

# NOTIFICATION

## Miscellaneous

**As passed by the Uttaranchal Legislative Assembly and assented to by the president on July 17, 2002.**

**THE INDIAN FOREST (UTTARANCHAL AMENDMENT) ACT, 2001  
(Act no. of 2002)**

*to amend the Forest Act, 1927 in its application to uttaranchal*

**An**

**Act**

**IT IS HEREBY ENACTED IN THE FIFTY –SECOND YEAR OF THE  
REPUBLIC OF INDIA AS FOLLOWS:-**

- 1 (1) This Act may be called the Indian Forest (Uttaranchal Amendment) Act, 2001 Short title extent and commencement
- (2) It Shall extend to the whole of Uttaranchal.
- (3) It Shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. In Section 2 of Indian Forest Act, 1927, hereinafter referred to as the principal Act, the following clause shall be inserted, namely: Amendment of Section 2 of Act no XVI of 1927

2—A “authorized officer” means an officer authorized under sub-section (1) of Section 52-A

3. In Section 26 the principal Act, in sub-Section (1)- Amendment of section 26

(i) In clause (b) after the words ‘reserved forest’ the words or **“to a forest in the land respect of which a notification under section 4 has been issued”** shall be inserted

(ii) In clause (e) for the word **“dragging”** the word **“removing”** shall be substituted;

(iii) In clause (f) after the words “ the words” **“or any forest produce”** shall be inserted;

(iv) For the words shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both the worlds shall, for an Act described under clause (b) or clause (f) or clause (g) or clause (h), be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both and on the second and every subsequent conviction for the same offence, with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees but which shall not be less than five thousand rupees, or with both, and for an act described under any of the other clauses, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both, and on the second and every subsequent conviction for the offence, with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both, shall be substituted

Amendment of 4  
section 33

In Section 33 of the principal Act, in sub-Section (1)

- (i) in clause (c) after or clears the words “or, attempts to break-up or clear” shall be inserted;
- (ii) In clause (f) for the word “drags” the word “removes” shall be substituted;
- (iii) For the words “ six months, or with fine which may extend to five hundred rupees, or with both” the words “two years, or with fine which may extend to five thousand rupees, or with both and on the second and every subsequent conviction for the same offence, with imprisonment for a term which may extend to two years and with fine which may extend to ten thousand rupees shall be substituted.

Amendment of 5.  
section 42

In Section 42 of the principal Act, in sub-section (1) or the words sex month, or fine which may extend to five hundred rupees the words two years, or fine which may extend to five thousand rupees shall be substituted.

Amendment of 6  
section 52

**In Section 52 of the principal Act-**

- (i) in sub-section (1), for the words “carts or cattle” the words vehicles, cattle, ropes, chains or other articles shall be substituted;
- (ii) **For sub section (2) the following sub-sections shall be substituted, namely-**
  - (2) Any Forest officer or police officer may, if he has reason to believe that a boat or vehicle has been, or is being, used for the transport of any forest produce in respect of which a forest offence has been, or is being, committed, require the driver or other person in charge of such boat or vehicle to stop is, and he may detain such boat or vehicle for such reasonable time as is necessary to examine the contents in such boat or vehicle and to inspect the records relating to the goods transported so as to ascertain the claims, if any, of the driver or other person in-charge of such boat or vehicle regarding the ownership and legal origin of the forest produce in question.

(3) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure to the magistrate having jurisdiction to try the offence on account of which the seizure has been made, and if the seizure is in respect of forest produce which is the property of the State Government, shall also make a report to the authorized officer.

Insertion  
of new  
section  
52-A, 52-  
B, 52-C  
and 52-D

7 After section 52 of the principal Act, the following sections shall be inserted, namely-

**“52-A Procedure on Seizure (1)** Notwithstanding anything contained this Act or any other law for the time being in force, where a forest offence is believed to have been committed in respect of any forest produce, which is the property of the State Government, the officer seizing the property under sub-section (1) of section 52 shall, without unreasonable delay, produce it together with all the tools, boats, vehicles, cattle, ropes, chains and other articles used in committing the offence before an officer, not below the rank of a Divisional Forest officer, authorized by the State Government in this behalf, who may, for reasons to be recorded, make an order in writing with regard to custody, possession, delivery, disposal or distribution of such property, and in case of tools, boats, Vehicles, cattle, ropes, chains and other articles, may also confiscate them.

**(2)** The authorized officer shall, without any undue delay, forward a copy of the order made under sub-section (1) to his official superior.

**(3)** Where the authorized officer passing an order under sub-section(1) is of the opinion that the property is subject to speedy and natural decay he may order the property or any part thereof to be sold by public auction and may deal with proceeds as he would have dealt with such property if it had not been sold and shall report about every sale to his official superior.

**(4)** No order under sub-section (1) shall be made without giving notice, in writing, to the person from whom the property is seized, and to any other person who may appear to the authorized officer to have some interest in such property:

provided that in an order confiscating a vehicle, when the offender is not traceable, a notice in writhing to the registered owner thereof and considering his objections if any will suffice.

(5) No order of confiscation of any tool, boat, vehicle, cattle, roes, chain or other article shall be made if any person referred to in sub-section (4) proves to the satisfaction of the authorized officer that any such tool, boat vehicle, cattle, rope, chain or there article was used without his knowledge or connivance or without the knowledge or connivance of his servant or agent, as the case may be and that all reasonable precautions had been taken against use of the objects aforesaid for the commission of the forest offence.

**52-B Appeal-** Any person aggrieved by an order of confiscation may within thirty day of the date of communication to him of such order, prefer an appeal to the Conservator of forests of the circle who shall, after giving an opportunity of being heard to the appellant and the authorized officer, pass such order as it may think fit confirming, modifying or annulling the order appealed against and the order or Conservator of the forests of the circle shall be final.

**52-C** Order of confiscation not to prevent any other punishment- No order of confiscation under section 52-A or 52-B shall prevent the infliction of any punishment to which the person affected thereby may be liable under this Act.

**52-D** Bar of Jurisdiction in certain cases- Notwithstanding anything to the contrary contained in this Act or in the code of Criminal procedure, 1973 or in any other law for the time being in force, whenever any forest produce belonging to the State Government together with any tool, boat, vehicle, cattle, rope, chain or other article is seized under sub-section)1) of section 52, the authorized officer under section 52-A or the State Government under section 52-B shall have jurisdiction to the exclusion of every other officer, court Tribunal or authority to make orders with regard to the custody, possession delivery disposal or distribution of the property.

**8** In section 53 of the principal Act

**[Amendment  
of section 53]**

- (i) for the words “ carts or cattle” the words “ vehicle, cattle, rope, chains or other articles” shall be substituted,
- (ii) after the words “the seizure has been made” the words "except in respect of cases falling under section 52-A for which the procedure laid down in that section shall be followed” shall be inserted.

**9** In section 55 of the principal Act, in sub-section (1) for the words “ Carts and cattle used in committing any forest offence” the words “ vehicles, cattle, ropes, chains and other articles used in committing such forest offence” shall be substituted.

**[Amendment  
of Section 55]**

**10** In section 57 of the principal Act, for the words “ The Magistrate may” the words “The Magistrate, subject to section 52-D, may”, shall be substituted

**[Amendment  
of section 57]**

**11** In section 58 of the principal Act for the words “The Magistrate may, notwithstanding anything herein before contained, “The words, “Notwithstanding anything hereinbefore contained, but subject to sub-section(3) of section 52-A, the magistrate may, “shall be substituted. **[Amendment of section 58]**

**12** section 60 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section(1) as so renumbered the following sub-section shall be inserted, namely:- **[Amendment of Section 60]**

“(2) when an order for confiscation has been passed under section 52-A and the period of limitation for an appeal or revision has elapsed and no appeal or revision has been preferred or when an appeal or revision the order for confiscation for whole or a portion of the property has been confirmed, the property or such portion , as the case may be, shall vest in the State Government free from all encumbrances.”

**13** After section 61-A of the principal Act, the following sections shall be inserted, namely-

“61-A Summary eviction of unauthorized occupants-(1) if a Forest officer, not below the rank of a Divisional Forest officer, is of the opinion that any person is in unauthorized occupation of any land in areas constituted as a reserved or protected forest under section 20 or section 29, as the case may be and that he should be evicted, the Forest officer shall issue a notice in writing calling upon the person concerned to show cause, on or before such date as is specified in the notice, why and order of eviction should not be made.

(2) if after considering the cause, if any, shown in pursuance of a notice under this section, the Forest Officer is satisfied that he said land is in unauthorized occupation, he may make and order of eviction for reasons to be recorded therein, directing that the said land shall be vacated by such date, as may be specified in the order, by the person concerned, which shall not be less than ten days from the date of the order.

**[Insertion of new sections 61-A and 61-B]**

(3) if any person refuses or fails to comply with the order of eviction by the date specified in the order, the Forest officer who made the order under sub-section (2) or any other Forest Officer, duly authorised by him in this behalf, may evict that person from and take possession of the said land and may, for this purpose, use such force as may be necessary.

(4) Any person aggrieved by an order of the Forest Officer under sub-section (2) may, within such period and in such manner as may be prescribed, appeal against such order to the Conservator of Forests of the circle or to such officer as may be authorised by the State Government in this behalf and the order of the Forest officer shall, subject to the decision in such appeal, be final.

**61-B Disposal of property left on land by unauthorised occupant-** (1) Where any person has been evicted from any land under section 61-Bj the Forest officer may, after giving not less than ten days notice to the person from whom possession of the land has been taken remove or cause to be removed or dispose of, by public auction, any property remaining on such land including any material of a demolished building or standing crop.

(2) Where any property is sold under sub-section (1) the sale proceeds thereof shall, after deducting the expenses of the sale and the expenses necessary to restore the land to its original condition, be paid to the person concerned.”

**14 After section 65 of the principal Act, the following sections shall be inserted, namely-**

**[Insertion of  
ne section 65-  
A]**

**65-A Certain offences to be non-bailable- (1)**  
Notwithstanding anything contained in this Act or in the code of Criminal procedure, 1973, any offence punishable under section 26, or section 33 or section 42 or section 63 shall be non-bailable.

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

**(a)** the prosecution has been given an opportunity to oppose the application for such release and

**(b)** where the prosecution oppose the application as aforesaid, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offences."

**15 In section 68 of the principal Act, in sub-section(3)—**

**[Amendment  
of section 68]**

(i) The word "and is in receipt of a monthly salary amounting to atleast one hundred rupees" shall be omitted;

(ii) for the words "fifty rupees" the words "five thousand rupees for the first offence and for second subsequent offence of the same nature shall not be less than five thousand rupees or more than ten thousand rupees." shall be substituted.

**16 For section 74 of the principal Act the following section shall be substituted, namely—**

**[Substitution  
of section 74]**

**"74 Indemnity for acts done in good faith—No suit, prosecution or other legal proceeding shall lie against the State Government or any public servant for anything one by him under this Act or rules or orders made there under."**

- 17** section 77 of the principal Act for the words "one month, or fine which may extend to five hundred rupees" the words "one year, or with fine which may extend to two thousand rupees shall be substituted. [Amendment of section 77]
- 18** In section 79 of the principal Act, in sub-section (2) for the words "one month, or with fine which may extend to two hundred rupees", the words "one year, or with fine which may extend to one thousand rupees", shall be substituted. [Amendment of section 79]
- 19** for section 82 of the principal Act the following section shall be substituted, namely— [Substitution of section 82]
- "82 Recovery of money due to state Government—All** money, other than fines, payable to the State Government under this Act or under this Act or under any rule made there under or on account of the prince of any forest produce or any agriculture crop grown on land owned by the State Government in a reserved or protected forest or under any contract relating to forest produce or said agriculture crop, including any sum recoverable there under for breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of such agricultural crop or other forest produce by auction or by invitation of tenders issued by or under the authority of a Forest officer and all compensation awarded to the State Government under this Act, may, if not paid when due, be recovered, under the law for the time being in force, as if it were an arrear of land-revenue."

**Thanks**