

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD

Dated: 30th March, 2017

No. LD/Legis-Act/292-303/2017. The following Act of Assembly

received the assent of the President on the 16th day of March 2017, is
hereby published for general information.

(ACT XXI OF 2017)

An

Act

further to amend the Jammu and Kashmir Forest Regulation, 1930.

WHEREAS it is expedient further to amend the Jammu and
Kashmir Forest Regulation, 1930 (II of 1930) in the manner hereinafter
appearing;

It is hereby enacted as follows:-

2. Short title, Extent and Commencement.- (1) This Act may be

called the Jammu and Kashmir Forest Regulation (Amendment)
Act, 2017.

(2) It shall come into force at once.

(3) It shall extend to the whole of Azad Jammu and
Kashmir.

3. Substitution of Section 2, Regulation I of 1930.- In the Jammu
and Kashmir Forest Regulation, 1930 (II of 1930), hereinafter

referred to as the said Regulation, Section 2 shall be substituted
as under:-

“2. Definitions:-In this Regulation, unless there be
something repugnant in the subject or context:-

@ “Abetment” means instigation of any individual
to do forest offence, or engages with one or
more other person or persons in any conspiracy
for the doing of forest offence, if an act or illicit
oversight happens in pursuance of that
conspiracy and in order to the doing of forest
offence, or intentionally aids, by any act or
unlawful exclusion, the doing of forest offence.

(ii) ‘Arrears of land revenue’ shall have the same
meaning as assigned to it by the Land Revenue
Act, and includes all moneys payable to

Government under this Regulation or any rules made there under;

(iii) 'Accused' means any person alleged or charged for any forest offence under this Regulation or rules made thereunder;

(iv) 'Competent Authority' means the Chief Conservator of forest of the Azad Government of the state of Jammu and Kashmir

(v) 'Cattle' includes elephants, camels, buffaloes, cows, oxen, horses, mares, gelding, ponies, colts, fillies, asses, pigs, rams, ewes, sheep, lambs, goat and kids;

(vi) 'Community Forests' means shamilat deh areas, under the control of Forest Department, which shall be managed and developed by Forest Department on behalf of Deh Council and managed and controlled under the provisions of the Jammu & Kashmir Forest Regulation II of 1930 and rules made thereunder.

(vii) 'Carbon as Commodity' means the quantification of Carbon as sequestered in plants and trees from the atmospheric Carbon Dioxide and calculated in terms of its weight in Kilogram and tones of units and valued for sale and purchase as a commodity in the National and International Market regarding Carbon Trade;

(viii) 'Demarcated Forest' means forest land or waste land under the control of the Forest Department constituted as demarcated forest under Section 3;

(ix) 'Forest Officer' means any person whom the Government or any officer empowered by the Government in this behalf may from time to time appointed by name, or as holding an office, to carry out all or any of the purposes of this Regulations, or to do anything required by this Regulation or any rule made under this Regulation to be done by a Forest officer;

(x) "Forest Protection Officer" means a person appointed and empowered by the Government to

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hear and decide the Forest cases under the Forest Regulation, 1930.

'Forest produce' includes:-

(a) The following whether found in or brought from a forest or not, that is to say:- cautchus, catechu, wood-oil, resin, natural varnish bark, lac, mahwa flowers and myrabolams and "Timber" [vide council resolution 97/49] and

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

(i) Charcoal, trees and ___ leaves, flowers and fruits and all other parts or produce not herein before mentioned of trees,

(ii) Plants not being trees including shrubs, herbs, climber, mistletoes, grasses, creepers, reeds, moss, mushrooms and all parts of produce of such plants;

(iii) Wild animals and skins, tusks, horns, silk- cocoons, honey and wax, and all other parts or produce of animals, and

(iv) Peat, surface soil, rock and minerals (including limestone, laterite mineral oils and all products of mines or quarries).

'Forest Offence' means an offence punishable under this Regulation or under any rule made under this Regulation;

'Forest land' means and includes demarcated forests, un-demarcated forests, Community Forests, water bodies and all other commercial and non-commercial piece of land (with or without trees or other vegetation) throughout AJK territory under ownership, occupation and management & control of the forest department

of Azad Government of the State of Jammu and
Kashmir;

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‘Government’ means the Azad Government of the State of Jammu and Kashmir;

‘Informer/complainant’ means a person who shall inform, verbally or in writing or through any other means of communication, a Forest Officer or a Police Officer about a Forest Offence and shall render services in prevention of Forest Offences , recovery of Forest produce & tools connected with Forest Offence & arrest of offender.

“Management and Control” means to plan, carry out, implement the activities falling within preview of the Forest Regulations II of 1930 and Protection, Conservation, Possession and Preservation of Forest Land, Forest Produce and Non-timber Forest Produce (NTFP).

“Non-Timber Forest Produce (NTFP)” means all types of forest produce of forest land except timber/fire-wood and specifically includes mines, minerals, surface soil, rocks, charcoal, mineral oils, precious and semi-precious stones and all products of mines or quarries and all kinds of medicinal herbs, tree resin/leaves/ coniferous needles, etc.;

‘Private Forests’ means any land or contiguous area bearing trees which either inherited or undisputedly individually owned by a person and entered as private forests that is assessed to land revenue in the revenue record.

‘Prescribed’ means prescribed by _ rules,

regulation or Government notification issued from time to time in pursuance of this Regulation;

‘Protected Forests’ means the forests where all acts are permitted unless prohibited;

“Place” includes a house, building, tent, vessel and any other open place;

“Person” The word “person” includes, anybody, individual, firm, association, society, partnership, group, company, co-operation, co-operative society, Government agency, non-

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governmental organization, community based organization, village organization, local council or local authority;

“River” includes streams, canals, creeks, and other channels, natural or artificial excepting such kuhls and channels as are constructed and maintained by the Zamindars at their own expenses for purposes of irrigation and in regard to which no settlement has been arrived at between the Forest and the Revenue Departments to bring them within this definition;

‘Reserved Forests’ means the demarcated forests where all acts are prohibited unless permitted;

(xxv) ‘State’ means the State of Jammu and Kashmir.

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‘Smuggling of forest produce’ means illegally removing or transporting the forest produce, without paying government dues and without having an authorized permit issued by a forest officer not below the rank of range forest officer’

‘Tools’ means and include tools, boats, carts, vehicle, cattle, arms, ropes, chains, machines, power saw or any other article, equipment and instrument used in relations to Forest Offence.

(xxviii) “Trees” includes palms, bamboos, and stumps,

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brush-wood and canes;

“Timber” includes trees and bamboos when they have fallen or have been felled, and wood whether cut up or fashioned or hollowed out for any purpose or not;

“Un-demarcated Forest” means and includes

all forest land and waste land (other than demarcated forest and such waste land or forest berun line as is under the management and control of the Revenue Department) which is the property of the Government and is not appropriated for any specific purpose;

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'Vessel' denotes anything made for the conveyance by water of timber or forest produce or any property and human beings;

Addition of Section 4-A, Regulation II of 1930.- In the said

Regulation, after Section 4 , the following new Section 4-A, shall be inserted namely:-

"4-A, Duties and Functions of Forest Department.-_ In

addition to overall management and control over Forest Land the forest department shall be responsible to discharge the following duties and functions,-

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technical matters relating to forests and biodiversity of flora in the State and shall be focal organization for such matters;

scientific management of existing public forest estates, private forests and community forests;

management of watersheds including soil and water conservation, range lands on scientific basis;

promotion of social/farm forestry and establishment of amenity forests;

raising of forest nurseries and establishment of tree plantations on State or private land;

creation of mass awareness, environmental

education of the public relating to forestry;

forest production and levy of duty on import and export of Forest Produce;

botanical survey, regional research;
acquisition and transfer of Forest Lands;

notification/de-notification in respect of reserve,
protected and un-classed forests;

formulation of policies and regulations for
sustainable management of forests and
biodiversity, development of human resources;

assistance to the Government in implementing
the forests and biodiversity related Multi-lateral
Environmental Treaties and Programs ratified by
the Government of Pakistan;

(m) promotion of collaboration with the local communities and other stakeholders in the conservation and management of forests and biodiversity;

(n) development, planning and implementation of approved project documents; and

(o) implementation of various provisions of Forest Laws and rules framed thereunder; and

(p) matters relating to AKLASC.

Amendment of Section 6, Regulation II of 1930.- In the said Regulation, in Section 6, in sub-section (1),-

(a)

(b)

(c)

the existing clause (f) shall be substituted as under.-

“fp clears or breaks up any land, erects a fence, enclosure, constructs any structure or building, cultivates or attempts to cultivate any land in any other manner in any Demarcated Forest or for any other purpose”;

after the clause (i) a new clause (j) shall be added, namely: -

“G) installs or establishes a saw mill or forest based industry within such prohibited limits outside the Demarcated Forest as prescribed;

after clause (j), as added above, in the penal provision, for the words “shall be punished with imprisonment of either description for a term which may extend to three month or with fine not exceeding rupees one thousand or with both, in addition to the compensation for the damage so done at the following rates.

(i) For trees from concessionists at zamindari rate;

(ii) For trees from non-concessionists, price at lease rate and compensation of value of damage at the same rate;

(iii) For other damages, the compensation be determined by the convicting court” the words

“shall be punished with imprisonment of either description for a term which may extend to one year or with fine which shall not be less than the price of the forest damage as assessed by the Forest Officer, in addition to price of

damage done and compensation equal to the price or with all. If the conviction relates to clause (f), the Forest Protection Officer, or any other Magistrate of the first class, especially empowered in this behalf by the Government, shall order for the restoration of the Forest Land to the Forest Department. The price of the forest damage done shall be assessed at the following rates.

(i) For trees, except Deodar (Cedrusdeodara), from concessionists at zamindari rate. For Deodar (Cedrusdeodara), lease rate shall be charged from concessionists;

(ii) For trees from non-concessionists, at lease rate.

(iii) | For other damages, the price shall not be less than the cost of the damage done to the said Forest as assessed by a Forest Officer:

Explanation-1. Competent Authority is empowered to fix zamindari rates, lease rates and standard rates from time to time.

Explanation-2. If the accused intends to settle the forest damage case departmentally, then price of damage done and compensation equal to the price shall be charged. If the accused not intends to settle the forest damage case departmentally, then the case shall be prosecuted in the court of Forest Protection Officer or any other Magistrate of the first class, especially empowered in this behalf by the Government, then price of damage done, fine not less than the price, and compensation equal to the price shall be charged, in addition to the imprisonment which may extend to one year” shall be inserted.

(d) In sub-clause (iv) for the words “the compensation shall extend to rupees five hundred but shall not be less then rupees three hundred” the words “the compensation shall not be less than the development cost of the damage done to the closure” shall be substituted.

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(g)

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in sub-clause (v), for the words “rupees one hundred but shall not be less than fifty rupees;” the words “ten thousand but shall not be less than five thousand

rupees;” shall be substituted.

In sub-clause (vii) for the words “the amount of compensation to be awarded in such case may extend to one thousand rupees but shall not be less than three hundred rupees” the words “the amount of compensation to be awarded in such case may extend to six thousand rupees but shall not be less than three thousand rupees” shall be substituted.

In sub-section (1), in sub-clause (viii), for the words “Where a person has been found to have encroached upon or in unlawful possession of forest land he shall be ejected by the Divisional Forest Officer and every officer of police, on the requisition of such officer, shall assist him. Appeal shall lie against the order passed by the Divisional Forest Officer to the Chief Conservator of Forest and final revision shall lie to the Government” shall be omitted.

Addition of Section 9-A, Regulation II of 1930.- In the said

Regulation, after Section 9, the following new section 9-A, shall be inserted:-

“9-A. Power to declare Reserved Forest or Protected

Forests.-. The Government may, by notification in the official gazette, declare any Demarcated Forests or any portion thereof, which is the property of the Government, or over which the Government has proprietary rights, or to the whole, or any part of the Forest Produce or class of trees, of which the Government is entitled, as a Reserved Forest or Protected Forests.”

Amendment of Section 13, Regulation I of 1930.- In the said Regulation, in Section 13,

(a)

(b)

(c)

in clause (e) the word “and” at the end, shall be deleted;

in clause (f) the full stop at the end shall be substituted by semi-column and thereafter the word “and” shall be added;

after clause (f) new clause (g) shall be added:-

(d)

(e)

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“(g) installs or establishes a saw mill or forest based industry within such prohibited limits outside the Un-demarcated Forest as Prescribed;

in the penal provision, after clause (g) following amendment shall be made:-

(i) for the words “shall be punished with imprisonment of either description for a term which may extend to three month or with fine not exceeding three hundred rupees or with both, in addition to the compensation for a damages done at the following rates” the words “shall be punished with imprisonment of _ either description for a term which may extend to one year or with fine which shall not be less than the price of the forest damage as assessed by the Forest Officer, in addition to price of damage done and compensation equal to the price or with all. If the conviction relates to clause (f), the Forest Protection Officer, or any other Magistrate of the first class, especially empowered in this behalf by the Government, shall order for the restoration of the land to the Forest Department. The price of the forest damage done shall be assessed at the following rates” shall be substituted;

(ii) after clause (g), in sub-clause (ii) the words “and compensation of value of damage at the same rates” shall be deleted.

(iii) in clause (iii), for the words “be determined by the convicting Court” the words “the compensation shall not be less than the cost of the damage done to the said Forest as assessed by a Forest Officer.” shall be substituted.

in penal provision after the sub-clause (iii) following explanation shall be inserted, namely:

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Explanation-1. Chief Conservator of Forests is empowered to fix zamindari rates, lease rates and standard rates from time to time.

Explanation-2. If the accused intends to settle the forest damage case departmentally, then price of damage done

and compensation equal to the price shall be charged. If

the accused not intends to settle the forest damage case departmentally, then the case shall be prosecuted in the court of Forest Protection Officer or any other Magistrate of the first class, especially empowered in this behalf by the Government, then price of damage done, fine not less than the price, and compensation equal to the price shall be charged, in additions to the imprisonment which may extend to one year.”

7. Addition of Section 13-A and 13-B Regulation II of 1930.- In

the said Regulation, after Section 13, the following new Sections 13-A, 13-B and 13-C shall be inserted:-

“13-A. Community Forests.- (1) The Management and Control

13-B.

of the Community Forests shall vest with the Forest Department.

(2) Community Forest means shamilat deh areas, under the control of Forest Department, which shall be managed and developed by Forest Department on behalf of Deh Council. The provisions of the said Regulation and rules made there under shall apply to these forests. The expenditure incurred on management and development thereof shall be deducted and the net income shall be treated as revenue of Deh Council.

Acts prohibited _in Community Forests.- Any person

who sets fire to Community Forest, or kindles any fires, or leave any fire burning in such manner as to endanger such forest, or who in a Community Forest;

(i) kindles, keeps or carries any fire except at such seasons as the conservator of the circle may from time to time notify in this behalf;

(ii) causes any damage by negligence in felling any tree or cutting or dragging any timber;

(ili) fells, girdles, lop, taps or burns any trees, or strip off the bark or leaves from, or other-wise damages, the same;

(iv) quarries stone, burns lime or charcoal or collects, subject to any manufacturing process, or removes any Forest Produce;

(v) clears or breaks up any land, or erects a fence, enclosure, or constructs any structure or building

or cultivates or attempts to cultivate any land in

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any other manner in any Community Forest or for any other purpose;

in contravention of any rules which the Government may from time to time in the official gazette prescribe, hunts, shoots, poisons water, or sets traps or snares;

in such forest or part thereof duly declared to be closed by competent authority trespasses cattle, or permits cattle to trespass; or

removes or damages the utensils, lips, nails or other articles fixed to trees for the collection of resin;

infringes any rules made to regulate the Community Forests;

installs or establishes a saw mill or forest based industry within such prohibited limits outside the Community Forests as Prescribed, shall be punished with imprisonment of _ either description for a term which may extend to one year or with fine which shall not be less than the price of the forest damage as assessed by the Forest Officer, in addition to price of damage done and compensation equal to the price or with all. if the conviction relates to clause (v), the Forest Protection Officer, or any other magistrate of the first class, especially empowered in this behalf by the Government, shall order for the restoration of the Forest Land to the forest department. The price of the forest damage done shall be assessed at the following rates,-

(i) for trees, except Cedrus Deodar, from concessionists, price at zamindari rate. For Deodar (Cedrus deodara) lease rate shall be charged from concessionists;

(ii) for trees from non- concessionists, price

at lease rate;

(iii) for other damage, the compensation shall not be less than the cost of the damage done to the Community Forest.

Explanation-1. Competent Authority is empowered to fix zamindari rates, lease rates and standard rates from time to time.

Explanation-2. If the accused intends to settle the forest damage case departmentally, then price of damage done and compensation equal to the price shall be charged. If the accused not intends to settle the forest damage case departmentally, then the case shall be prosecuted in the court of Forest Protection Officer or any other Magistrate of the first class, especially empowered in this behalf by the Government, then price of damage done, fine not less than the price, and compensation equal to the price shall be charged, in addition to the imprisonment which may extend to one year.”

Addition of Section 14-C, Regulation II_ of 1930.- In the said Regulation, after Section 14-B, the following new Section 14-C shall be inserted:-

“14-C. Management of Private Forests.- (1) Where the owner of any private land, which is entered in the revenue record as Private Forest, intends to sell the trees from the Private Forest, shall apply to the Competent Authority, along with the relevant revenue record, the Competent Authority, after due scrutiny, shall forward the application of the owner to the concerned Deputy Commissioner.

(2) The Deputy Commissioner, after scrutiny and due satisfaction shall forward the Private Forest case to Conservator of Forests concerned with the NOC, undisputed ownership and possession certificate and a joint inspection report as under,-

(i) by issuing a certificate declaring undisputed ownership and possession of the owner;

(ii) joint inspection report by a committee consisting of a revenue officer not below the rank of extra Assistant Commissioner, Divisional Forest Officer Demarcation and concerned territorial Divisional Forest Officer shall consist of,-

(a) a certificate from the committee that the khasra's included in the said Private Forest are contiguous and no community, shamilat or State land is included in the said Private Forest;

(b) bench mark for khasra wise survey/
demarcation of area in the said Private
Forest ;

(c) global Positioning System (GPS)
coordinates/bearings of the boundary
pillars erected khasra wise in the said
Private Forest;

(d) khasra wise, complete inventory of trees
from six inch diameter and above in the
said Private Forest;

(e) khasra wise list of trees having diameter
twenty two inch or more with height, fit
for exploitation under selection cum
improvement silvicultural system in the
said Private Forest:

Provided that sale of green standing trees shall
be prescribed only if the trees to be harvested having
twenty two inches or more diameter are eighteen or more
under selection cum improvement silvicultural system in
the said Private Forest.

(3) If the said Private Forest qualifies for harvesting then the
Conservator of Forests shall submit the case to the Competent
Authority for seeking approval for marking of trees. After formal
approval from the Competent Authority, the concerned
Divisional Forest Officer shall conduct the marking under
selection-cum improvement system and the concerned
Conservator of Forest shall check on spot 50% of the marking so
conducted. The Conservator of Forests, before submitting the
case to the Competent Authority, shall prepare a Management
for the said Private Forest, which shall include detail procedure/
mechanism for felling of trees, conversion (either in log or scants
form), extraction/ transportation of timber, record maintenance,
responsibility of supervision of all operations, and developmental
works to be carried out after exploitation process is completed
and submit the same for approval to the Competent Authority.
The Competent Authority, after scrutiny, shall approve the
management plan and shall determine royalty rates for each
species and shall issue orders for extraction of the said Private
Forest. The Conservator of Forests shall be responsible for
implementing the approved management plan through the
concerned Divisional Forest Officer, who shall enter in to an

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agreement with the owner of the said Private Forest for all operations prescribed in the dully approved management plan.

(4) Fire-wood, bark, branches, stumps, leaves or any other residues may be utilized for domestic purpose locally in the same vicinity by the owner but shall be prohibited for commercial exploitation.

(5) Owner of the said Private Forest shall deposit in advance with the concerned Divisional Forest Officer, the amount of development charges at the rate of eighteen percent of the royalty and supervision charges at the rate of five percent of the royalty. If the owner contravenes any of the provision of the rules made thereunder or fails to abide by the terms of agreement, the Competent Authority may order to confiscate the timber or any fraction of that or impose fine not less than the value of contraventions assessed by the Forest Officer not below the rank of Divisional Forest Officer.

(6) The forest department shall execute the developmental works in the said Private Forest against the developmental charges deposited by the owner and the owner shall be responsible for the protection of developmental works executed by the forest department and establishment of regeneration in the said Private Forest.

(7) The Government and the Forest Officers shall not be responsible for any loss or damage which may occur in respect of any timber or other Forest Produce of the said Private Forest, while detained for the purposes of this Regulation. The owner shall be responsible for the protection of timber or any Forest Produce of the said Private Forest.

(8) No suit, prosecution or other legal proceeding shall lie against the Government or Forest Officers for anything in good faith done or intended to be done under the said Regulation or any rule, direction or order made thereunder;

(9) The provisions of the said Regulation shall apply to the said Private Forest.”

Amendment of Section 16, Regulation II of 1930.- In the said Regulation, in Section 16, for the word “and” the word “or”

shall be substituted.

Amendment of Section 25, Regulation I of 1930.- In the said Regulation , in Section 25, in the penal provision, for the words”

five hundred rupees” the words “ten thousand rupees but shall not be less than five thousand rupees” shall be substituted.

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Amendment of Section 26, Regulation II of 1930.- In the said

Regulation, in Section 26,-

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(c)

for the words “ tools, boats, carts, vehicle and cattle” the word “Tools” shall be inserted.

after the words “seizure” and before the word “to” the word “before an officer not below the rank of the Range Forest Officer or’ shall be inserted.

after the word” official superior”, the following new paragraph shall be inserted,-

“where the Divisional Forest Officer upon receipt of report about seizure, is satisfied, after holding an inquiry, that a Forest Offence has been committed in respect thereof, he may, by order in writing and for reasons to be recorded, confiscate Forest Produce so seized together with all Tools used in committing Forest Offence.”

Addition of Section 26-A, 26-B, 26-C, 26-D, 26-E, 26-F,26-G,

26-H and 26-I Regulation II of 1930.- In the said Regulation, after Section 26, the following new Sections shall be inserted, namely:-

“26-A.Power to hear and decide Forest Offences summarily.-

26-B.

26-C.

The Forest Protection Officer, or any other Magistrate of the first class, especially empowered in this behalf by the Government, shall try summarily, under the Code of Criminal Procedure, 1898 (Act V of 1898) any Forest Offence punishable under this Regulation.

Prosecution _of Forest Offence Cases.- Where an accused does not request for compounding a Forest Offence or the Forest Officer refuses to compound a Forest Offence, the Range Forest Officer shall prepare a

challan as prescribed and forward the same to the Divisional Forest Officer who after scrutiny, if considers fit, shall sanction and forward the case to the court concerned for prosecution.

Bar of jurisdiction.-

(a) Except as otherwise provided in Section 26-A, no any other court shall have jurisdiction to make orders with regard to possession, release, disposal or distribution of the Forest Produce or Tools, seized under this Regulation, with respect

26-D.

26-E.

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to proceedings for seizure are initiated under this Regulation.

(b) Provided further that, no civil court shall have jurisdiction on any matter which the Government or any Forest officer is competent to dispose of under this Regulation and shall not take cognizance of the matter in which the Government or any Forest Officer exercise any power vested to him by or under this Regulation or under rules framed there under:

(c) Provided further that, no Civil Court shall be competent to issue a temporary injunction in respect of any matter, restraining the Government or any Forest Officer from taking any ejectment proceedings in pursuance of the provisions of this Regulation.

Burden of proof as to lawful authority.- Where any

person is alleged to have committed a Forest Offence under this Regulation and any question arises whether he did any act or was in possession of Timber or any other Forest Produce with lawful authority or under a permit, license or other document prescribed by or under any law for the time being in force, the burden of proving that he had such authority, permit, license or other document shall lie on accused.

Police Officers shall hand over the case to Divisional Forest Officer.- Any Police Officer seizing any Forest Produce along with any of the Tools used in committing Forest Offence, shall hand over the same to the Divisional Forest Officer concerned for disposal.

26-F.(I) Any evidence, produced by a Forest Officer or Police

26-G.

Officer, which is admissible under law, shall be admissible in Forest Offence cases before a Forest Protection Officer or any Magistrate of first class having jurisdiction to try the Forest Offence cases.

dD A Forest Officer is as good as a witness as anyone from public until and unless evidence is brought on record to disbelieve him or his ulterior motive is proved.

Abetment of a forest offence.- Abetment of any Forest
Offence shall be punishable as the original Forest

13.

26-H.

26-1.

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Offence committed under this Regulation or the rules made thereunder.

Interference_in_Duty.- No person shall interfere or attempt to interfere in the performance of any functions

or in the discharge of duty by the Forest Officer under this Regulation and the rules made thereunder.

Power to keep property seized_on spurdnama.- Any Forest Officer, who or whose subordinate has seized any of the Tools used in committing any Forest Offence, including the Forest Produce, under Section 26, may keep the same on the "Spurdnama" of a respectable person on the execution of a bond thereof, by such person, for the production of the property so kept on "Spurdnama" if and when required by the Magistrate having jurisdiction to try the offence or before the Divisional Forest Officer.

Amendment of Section 28, Regulation I of 1930.- In the said Regulation, in Section 28,

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(b)

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(d)

after the word "offence" and before the word "has" the words ",which shall be construed as a commission of forest produce smuggling," shall be inserted.

for the words "tools, boats, carts, cattle and Vehicles" the word "Tools" shall be substituted.

In sub-section 2-A. for the words "one thousand rupees" the words "ten thousand rupees but shall not be less than five thousand rupees" shall be substituted.

In sub-section 6, for the words "A revision against the order passed by the Divisional Forest Officer shall lie to the Government within sixty days from the date of such order" the words "An appeal against the order passed by the Divisional Forest Officer shall lie to the Competent

Authority within thirty days from the date of such order and Competent Authority shall take decision on such appeal within a period of ninety days and a revision against the order passed by the Competent Authority on such appeal shall lie to the Government within a period of thirty days from the date of such order. The Government through a committee consisting of Secretary Forests and Secretary Law shall take decision on such revision and such decision shall be final” shall be inserted.

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(e) In sub-section 7 after the word "D.F.O" and before the word "under" the word "or Competent Authority" shall be inserted.

(f) In sub-section 9. for the word "Govt:" the words "Competent Authority" shall be substituted.

(g) In sub-section 9. for the words "one hundred thousand rupees and 5% over the value of one hundred thousand rupees subject to a minimum of ten thousand rupees" the words "10% of the sale proceeds of the confiscated Forest Produce and Tools " shall be substituted.

Amendment of Section 32, Regulation II of 1930.- In the said Regulation, in Section 32, the word "28" wherever occurring shall be omitted.

Amendment of Section 34, Regulation II of 1930.- In the said Regulation, in Section 34, for the words "any property seized under Section 28",the words "any Tools seized under section 26", shall be substituted.

Amendment of Section 35, Regulation I of 1930.- In the said Regulation, in Section 35, in the penal provision, after clause (c), for the words "shall be punished with imprisonment of either description for a term which may extend to 6 month, or with fine not exceeding five hundred rupees, or with both", the words "shall be punished with imprisonment of either description for a term which may extend to two years but shall not be less than six month or with fine which may extend to fifty thousand rupees but shall not be less than ten thousand rupee or with both, in addition to such compensation as the convicting court may direct to be paid, which shall not be less than the value of the actual damage done as assessed by the Forest Officer" shall be substituted.

Addition of Section 36-A, 36-B, 36-C, 36-D, Regulation II_of 1930.- In the said Regulation, after Section 36, the following new Sections shall be inserted, namely:-

"36-A. Power _to release person(s) arrested.- Any Forest Officer not below the rank of Range Forest Officer, who or whose subordinate has arrested any person (s) under the provisions of Section 36 and subject to the provisions of Section 36-A and 38 of this Regulation may release

such person (s), on executing a bond thereof by such person (s) to appear, if and when so required, before

36-B.

36-C.

36-D.

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Forest Protection Officer, or the Magistrate first class or the Divisional Forest Officer.

Requisition for police assistance.- Any Forest Officer may requisite for police assistance for all or any of the

purposes specified in this Regulation and it shall be the duty of every such Police Officer to comply with such requisition.

Power_of search and_seizure.- Where there is a reasonable suspicion to believe that a Forest Offence has been committed and Forest Produce has been concealed or believed to be displaced and such actions are likely to perish or remove the evidence in respect of Forest Offence so committed and due to urgent nature of the situation and time constraints to get search warrant issued, any Forest Officer, not below the rank of Range Forest Officer, may enter any place, boat, vehicle, depot, sawing unit, sale depot or any premises, any enclosure, or any building, to make a search and seizure of Timber or any Forest Produce or break open the lock of any door, fixture or conveyance for the purpose of search and seizure of Timber, any other Forest Produce along with any of the Tools and arrest the offender.

Penalty for forcibly opposing seizure.- If any person resists the seizure of any Timber or any Forest Produce in respect of which a Forest Offence has been committed, together with any of the Tools liable to be seized under this Regulation, or tampers with or attempts to tamper with, conceals or attempts to conceal, removes or attempts to remove without lawful authority the Timber or any Forest Produce, any of the Tools so seized or any part thereof, or forcibly snatch the same after or during the seizure, he shall be punished with imprisonment for a term which may extend to two years but shall not be less than three months and with fine which may extend to one hundred thousand rupees but shall not be less than twenty five thousand rupees. Forest Offence under this Section shall be cognizable and non-bailable subject to the provisions of Sections 497 and 498 of the Code of Criminal Procedure, 1898 and shall be tried by a Forest Protection Officer, or any other Magistrate of the first class, especially empowered in this behalf by the Government."

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Addition of section 37-A, Regulation II of 1930.- In the said

Regulation, after section 37, the following new Section shall be inserted, namely:-

“37-A. Constitution of the Forest Force.-

(a)

(b)

(c)

(d)

The entire forest establishment under the Government, excluding ministerial staff, for the purposes of this Regulation, shall be deemed to be the Forest Force and shall be constituted as may be Prescribed;

members of the Forest Force shall wear such uniform as may be Prescribed;

the Forest Force shall be equipped with such arms and ammunition, vehicles, vessels, tools, equipment and communication system as may be Prescribed;

the Forest Officer may use his authority as force as may be reasonable in the circumstances to arrest the offender, seize property, recover the Forest Produce, detain or take into custody any forest offender or Tools, or prevent the escape of any person concerned or likely to be concerned in a Forest Offence or prevent the removal of any Timber or Forest Produce in respect of which any such Forest Offence has occurred or is likely to occur:

Provided that where it becomes necessary to stop for checking, searching and apprehending any of the Tools, the Forest Officer may use or cause to be used all force and means for stopping, checking, searching and apprehending it, or preventing its escape, but shall open fire only when it becomes absolutely necessary in self-defense or on the specific order of a Forest Officer not below the rank of a

Range Forest Officer, if opening of fire in his opinion was necessary for the stoppage of a vehicle or conveyance or apprehension of the offender.”

Amendment of Section 38, Regulation I of 1930.- In the said

Regulation, in Section 38, in Sub-section (3), for the words “a

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Ranger and the sum of money accepted as compensation under

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sub-section (1) Clause (a) shall in no case exceed the sum of fifty rupees and where the case is compounded by a Forest Officer of the rank of Ranger, shall in no case exceed the sum of twenty five rupees." the words " a Range Forest Officer and the sum of money accepted as price and compensation under sub-section (1) Clause (a) shall in no case exceed the sum of fifty thousand rupees and where the case is compounded by a Forest Officer of the rank of Forester, shall in no case exceed the sum of twenty five thousand rupees and Forest Offences having value more than fifty thousand rupees shall be compounded by the orders of a Forest Officer not below the rank of Divisional Forest Officer" Shall be substituted.

Addition of Section 38-A, Regulation II of 1930.- In the said Regulation, after Section 38, the following new Section shall be

inserted, namely:-

"38-A. Any Forest Officer not below the rank of a Range Forest Officer may delegate his powers of inquiry in the Forest Offence cases to the forester under this Regulation."

Addition of Section 39-A, Regulation II of 1930.- In the said Regulation, after Section 39 , the following new Section 39-A, shall be inserted:-

"39-A. (1) Penalty for offences.- The penalties for the Forest Offence under this Regulation, if repeated or committed after sunset or before sunrise shall be doubled.

(2) Departments to seek NOC.- Government Departments or Semi-Government departments shall, prior to make final payment to the contractors in case any building or public sector infrastructure is constructed wherein Forest Offence has been committed and communicated to the department concerned, take no objection certificate (NOC) from the Divisional Forest Officer concerned. The officer making the payment to the contractors in violation of this provision shall be personally responsible for the dues of the forest department against the contractor.

(3) If any person willfully commits Forest Offence repeatedly, all the Forest Produce together with all Tools shall be confiscated and such Tools and Forest Produce so confiscated shall vest in Government. The Forest Officer confiscating any Tools may release such Tools on payment of penalty which may extend to eleven times but shall not be less than four times of the market value

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of confiscated forest produce in lieu of damage caused to forest ecosystem, biological diversity and environment. However, confiscated Forest Produce shall not be released in any manner and shall be auctioned.

Explanation: For the purposes of this Regulation market value of the Forest Produce means "market value" fixed by the Competent Authority from time to time".

Amendment of Section 41, Regulation I of 1930.- In the said

Regulation, in Section 41,-

(a) in clause (a), after the word "documents" and before the word "in" word "and material objects" shall be inserted.

(b) after existing clause (b), new clause (c), (d) & (e) shall be inserted as follows :-

"(c) | Powers to enter upon any land and to survey, demarcate and make a map of the same.

(d) Power to issue search warrants under the provisions of the Code of Criminal Procedure, 1898 (Act V Of 1898);

(e) The Magistrate of First Class;"

Addition of Section 42-A, Regulation II_ of 1930.- In the said Regulation, after Section 42 , the following new Section 42-A, shall be inserted:-

"42-A. Forest Officers to be public servants.- (1) No criminal proceeding or any other legal proceeding shall be initiated against any Forest Officer for anything done or purporting to be done by him in good faith under this Regulation.

(2) No Court shall have jurisdiction to try any offence alleged to have been committed by a Forest Officer while acting or purporting to act in the discharge of his official duty except with the previous sanction of the Government."

Amendment of Section 43, Regulation I of 1930.- In the said

Regulation, in Section 43, in the penal provision , for the words

'five hundred rupees' the words "ten thousand rupees" shall be substituted.

Amendment of Section 45, Regulation I of 1930.- In the said Regulation , in Section 45 ,after the clause (d) new clauses (e), (£), (g), (h), (i).(3), (kK), (), (m) & (n) shall be inserted, as under:-

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“(e) to regulate the manufacturing and preparation of articles based on Forest Produce;

(f) to establish, regulate, implement the forest development fund;

(g) to provide prescriptions for preparation of management plans and its implementation;

(h) to provide for the compensation to be paid to the Forest Officers, officials, functionaries, helpers and

informers/complainants in case of death, injury or other physical and financial damages sustained by them in the course of duty;

(i) to implement, execute and monitor developmental projects according to approved project document;

Gg) to regulate and manage the Carbon trading for mitigating climate change;

(ky) to regulate the establishment of water mills, mini hydal power generating units, situated in Forest Land;

O) to regulate and manage NTFPs in the Forest Land;

(m) to regulate the public-private partnership according to the prevailing laws;

(n) to regulate the sale and development of the Private Forests.”

Amendment of Section 46, Regulation I of 1930.- In the said Regulation, in Section 46, in the penal provision, for the words

“one hundred rupees” the words “one hundred thousand rupees but shall not be less than ten thousand rupees” shall be substituted.

Addition of section 47-A, Regulation II_ of 1930.- In the said Regulation, after Section 47, the following new Section shall be inserted, namely:-

“47-A. This Regulation to override _other_laws.- The provisions of this Regulation shall have effect, notwithstanding anything inconsistent contained in any

other law for the time being in force”.

Addition of Section 48-A, Regulation II_of 1930.- In the said Regulation, after Section 48, the following new Section 48-A, shall be inserted:-

Penalty for unauthorized possession of Forest Land

and encroachment.- (1) Whoever unlawfully, clears or breaks up any Forest Land or erects a fence or enclosure for cultivation or for any other purpose or otherwise encroaches upon Forest Land or takes possession of Forest Land by illegal trespass, shall be inquired/investigated by the orders of the Divisional Forest Officer concerned and after inquiry/investigation, shall be ejected by the order of Divisional Forest Officer.

(2). Any crop which may be standing on encroached Forest Land or any building or other fixtures which the encroacher has constructed thereon, if not removed by him within such time as Divisional Forest officer may fix, shall be liable to confiscate, demolish or burn to ashes.

(3) Any property so confiscated shall be disposed of in such manner as the Divisional Forest officer may direct and the cost of removal of any crop, building or other work and of all works necessary to restore the Forest Land to its original condition shall be recoverable from such person in the manner provided in Section 52.

(4) Every officer of Police, on the requisition of Forest Officer, shall assist him to carry out the ejectment proceeding.

(5) Appeal shall lie against the order passed by the Divisional Forest Officer to the Chief Conservator of Forests and final revision shall lie to the Government

(6) Any person who,-

(i) disobeys the ejectment order passed by Divisional Forest Officer or Forest Protection Officer, or any other Magistrate of the first class, especially empowered in this behalf by the Government,

(ii) without lawful authority repeatedly, clears or breaks up any Forest Land or erects a fence or enclosure for cultivation or for any other purpose or otherwise repeatedly encroaches upon or takes possession of Forest Land by illegal trespass;

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Shall be punished with imprisonment which may extend to three years but shall not be less than six months and fine which may extend to one hundred thousand rupee but shall not be less than fifty thousand rupee and shall be ejected accordingly:

(7) Where any person is convicted by a court under this Regulation or under any other law for the time being in force for breaking, clearing or otherwise encroaching upon any Forest Land, such court shall restore possession of such Forest Land to the Forest Officer entitled to the possession thereof."

Amendment of Section 49, Regulation II of 1930.-In the said Regulation, in Section 49, in the penal provision, for the words "rupees 100/-"the words "twenty five thousand rupees but shall not be less than five thousand rupees", shall be substituted.

Amendment of Section 50, Regulation I of 1930.-In the said Regulation, in Section 50, in the penal provision, for the words

"Rupees 100/-" the words " fifty thousand rupees but shall not be less than ten thousand rupees", shall be substituted.

Addition of Section 50-A, Regulation II of 1930.-In the said Regulation, after Section 50, the following new Section shall be

inserted, namely:-

"50-A. Summary action by Deputy Commissioner ___in

encroachment cases.- Where any person is required to be ejected from encroached Forest Land, the Deputy Commissioner concerned shall take all necessary steps for ejectment, when so requested by the Divisional Forest Officer".

Amendment of Section 55, Regulation I of 1930.- In the said Regulation, in Section 55, in the penal provision, for the words "rupees 300/-"the words "fifty thousand rupees but shall not be less than ten thousand rupees" shall be substituted.

Amendment of Section 56, Regulation I of 1930.- In the said Regulation, in Section 56,

(a) after the figure "28" and before the word "or" the comma, figure, bracket and word ",6 (f), 35 and 36-D", shall be inserted; and

(b) after full stop at the end, following phrase shall be added as under:-

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“Forest Offences under Section 6 (f), 28, 35 and 36-D shall be non-bail able.”

Amendment of Section 58, Regulation Hof 1930.-In the said Regulation, in Section 58,-

(a) in sub-section (1), for the words “consisting of District & Sessions Judges” the words “shall be established at Mirpur, Rawalakot, Muzaffarabad and Athmuqam and shall consist of a District & Sessions Judge concerned as chairman and a Member” shall be substituted.

Explanation: “Member”, means a_ senior Forest Protection Officer/Forest Protection Officer having ten years service as such, who shall be appointed as Member Forest Appellate Tribunal by the Government.; and

(b) in sub-section (2), for the words “thirty days” the words “sixty days” shall be _ substituted.

Addition of Section 59 Regulation II of 1930.-In the said Regulation, after Section 58, the following new Section shall be inserted, namely:-

“59. Strengthening of legal services.- The forest department may, in consultation with Law, Justice, Parliamentary affairs and Human Rights Department, engage as many lawyers as standing counsels, as may be deemed necessary for effective defense and pleading of all kind of cases filed by or against the forest department or any Forest Officer.”

Addition of Section 60 Regulation II_of 1930.-In the said Regulation, after Section 59 as inserted above, the following

new Section shall be inserted, namely:-

“60. Commutation and_expropriation of _rights.- The Government may, for the purposes of this Regulation,

commute right of ownership by payment of money to, or the expropriation of land with the right holder, as may be Prescribed.”

Addition of Section 61 and 61-A Regulation II of 1930.-In the

said Regulation, after Section 60, the following new Sections

shall be inserted, namely:-

"61. Use of Forest Land.- (1) The Forest Land shall be used only for forestry purposes. Where the Forest Land is required to use other than forestry purpose then the

61-A.

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Government shall provide an equal piece of khalsa land in exchange for forestry use.

(2) The forest department shall be responsible for sustainable management and harvesting of the Forest Produce in the protected areas situated in the Forest Land under the prescriptions of the management plan.

Forest Development Fund.- (1) To ensure adequate and timely availability of funds for implementing the forestry developmental schemes, the Government shall establish a Forest Development Fund, to be managed in a manner as may be prescribed.

(2) The sources of this fund inter-alia shall include the:-

(a) sum received as surcharge/fee on Forest Produce and NTFP;

(b) grant in aid from the Government;

(c) donations from public and private sector;

(d) donations received from local and foreign donors:

(e) the duties and cess levied on the harvesting of Forest Produce & NTFP from the Forest land;

(f) fine imposed by the courts in Forest Offence cases;

(g) compensation received by Forest Officer as a result of adjudication of Forest Offence cases; and

(h) profits of different departmental deposits.

Sd/-

(Mehr-un-Nisa Qadri)

Section Officer (Legislation)