

THE NAGALAND ACT 3 OF 1968

[THE NAGALAND FOREST ACT, 1968.]

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Received the assent of the President of India on the
27th March, 1968.

An Act to amend and consolidate the law relating to Forest, Produce, and the Duty liviable on timber in Nagaland.

Preamble. – WHEREAS it is expedient to amend and consolidate the law relating to forest, produce, and the duty leviable on timber in Nagaland;

It is hereby enacted in the Nineteenth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Title, extent and commencement. – 1. (1) This Act may be called the Nagaland Forest Act, 1968.

(2) It extends to the whole of Nagaland; Provided that the State Government may, by notification in the Official Gazette, exempt any place from the operation of the whole or any part thereof, and withdraw such exemption.

(3) It shall come into force on such day as the State Government by notification in the Official Gazette directs.

(4) A notification under the proviso to sub-section (2) exempting a place from the operation of the whole or any part of the Act shall not affect anything done, or any offence committed, or any fine or penalty imposed in such place before such exemption.

Definitions. – 2. In this Act, and in all rules made thereunder, unless there is something repugnant in the subject or context: -

(1) “cattle” includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, mithuns, sheeps, [rams, ewes]¹ lambs, goats, and kids;

(2) “Forest offence” means an offence punishable under this Act or any rule thereunder;

(3) “Forest officer” means any person appointed by name or as holding an office by or under the orders of the State Government to be a Conservator or Director or Director of Forest, Deputy Conservator, Assistant Conservator, Forest Ranger, Deputy Ranger, Forester or Forest Guard, or to discharge any function of Forest Officer under this Act or any rule thereunder;

(4) “Forest produce” includes: -

(a) the following, whether found in, or brought from a forest or not, that is to say, - timber, charcoal caoutchoue, catechu, wood oil, resin, natural varnish, bark, lac, myrabolams, rhinoceros horns, and

(b) the following when found in, or brought from a forest, that is to say: -

(i) trees and leave, [flowers]² and fruits and all other parts or produce not hereinbefore mentioned of trees,

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

(iii) wild animals, birds, butterflies, insects and skins, tusks and [horns (other than rhinoceros horns), bones, silk cocoons]³ honey and wax and all other parts of produce of animals, and

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

(5) “Government” means the Government of Nagaland;

(6) “Land at the disposal of the Government” means land in respect of which no person has acquired –

1. Added vide Nagaland Act 9 of 1969.

2. Added vide Nagaland Act 9 of 1969.

3. Substituted vide Nagaland Act 9 of 1969.

(a) a permanent, inheritable and transferable right of use and occupancy under any law for the time being in force; or

(b) any right created by grant or lease made or continued by, or on behalf of, the Government not being land vested in the Government for the purposes of the Central Government;

(7) “Magistrate” means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the State Government to try forest offences;

[(7A) “Prescribed” means prescribed by any rule made under this Act]¹

(8) “River” includes also streams, canals, creeks and other channels, natural or artificial;

(9) “tree” includes palms, bamboos, stumps, brushwood and canes; and

(10) “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.

CHAPTER II RESERVED FORESTS

Power to constitute reserved forests. 3. The State Government may continue any land at the disposal of the Government as a reserved forest in manner hereinafter provided.

Notification by State Government of proposal to constitute a reserved forest. -4.

(1) Whether it is proposed to constitute any land into reserved forest, the State Government shall publish a notification in the Official Gazette –

- (a) specifying as nearly as possible the situation and limits of such land;
- (b) declaring that it is proposed to constitute such land as a reserved forest; and
- (c) appointing an officer (hereinafter called the Forest Settlement Officer) to inquire into determine the existence, nature, and extent of any rights claimed by, or alleged to exist in favour of, any person in or over land comprised within such limits, and claims relating to the practice within such limit of jhum cultivation, and to deal with the same as provided in this Chapter.

1. Added vide Nagaland Act 9 of 1969.

(2) The Forest Settlement Officer shall ordinarily be a person other than a Forest Officer, but a Forest Officer may be appointed by the State Government to assist the Forest Settlement Officer in the inquiry prescribed by this Chapter.

Proclamation by Forest Settlement Officer.- 5. When a notification has been published under section 4, the Forest Settlement Officer shall publish in [any prescribed

language or languages]¹ at the headquarters of each district and sub-division in which any portion of the land comprised in each notification is situated, and in every town and village in the neighbour-hood of such land a proclamation –

- (a) specifying as nearly possible the situation and limits of the proposed forests;
- (b) setting forth the substance of the provision of the next following section;
- (c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and
- (d) fixing a period of not less than three months from the date of the publication of such proclamation, and requiring every person claiming any right or making any claim referred to or mentioned in section 4 either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right of claim.

Bar of accrual of forest rights after proclamation.- 6. (1) During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right or power to create such right was vested when the proclamation was published; and on such land no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided.

(2) Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest Settlement Officer, or any clearings lawfully made

1. Substituted vide Nagaland Act 9 of 1969.

for jhum cultivation by persons in the habit of practicing such cultivation on such land.

Inquiry by Forest Settlement Officer. – 7. (1) The Forest Settlement Officer shall take down in writing all statements made under section 5, and shall inquire into all claims made under that section, and the existence of any right or practice mentioned in section 4 in respect of which no claim is made.

(2) The Forest Settlement Officer shall at the same time consider and record any objection which the Forest Officer, if any, appointed under section 4 to assist him, may make any such claim or with respect to the existence of any such right or practice.

Powers of Forest Settlement Officer. – 8. For the purposes of such inquiry the Forest Settlement Officer may exercise –

- (a) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same; and
- (b) the powers of a Civil Court in the trial of suits.

Treatment of claims relating to practice of jhum cultivation.- 9. (1) In the case of a claim relating to the practice of jhum cultivation the Forest Settlement Officer shall record a statement setting forth the particular of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the State Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion the State Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part the Forest Settlement Officer may arrange for its exercise –

- (a) by altering the limits of the land under settlement so as to exclude land of sufficient extent of a suitable kind, and in a locality, reasonably convenient for the purpose of the claimants, or
- (b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice jhum cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the State Government.

(4) The practice of jhum cultivation shall in all cases be deemed to be a privilege subject to control, restriction, and abolition by the State Government, and not to be a right.

Power to acquire land over which right is claimed.- 10. (1) In the case of a claim to a right in or over any land other than the following rights, namely: -

- (a) a right to a watercourse or to use of water,
- (b) a right of pasture or to forest produce, the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

- (2) If such claim is admitted wholly or in part, the Forest Settlement Officer may: -
- (a) come to an agreement with the claimant for the surrender of the right, or
 - (b) exclude the land from the limits of the proposed forest, or
 - (c) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894 (**1 of 1894**) or the Nagaland Land (Requisition and Acquisition) Act, 1965 (**3 of 1965**).
- (3) For the purpose of so acquiring such land –
- (i) the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894 (**1 of 1894**) and Nagaland Land (Acquisition and Requisition) Act, of 1965 (**3 of 1965**).
 - (ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 7 of the Nagaland Land (Acquisition and Requisition) Act, 1965 (**3 of 1965**),
 - (i) the provisions of the proceeding sections of that Act shall be deemed to have been complied with, and
 - (ii) the Collector, with the consent of the claimant may award compensation in land, or money, or partly in land and partly in money.

Order on claims to right-of-way, watercourse or pasture, or forest produce.- 11.

(1) In the case of a claim to a right of a kind specified in clause (a), (b) or clause (c) of section 10, sub-section (1), the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(2) When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or building, the Forest Settlement Officer shall record the designation, position, and area of such land or the designation and position of such building.

(3) Where the right is a right to forest produce, the Forest Settlement Officer shall record whether the forest produce obtained by the exercise of such right may be leased, sold, or bartered, and such other particulars as may be necessary in order to define the existence, nature, and extent of the right.

Provision for right of pasture or to forest produce admitted.- 12. (1) When the Forest Settlement Officer has admitted wholly or in part and recorded under the last foregoing section a claim to a right of pasture or to forest produce, he shall be as far possible provide for the exercise of such right:

- (a) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent of a suitable kind, and in a locality reasonably convenient for the purpose of the claimant, or
 - (b) by recording an order continuing to the claimant a right of pasture or to forest produce, as the case may be, subject to such rules as may be prescribed by the State Government.
- (2) An order passed under clause (b) of sub-section (1) shall record, as far as practicable,
- (i) where the right of pasture, the number and description of the cattle which the claimant is from time to time entitled to graze and the local limits within which, and the seasons during which such pasture is permitted, and
 - (ii) where the right is the right to forest produce, the quantity of such produce, which the claimant is authorized to take or receive and the local limits within which, the season during which and the mode in which, the taking or receiving of such produce is permitted, and
 - (iii) whether the right is a right to forest produce such other particulars as may be required in order to define the extent of the right which is continued, the mode in which it may be exercised, and the extent to which the benefit thereof may be leased, sold, or bartered.

Commutations of such right.- 13. Whenever any right of pasture or to forest produce admitted under section 11 is not provided for in one of the ways prescribed in section 12, the Forest Settlement Officer shall, subject to such rules as the State Government may prescribe in this behalf commute such right by paying a sum of money in lieu thereof or, with the consent of the claimant, * * * *¹ by the grant of land or in such other manner as such officer thinks fit.

Appeal from order passed under foregoing sections.- 14. Any person who has made a claim under the Chapter or any Forest Officer or other person generally or specially empowered by the State Government in this behalf may, within three months from the date of any order passed on such claim by the Forest Settlement Officer under sections 10, 11, 12 and 13 present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the State Government may, by notification in

the Official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Appeal under the last foregoing section.- 15. (1) Every appeal under the last foregoing section shall be made by petition in writing and may be delivered to the Forest Settlement Office, who shall forward it without delay to the officer competent to hear the same.

(2) Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to revenue and, except as hereinafter provided, the order passed on appeal shall be final.

Notification declaring forest reserve.- 16. (1) When the following events have occurred, namely: -

- (a) the period fixed under section 5 for preferring claims has elapsed, and all claims, if any, made within such period have been disposed of by the Forest Settlement Officer, and
- (b) if such claims have been made, the period fixed by section 14 for appealing from the orders passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the Appellate Officer, and

1. The words "by the grant of the claimant" deleted vide Nagaland Act 9 of 1969.

- (c) all lands, if any, to be included in the proposed reserved forest which the Forest Settlement Officer has, under section 10, elected to acquire under the Land Acquisition Act, 1984 or the Nagaland Land (Acquisition and Requisition) Act, 1965, [have become vested in the Government under any of those Acts]¹ the State Government may publish a notification in the Official Gazette, specifying the limits of the forest which it is intended to reserve and declaring the same to be reserved from a date fixed by such notification.

(2) From the date so fixed such forest shall be deemed to be a reserved forest.

Extinction of rights not claimed.- 17. Rights in respect of which no claim has been preferred under section 5 and of the existence of which no knowledge has been acquired by inquiry under section 7 shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under section 5.

Publication of translation of such notification in neighbourhood of forest. – 18.

The Deputy Commissioner of the district in which the forest is situated shall, before the date fixed by such notification, cause a translation thereof in the [any prescribed language or languages]¹ to be published in the manner prescribed for the proclamation under section 5.

Power to revise arrangement made under section 12 or 15.- 19. The State Government may, within five years from the publication of any notification under section 16, revise any arrangement made under section 12 or 15 and may rescind or modify any order made under this Chapter, and direct that any one of the proceedings specified in section 12 [be taken in lieu of any other such proceedings]², or that a right admitted under section 11 be commuted in the manner mentioned in section 13.

Acquisition of rights over reserved forest.- 20. No right of any description shall be acquired in or over a reserved forest, except by succession or under grant or contract in writing made by, or with the previous sanction of, the State Government, or some person in whom such right, or the power to create such right, was vested when the notification under section 16 was published.

1. Substituted vide Nagaland Act 9 of 1969.

2. Substituted vide Nagaland Act 9 of 1969.

Alienation of rights in reserved forest.- 21. (1) Notwithstanding anything herein contained, no right continued under section 12 shall be alienated by way of grant, sale, lease, mortgage, or otherwise without the previous sanction of the State Government:

Provided that, when any such right is continued for the beneficial enjoyment of any land or building, it may be sold or otherwise alienated with such land or building without such sanction.

(2) The benefit of any right continued under section 12 shall not be leased, sold or bartered except to the extent defined by the order recorded under that section.

Power to stop ways and watercourses in reserved forest.- 22. Any Forest Officer may, from time to time, with the previous sanction of the State Government or of a Forest Officer or other officer authorized by the State Government in this behalf, stop any public or private way or watercourse in a reserved forest:

Provided that for the way or watercourse so stopped another way or watercourse which, in the opinion of the State Government, is equally convenient, already exists or has been provided or constructed by the Forest Officer stopping the way or watercourse.

Penalties for trespass or damage in reserved forests.- 23. Any person who in a reserved forest –

- (a) trespass, or pastures cattle, or permits cattle to trespass, or
- (b) causes any damage by negligence in felling any tree or cutting or dragging any timber, shall be punished with fine which may extend to fifty rupees, or, when the damage resulting from his offence amounts to more than twenty five rupees to double the amount of such damage.

Acts prohibited in such forest. – 24. Any person who –

- (a) makes any fresh clearing prohibited by section 6, or
- (b) sets fire to a reserved forest, or in contravention of any rules made by the State Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest, or who in any such forest,
- (c) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest Officer specially empowered in this behalf may from time to time notify, or
- (d) fells, cuts, girdles, marks, lops, taps, or injures by fire or otherwise any tree, or
- (e) quarries stone, burns lime or charcoal, or collects subject to any manufacturing process or removes any forest produce, or
- (f) clears or breaks up any land for cultivation or for any other purpose, or
- (g) poisons water or in contravention of any rules made by the State Government, hunts, shoots, fishes, or sets traps or snares shall be punished with imprisonment for a term which may extend to six months, or with the fine which may extend to one thousand rupees, or with both.

Acts excepted from sections 23 and 24.- 25. Nothing in section 23 or section 24 shall be deemed to prohibit –

- (a) any practice of jhum cultivation permitted under section 9, or
- (b) the exercise, in accordance with the rules if any, made by the State Government under section 12 of any right continued under that section, or
- (c) the exercise of any right created by grant or contract in the manner described in section 20, or
- (d) any act done with the permission in writing of a Forest Officer specially empowered to grant such permission.

Penalty for offences committed by persons having rights in reserved forest.- 26. Whenever fire is caused willfully or by gross negligence in a reserved forest by any person having rights in such forest or permission to practice jhum cultivation therein, or by any

person, in his employment, or whenever any person having rights in such forest contravenes the provisions of section 21, the State Government may, notwithstanding the infliction of any punishment under this Act, direct that in such forest, or any specified portion thereof the exercise of all or any of the rights of pasture or to forest produce shall be extinguished, or for such period as it thinks fit be suspended and, with respect to the practice of jhum cultivation, may take such action under section 90, sub-section (4) as may seem to be proper.

(2) From the date so fixed such forest or portion shall cease to be reserved, but the rights, if any, which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III

Village Forests

Constitution of village forest.- 28. (1) The State Government, may, by notification in the Official Gazette, constitute any land at the disposal of the Government a village forest for the benefit of any village community or group of village communities, and may in like manner vary or cancel any such notification.

(2) Every such notification shall specify the limits of such village forest.

Powers to make rules for village forest.- 29. (1) The State Government may make rules for regulating the management of village forest, prescribing the conditions under which the community or group of communities, for the benefit of which any such forest is constituted may be provided with forest produce or with pasture, and their duties in respect of the protection and improvement of such forest.

(2) The State Government may by such rules declare any of the provisions of Chapter II of this Act to be applicable to village forest.

Inquiry into and settlement of rights.- 30. All claims to any rights other than the rights of the village community or group of village communities of for the benefit of which such village forest is constituted, shall be inquired into, recorded, and provided for in the manner prescribed by Chapter II of this Act.

CHAPTER IV

General Protection of Forests and Forest Produce

Reserved trees in unsettled tracts.- 31. The State Government may, by notification in the Official Gazette,-

- (a) declare that any trees or any specified class of trees standing on any land at the disposal of the Government shall, from a date to be fixed by such notification, be reserved trees;
- (b) vary or cancel any such notification.

Protection of reserved trees.-32. No person shall fell, cut, girdle, mark, lop, tap, or injure by fire or otherwise any reserved trees, except in accordance with rules made by the State Government in this behalf, or as provided by the last section of this Chapter.

Protection of unsettled forest belonging to the Government.- 33. (1) No person shall make use of any forest produce of any land at the disposal of the Government and not included in a reserved forest or village forest, except in accordance with rules to be made by the State Government in this behalf, or as provided by the last section of this Chapter.

(2) Such rules may, with respect to such land: -

- (a) regulate or prohibit the cutting of jhums or the issue of grants or leases on behalf of the Government;
- (b) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;
- (c) regulate or prohibit the felling, cutting, girdling, marking, lopping, tapping, or injuring by fire or otherwise of any trees, the sawing, conversion, and removal of timber, and the collection and removal of other forest produce;
- (d) regulate or prohibit the quarrying of stone, the boiling of catechu, of the burning of lime or charcoal;
- (e) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments, if any, to be made for such cutting or pasturing;
- (f) prohibit the poisoning of water and regulate or prohibit hunting, shooting and fishing, and the setting of traps or snares;
- (g) regulate the sale of free grant of forest produce; and
- (h) prescribe or authorize any Forest Officer to prescribe, subject to the control of the State Government, the fees, royalties, or other payments for forest produce, and the manner in which such fees, royalties, or other payment are to be levied, whether in transit, or partly in transit, or otherwise.

(3) The State Government may exempt any person or class of persons, or any local area, from the operation of any such rule, and may cancel such exemption.

Penalties.- 34.(1) If any person infringes the provisions of section 32, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) The State Government may, by a rule under section 33, attach to the breach of any rule under that section any punishment not exceeding that mentioned in sub-section (1).

Nothing in this Chapter to prohibit acts done in certain case.- 35. Nothing in this Chapter, or in any rule under this Chapter, shall be deemed to prohibit any act done in the exercise of any right or with the permission in writing of a Forest Officer specially empowered to grant such permission.

CHAPTER V

Control over Forest and Waste Land not being the property of
Government.

Protection of Forests for special purposes.- 36. (1) The State Government may, by notification in the local Official Gazette, regulate or prohibit in any forest or waste-land-

- (a) the breaking up or clearing of land;
- (b) the pasturing of cattle; or
- (c) the firing, clearing or the vegetation; when such regulation or prohibition appears necessary in the public interest for any of the following purposes: -
 - (i) for protection against storms, winds, rolling stones, floods and avalanches;
 - (ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of land slips or of the formation of ravines and torrents or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;
 - (iii) For the maintenance of water-supply in springs, rivers and tanks;
 - (iv) for the protection of public roads, public bridges, railways, and other lines of communication;
 - (v) for the preservation of the public health.

(2) The State Government may, for any such purposes, construct at its own expense, in or upon any forest of waste land, such work as it thinks fit.

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue of a notice to the owner of such forest or land

calling on him to show cause within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and evidence he may produce in support of the same, have been heard by an officer not below the rank of a Deputy Commissioner duly appointed in that behalf.

(4) All objections filed under the preceding sub-section, together with the proceeding the Special Officer relating thereto, shall be referred to the State Government for orders. On receipt of such reference and after hearing such further cause as the objector may have to show, the State Government shall pass such orders as it thinks fit.

In any case in which an order under sub-section (1) or action under sub-section (2) is, in the opinion of the State Government, likely to disturb substantially the owner's rights in the land to which such order or action relates, the State Government may award to such owner such compensation as it may deem equitable.

Provided that any compensation so paid shall be paid deducted from the amount payable to the owner under the provisions of the Land Acquisition Act, 1894, in the event of action being taken under the provisions of section 38.

Power to assume management of forest.- 37. (1) In case of neglect of or willful disobedience to, any regulation or prohibitions under section 36, or if the purposes of any work to be constructed under that section so require, the State Government may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under control and management of a Forest Officer and may declare that all or any of the provisions of this Act shall apply to such forest or land.

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

Expropriation of forests in certain cases. – 38. (1) In any case under this Chapter in which the State Government considers that in lieu of placing the forest or land under the control and management of a Forest Officer, the same should be acquired for public purposes the State Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894.

(2) The owner of any forest or land comprised in any notification under section 38, or if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof, may at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes and the State Government shall acquire such forest or land accordingly.

Protection of forest at request of owner.- 39. (1) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forest thereon, represent in writing to the Deputy Commissioner their desire;

(a) that such land be managed on their behalf by the Forest Officer on such terms as may be mutually agreed upon, or

(b) that all or any of the provisions of this Act be applied to such land.

(2) In either (case)¹ the State Government may, by notification in the local Official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

CHAPTER VI

CONTROL OF FOREST PRODUCE IN TRANSIT

Power to make rules to regulate transit of forest produce.- 40. (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of forest produce in transit by land or water, is vested in the State Government, and the Government may make rules to regulate the transit of any forest produce.

(2) Such rules may, among other matters.

(a) prescribe the routes by which alone forest produce may be imported into, exported from or moved within, to the territories which this Act extends;

(b) prohibit the import, export, collection or moving forest produce without a pass from an officer authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(c) provide for the issue, production and return of such passes;

(d) fix or authorize any Forest Officer, subject to the control of the State Government, to fix the fees payable for such passes;

(e) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government.

(f) Provide for the stoppage, reporting, examination, and marking forest produce in transit in respect of which there is reason to believe that any money is payable to the Government or to which it is desirable, for the purposes of this Act, to affix a mark;

- (g) Established revenue stations to which forest produce is to be taken by the persons in charge or for examination, or for the realization of such money,

1 Inserted vide Nagaland Act 9 of 1969.

or in order that such mark may be affixed to it, and prescribe, or authorize a Forest Officer subject to such control as aforesaid to prescribe, conditions under which forest produce is to be brought; stored at, and removed from such revenue stations;

- (h) provide for the management and control of such revenue stations and for regulating the appointment and duties of persons employed thereat;
- (i) authorize the transport of timber across any land and provide for the award and payment of compensation for any damage done by transport of such timber;
- (j) Prohibit the closing up or obstruction of the channel or banks of any river used for the transit of forest produce, and the throwing of grass, bushwood, branches or leaves into any such river, or any other act which tends to cause the obstruction of such channel;
- (k) Provide for the prevention and removal of any obstruction in the channel or on the banks of any such river and for recovering the cost of such prevention or removal from the person causing such obstruction;
- (l) Prohibit absolutely or subject to conditions within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or super marking of timber, the altering or effacing of any marks on the same and possession or carrying of marking hammers or other implements used for marking timber; and
- (m) Regulate the use of property-marks for timber and the registration of such marks, authorize the refusal or cancellation of the registration of any property marks, prescribe the time for which the registration of property marks is hold good, limit the number of such marks which may be registered by any one person and provide for the levy of fees for such registration.

(3) The State Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest produce or to any specified local area.

Penalties for breach of rules under the last foregoing section. – 41. (1) The State Government may, by rule under the last foregoing section, attach to the breach of any rule

under that section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(2) In cases where the offence is committed after sunset and before sunrise or after preparation resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the conviction court may inflict double the penalty prescribed for such offence.

All persons bound to aid in case of accident at revenue station. – 42. In case of any accident or emergency involving danger to any property at a revenue station, established under a rule made under section 40, every person employed at such revenue station, whether by the Government or by any private person, shall render assistance to any Forest Officer or Police Officer demanding his aid in such danger and securing such property from damage or loss.

CHAPTER VII

Collection of drift, stranded and other timber

Certain kinds of timber to be deemed the property of the State Government until title thereto proved. – 43. (1) Timber falling under any of the following descriptions, namely. –

- (a) Timber found adrift, beached, stranded, or sunk,
- (b) Timber bearing marks which had not been registered under section 40,
- (c) Timber which has been super marked, or on which marks have been obliterated, altered, or defaced by fire or otherwise, and
- (d) In such areas as the State Government directs, all marked timber shall be deemed to be the property of the State Government unless and until any person established his right thereto as provided in this Chapter.

(2) Such timber may be collected by any Forest Officer or other person entitled to collect the same, ;and may be brought to such stations as a Forest Officer specially empowered in this behalf may from time to time notify as stations for the reception of drift timber.

(3) The State Government may, by notification in the Official Gazette. Exempt any class of timber from the provisions of this section and withdraw such exemption.

Notice to claimants of timber of those kinds. – 44. (1) Public notice shall, from time to time, as occasion may require, be given by a Forest Officer specially empowered in this behalf of timber collected under the last foregoing section.

(2) Such notice shall contain a description of the timber, and will require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

Procedure on claim preferred to such timber. – 45. (1) When any such statement is presented as aforesaid, the Forest Officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing or deliver the timber to the claimant.

(2) If such timber is claimed by more than one person the Forest Officer may either deliver the same to pay any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court for its disposal.

(3) Any person whose claim has been rejected under this section may within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him, but no person shall recover any compensation against the Government or against any Forest Officer on account of such rejection, or the detention or removal of any timber or the delivery thereof to any other person under this section.

(4) No such timber shall be subjected to process of any Civil Court until it has been delivered, or a suit brought under this section has been decided.

Disposal of unclaimed timber. – 46. Where no statement is presented in the manner and within the period prescribed by notice issued under section 44, or where such statement having been so presented and the claim rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 45, the ownership of such timber shall vest in the State Government free from all encumbrances or, when such timber has been delivered to another person under section 45, in such other person free from all encumbrances not created by him.

Payments to be made by claimant before timber is delivered to him. – 47. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until such sum as may be due for salving, collecting, moving, storing, and disposing of the timber has been paid by him the Forest Officer or other person entitled to receive the sum.

Power to make rules and prescribe penalties. – 48. (1) The State Government may make rules to regulate the following matters, namely –

- (a) The salving, collection, and disposal of all timber mentioned in section 43;
- (b) The use and registration of boats used in salving and collecting timber;
- (c) the amount to be paid for salving, collecting, moving, storing, and disposing of such timber; and

(d) the use and registration of hammers and other implements to be used for marking such timber.

(2) The State Government may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VIII

Penalties and procedure

Seizure of property liable to confiscation. – 49. (1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all tools, boats, carts and cattle used in the commission of such alleged offence, may be seized by any Forest Officer or Police Officer.

(2) Every officer seizing any property under this section shall place on such property, or the receptacle, if any, in which it is contained, 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 person accused of the offence on account of which the seizure has been made:

Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Power to release property seized under section 49. – 50. Any Forest Officer of a rank not inferior to that of a Forester who or whose subordinate has seized any tools, boats, carts, or cattle under section 49, may release the same on the execution by the owner or the person in charge 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.

Procedure on receipt by Magistrate of report for seizure. – 51. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Forest produce, tools, etc. when [liable]¹ to confiscation. – 52. (1) When any person is convicted of a forest offence, all forest produce which is not the property of the Government and in respect of which such offence has been committed, and all tools, boats.

Carts and cattle used in the commission of such offence, shall be liable, by order of the convicting Court to confiscation.

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

Disposal on conclusion of trial for forest offence of produce in respect of which it was committed. – 53. When the trial of any forest offence is concluded, any forest produce in respect of which such offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the property of the Government or has been confiscated, be taken possession of by a Forest Officer specially empowered in this behalf, and, in any other case, shall be disposed of in such manner as the Court may order.

Procedure when offender is not known or cannot be found.- 54. (1) When the offender is not known or cannot be found, the Magistrate inquiring into the offence, if he finds that an offence has been committed, may on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by a Forest Officer specially empowered in this behalf, or to be made over to such Forest Officer or other person as the Magistrate may consider entitled to the same:

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without hearing the person if any, claiming right thereto and the evidence, if any, which he may produce in support of his claim.

(2) The Magistrate shall either cause a notice of any application under sub-section (1) to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in any way which he may think fit.

¹ Substituted vide Nagaland Act 9 of 1969.

Procedure as to perishable property seized under section 49.- 55. The Magistrate may, notwithstanding anything herein before contained, direct the sale of any property seized under section 49 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had been sold.

Appeal for orders under sections 52, 53 and 54.- 56. Any person claiming to be interested in property seized under section 49 may, within one month from the date of any order passed by a Magistrate under section 52, section 53 or section 54, present on appeal

therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Vesting of confiscated property in the State Government, - 47. When an order for the confiscation of any property has been passed under section 52 or section 54, and the period limited by section 51 for presenting an appeal from such order has elapsed, and no such appeal being presented, or when, on such an appeal has been presented, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be shall vest in the State Government free from all encumbrances.

Saving of powers to release property seized. – 58. Nothing herein before contained shall be deemed to prevent any Forest Officer or other officer empowered in this behalf by the State Government from directing, at any time, the immediate release of any property seized under section 49 which is not the property of the Government, and the withdrawal of any charge made in respect of such property.

Punishment for wrongful seizure. – 59. (1) 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 punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) Any fine so imposed, or any portion thereof shall if the convicting Court so direct, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks. – 60. 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 Court. –

- (a) knowingly counterfeits upon any tree or timber a mark used by Forest Officer to indicate that such tree or timber is the property of the Government or of some person, or that it may lawfully be felled or removed by some person, or
- (b) unlawfully affixes to any tree or timber a mark used by Forest Officers, or
- (c) alters, defaces or obliterates any such mark placed on any tree or timber by or under the authority of a Forest Officer, or
- (d) alters, moves destroys, or defaces any boundary mark of any forest or waste land to which any provisions of this Act apply, shall be punished with imprisonment for a term which may extend to two year, or with fine, or with both.

Power to arrest without warrant. – 61. (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 an forest offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest police station.

(3) Any Forest Officer or Police Officer who vexatiously, or maliciously arrests any person on the pretence that he is suspected of having been concerned in any forest offence or otherwise as provided by section 61(1) of this Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(4) No Forest Officer or Police Officer shall detain in custody a person arrested under sub-section (1) of this section for a longer period that under all the circumstances of the case is reasonable; and such period shall not exceed twenty four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court having jurisdiction in the case.

Power to prevent commission of offence. – 62. It shall be the duty of every Forest Officer and Police Officer to prevent, and any such officer may interfere for the purpose of preventing, the commission of any forest offence.

Power to compound offences. – 63. (1) The State Government may, by notification in the Official Gazette, empower a Forest Officer by name, or as holding in office, -

- (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 section 59, or section 60, 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 the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released and not further proceedings shall be taken against such person or property.

(3) No Forest Officer shall be empowered under this section unless he is a Forest Officer of a rank not inferior to that of a Forest Ranger, and is in receipt of a monthly salary amounting to at least two hundred fifty and the sum of money accepted as compensation under sub-section (1) clause (a), shall in no case exceed the sum of fifty rupees.

Compensation for damage caused by commission of offences. – 64. (1) When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees, or of injuring them by fire or otherwise, in contravention of this Act or of any rule thereunder, the convicting Court may, in addition to any other punishment which it may award, order that person to pay to the State Government such compensation, not exceeding twenty rupees for each tree with respect to which the offence was committed, as it may deem just.

(2) If the person convicted of the offence committed was the agent or servant of another person, the convicting Court may, of after hearing that other person, it is satisfied that the commission of the offence was a consequence of his instigation, or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in sub-section (1).

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

Forfeiture of leases. – 65. When the holder of any lease, license or contract whatsoever granted or continued by, or on behalf of the Government for any of the purposes of this Act commits an offence against this Act or any rule thereunder, or

When any such offence is committed by any agent or servant of the holder of any such lease, license or contract, and the State Government is satisfied that the commission of the offence was a consequence of the instigation of such holder or of any neglect or default on his part, the State Government may, by order in writing, declare the lease, license or contract to be forfeited in whole or in part with effect on and from a date to be specified in the order not being prior to the date of the commission of the offence.

CHAPTER IX

CATTLE TRESPASS

Cattle trespass Act 1871 to apply. – 66. Cattle trespassing in a reserved forest or in a village forest shall be deemed to be cattle doing damage to public plantation within the meaning of section 11 of the Cattle Trespass Act, 1871, and may be seized and impounded as such by any Forest Officer or Police Officer.

67. The State Government may, by notification in the Official Gazette, direct that in lieu of the fines fixed [in lieu of the fines fixed under section 12 of the Cattle Trespass Act, 1871]¹ there shall be levied for each head of cattle impounded under section 66 of this Act such fines as it thinks fit, but not exceeding the following, namely –

¹ Substituted vide Nagaland Act 9 of 1969.

		Rs.	P.
For each elephant	--	20.00	
For each buffalo or mithun	--	5.00	
For each horse, mare, gelding, pony colt, filly, mule, bull, bullock, cow, or heifer	--	2.00	
For each calf, ass, pig, sheep, lamb, goat, or kid	--	1.00	

CHAPTER X

FOREST OFFICERS

Investiture of forest Officers with certain powers. - 68. (1) The State Government may invest any Forest Officer by name, or as holding an office, with all or any of the following powers, namely –

- (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 witness and the production of document, [and materials objects]¹.
- (c) power to issue search-warrants under the Code of Criminal Procedure, 1898;

- (d) power to hold inquiries into forest offences, and in the course of such inquiries to receive and record evidence;
 - (e) power to notify the seasons and manner in which fire may be kindled, kept or carried in a reserved forest;
 - (f) power to grant any permission referred to in section 25 and 35;
 - (g) power to notify stations for the reception of drift timber;
 - (h) power to give public notice of timber collected under section 43;
 - (i) power to take possession of property under this Act; and may withdraw any power so conferred;
-

1. Inserted Nagaland Act 9 of 1969.

- (j) power to direct the release of property or withdrawal of charges;

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate of the alleged offender:

Provided that it has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356 or section 357 of the Code of Criminal Procedure, 1898.

Forest Officers deemed public servants. – 69. All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for Acts done in good faith. – 70. No suit or criminal prosecution shall lie against any public servant for anything done or omitted by him in good faith under this Act.

Forest Officers not to trade. – 71. No forest Officer shall as principal or agent, trade in forest produce, or be or become interested in any lease or mortgage or any forest, or in any contract for working any forest, whether in India or foreign territory.

CHAPTER XI

SUPPLEMENTAL PROVISION

Additional powers to make rules. – 72. The State Government may make rules consistent with this Act: -

- (a) to declare by what Forest Officer or class of Forest Officers the powers or duties conferred or imposed by or under this Act on a Forest Officer are to be exercised or performed.;
- (b) to regulate the procedure of Forest Settlement Officers;
- (c) to provide for the ejection of any person who has encroached upon reserves;
- (d) to regulate the rewards to be paid to Officers and informers; and
- (e) generally, to carry out the provisions of this Act.

Rules when to have force of law. – 73. (a) All rules made by the State Government under this Act shall be published in the Official Gazette, and shall thereupon have the force of law.

- (b) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Nagaland Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Person bound to assist Forest Officer and Police Officer. – 74. (1) Every person who exercises any right in a reserved forest or village forest, or who is permitted to remove any forest produce from, or to pasture cattle, or practice jhum cultivations in such forest, and every person who is employed by such person in such forest, and every person in any village contiguous to such forest who is employed by the Government or who receives emoluments 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 which he may possess respecting the occurrence of a fire in or near such forest, or the omission of or intention to commit, any forest offence, and shall assist any Forest Officer or Police Officer demanding his aid -

- (a) in extinguishing any fire occurring in such forest;

- (b) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;
- (c) in preventing the commission in such forest of any forest offence; and
- (d) when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender.

¹[(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 take steps as required by sub-section (1) to extinguish any forest fire in a reserved or protected 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 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..]

[74-A If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest produce of which the Government is entitled, upon the condition of fully performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the State Government that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by any officer duly appointed in that behalf by the State Government.”]²

Recovery of money due to the Government. – 75. All money, other than fines, payable to the Government under this Act, or under any rule made thereunder, or on account of the price of any forest produce, or of expenses incurred in the execution of this Act in respect of any forest produce may, if not paid when due, be recovered under the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913) or under any other law for the time being in force.

1. Inserted as sub-section (2) of Section 74 vide Nagaland 9 of 1969.

2. Inserted vide Nagaland Act 9 of 1969 as Section 74A.

Lien on forest produce for such money . - 76. (1) When any such money is payable for, or in respect of, any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest Officer specially empowered in this behalf and may be retained by him until such amount has been paid.

(2) If such amount is not paid when due, such Forest Officer may sell such produce by public auction, and proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of sale by the person entitled thereto, shall be forfeited to the Government.

Government and its Officers not liable for loss or damage in respect of certain forest produce . – 77. The Government shall not be responsible for any loss or damage which may occur in respect of any forest produce while at a revenue station established under a rule made under section 40, or while detained elsewhere for the purposes of this Act or in respect of any timber collected under section 43, and no Forest Officers shall be responsible for any such loss or damage unless he shall have caused the same negligently maliciously, or fraudulently.

Land required under this Act to be decided for public purpose. – 78. 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 a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894 or section (3) of the Nagaland Land (Requisition and Acquisition) Act, 1965.

Recovery of penalties due under bound. – 79. When any person, in compliance with any rule under this Act, binds himself by any instruments to perform any duty or Act or

covenants by any instruments that he or that he and his servants and agents, will abstain from any Act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach under the Bengal Public Demands Recovery Act, 1913 (Bengal Act 3 of 1913) or under any other law for the time being in force.

80. The Assam Forest Regulation, 1891, as applicable to Nagaland except Section 37, 38 and 39 in Chapter V and section 40 A in Chapter VI thereof shall stand repealed: -

Provided that such repeal shall not affect –

- (a) the previous operation of the said Regulation or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Regulation; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Regulation; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

Provided further that anything done or any action taken including any appointment or delegation made, rule, notification instruction or direction made, certificate or permission granted under the Regulation hereby repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.