Act XVI of 1927.- In the said Act, in section 41, in sub-section (2), clause (h) shall be substituted by the following:

“(h) prohibit absolutely or subject to conditions, within stipulated local limits, the establishment of sawpit, sawmill, charcoal kiln, timber or fire wood depot within five miles radius of the forest, converting, cutting, burning, concealing or making of timber, altering or effacing of any mark on the same or possession or carrying of marking hammer; and”

16. Amendment in section 42 of Act XVI of 1927.- In the said Act, in section 42, sub section (1) shall be substituted by the following:-



“(1) If a person contravenes any rule, the Government may prescribe that the person shall be liable to imprisonment which may extend to six months or fine which may extend to one million rupees or to both.”

17. Amendment in section 51 of Act XVI of 1927. In the said Act, in section 51-

(a) in sub-section (1), clause (b) shall be substituted by the following:

“(b) the use and registration of boats and other vehicles used in salving and collecting timber;”

(b) sub-section (2) shall be substituted by the following:

“(2) If a person contravenes any rule made under this section, the Government may prescribe that the person shall be liable to imprisonment which may extend to six months or fine which may extend to one million rupees or to both.”

18. Amendment in section 53 of Act XVI of 1927. In the said Act, section 53 shall be substituted by the following:

“**53. Power to release property.**- A forest officer not being below the rank of a Ranger, may release a tool, boat, vehicle or cattle, not being the forest produce, seized under section 52, on the execution of a bond by the owner of the property before the Magistrate, as and when required.”

19. Amendment in section 61 of Act XVI of 1927. In the said Act, section 61 shall be substituted by the following:

“**61. Power to release a seized property.**- Notwithstanding anything contained in this Chapter, an officer authorized in this behalf by the Government may direct immediate release of any property which is wrongfully seized under this Act, not being the property of the Government.”

20. Amendment in section 63 of Act XVI of 1927. In the said Act, section 63 shall be substituted by the following:

“**63. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.**-(1) If a person, with intent to cause damage or injury to the public or to any other person, or to cause wrongful gain-

(a) knowingly counterfeits upon any timber or standing tree a mark used by a forest officer to indicate that the 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 timber by or under the authority of a forest officer; or

(c) alters, moves, destroys or defaces any boundary-mark of a forest or wasteland to which the provisions of this Act are applied:

the person shall be liable to imprisonment for a term which may extend to two years or fine which may extend to one million rupees or both.

(2) If the offence under this section is committed after sunset and before sun rise or the accused is a previous convict for a forest offence, the accused person shall be liable to double of the penalty prescribed under sub-section (1).”

21. Amendment in section 64 of Act XVI of 1927. In the said Act, section 64 shall be substituted by the following:

“**64. Power to arrest without warrant.**- (1) A forest officer authorized by the Government may, without warrant, arrest a person, who is found committing an offence punishable with imprisonment under this Act.

(2) A forest officer may seize any forest-produce, tool or vehicle used in the commission of an offence under this Act.

(3) The forest officer shall produce the person arrested under this Act before the nearest Magistrate within twenty-four hours of the arrest or release the arrested person on bond or send the arrested person to the nearest police station.

(4) The forest officer shall produce the seized

property before the Magistrate.”

22. Insertion of section 64-A in Act XVI of 1927. In the said Act, after section 64, the following section 64-A shall be inserted:

“**64-A. Procedure relating to arrests, searches etc.**

(1) If a forest officer arrests a person or seizes a property, he shall, within twenty-four hours after the arrest or seizure, make a report of the particulars of the arrest or seizure to his immediate superior officer.

(2) A forest officer may, without search warrant, search any vehicle, boat or place, suspected or likely to be used for the commission of an offence under this Act.

(3) The provisions of the Code relating to arrest, seizure and search shall, as nearly as possible, apply to the arrest, seizure and search under this Act.

(4) A forest officer, not below the rank of a divisional forest officer, shall, within ten days of the arrest or seizure, submit a report before the Magistrate in the prescribed manner and such report shall be deemed as the report under section 173 of the Code.

(5) The Magistrate may conduct an enquiry or trial of an offence punishable under this Act in accordance with the procedure prescribed for the enquiry or trial under the Code.”

23. Amendment in section 65 of Act XVI of 1927. In the said Act, section 65 shall be substituted by the following:

“**65. Power to release an arrested person.** A forest officer, not being below the rank of a Ranger, who has arrested any person under this Act, may release the person, if the person executes a bond to appear before the Magistrate, forest officer or officer in charge of the nearest police station.”

24. Amendment in section 67 of Act XVI of 1927. In the said Act, for section 67 the following shall be substituted:

“**67. Powers to try offences summarily.**- (1) Notwithstanding anything contained in the Code, a Magistrate empowered in this behalf by the Government, may summarily try an offence punishable under this Act and imposed a punishment of imprisonment for a term not exceeding six months or fine not exceeding one million rupees or both.

(2) The Magistrate shall conduct the trial of an offence under this Act in accordance with the provisions of Chapter XXII of the Code relating to the summary trials.”

25. Amendment in section 68 of Act XVI of 1927. In the said Act, in section 68:

(a) sub-section (1) shall be substituted by the following:

“(1) The Government may, by notification, confer power on a forest officer:

(a) to accept from a person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 62 or section 63, a sum of money which is not less than the value of loss to the property of the Government, as compensation for the offence; and

(b) when any property has been seized, not being the property of the Government, to release the property on payment or without payment of compensation, as may be prescribed.”

(b) sub-section (3) shall be omitted.

26. Insertion of section 68-A in Act XVI of 1927. In the said Act, after section 68, the following section 68-A shall be inserted:

“**68-A. Reward in forest cases.**- The Government may, by notification and in the prescribed manner, allow a forest officer to reward a subordinate forest officer from the compensation recovered by the forest officer under section 68 which amount shall not be more than three fourth of the amount of compensation recovered from the person.”

27. Amendment in section 71 of Act XVI of 1927. In the said Act, section 71 shall be substituted by the following:

“**71. Powers to alter fines.**- The Government may, by notification, direct that in lieu of the fines fixed under section 12 of the Cattle-Trespass Act 1871 (I of 1871), the owner or occupant of the cattle, impounded under section 70, shall pay the fines, as the Government deems appropriate but such fines shall not exceed the following amounts:

for each buffalo or camel one thousand rupees for each horse, mare, gelding, pony, colt, filly, mule, bull, **bullocks**, cow, heifer five hundred rupees for each calf, ass, ram, ewe, sheep, lamb and goat. two hundred rupees.”

28. Amendment in section 77 of Act XVI of 1927. In the said Act, section 77 shall be substituted by the following:-

“**77. Penalty for breach of rules.** If a person contravenes any rule made under this Act and for which no penalty is provided under the Act, the person shall be liable to imprisonment for a term which may extend to six months or fine which may extend to ten thousand rupees or both.”

29. Amendment in section 79 of Act XVI of 1927. In the said Act, in section 79:-

(a) in sub-section (1), the words “reserved or protected forests” shall be substituted by the words “reserved, protected or unclassified forests”; and

(b) in sub-section (2), the words “which may extend to one month or with fine which may extend to two hundred rupees or with both” shall be substituted by the words “which may extend to three months or with fine which may extend to twenty five thousand rupees or with both.”

30. Insertion of section 80-A in Act XVI of 1927. In the said Act, after section 80, the following section 80-A shall be inserted:

“**80-A. Public private partnership for development of forests.**- (1) Subject to any other law, the Government may invite proposals from the private sector for the development of a forest, forest land or wasteland.

(2) The Government may enter into public private partnership for the development, preservation and conservation of a forest.

(3) Subject to the provisions of this Act, the Government may permit any person to use a forest land or wasteland for-

(a) increase in the productivity of the forest;
(b) developing the forest park without disturbing the natural features of the forest;
(c) developing a forest on a forest land or wasteland; or
(d) developing forest based industry without disturbing the natural features of the forest.

(4) The Government shall not permit use of forest land or wasteland for;

(a) construction of a permanent structure; or
(b) change of land use for the purpose other than development of forest or forest related activities; or
(c) a housing project .

(5) Subject to any other law, the Government shall enter into a detailed contractual arrangement with any person in accordance with the provision of this section.

(6) If, in the opinion of the Government, the person has violated any provision of this Act or the contractual arrangement, the Government may, in addition to any other penalty prescribed under this Act, recover possession of the forest land or wasteland from the person.

(7) Nothing in this section shall be construed to allow the Government or any person to permit or to do an act, which is prohibited or punishable under this Act.”

31. Omission of section 85-A of Act XVI of 1927. In the said Act, section 85-A shall be omitted.