

THE '[KHYBER PAKHTUNKHWA] FOREST ORDINANCE, 2002.

27K HYBER PAKHTUNKHWA] ORDINANCE NO. XIX OF 2002.

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*Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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*[SCHEDULE-II]

3[SCHEDULE-III]

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Added vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

THE '[KHYBER PAKHTUNKHWA] FOREST, ORDINANCE, 2002.
2TIKHYBER PAKHTUNKHWA] ORDINANCE NO. XIX OF 2002.

[10June, 2002]

AN

ORDINANCE

to consolidate and amend the laws relating to protection, conservation, management, and sustainable development of forests and natural resources in the '[Khyber Pakhtunkhwa].

WHEREAS it is expedient to consolidate and amend the laws relating to protection, conservation, management and sustainable development of forests and other renewable natural resources, and matters ancillary or incidental thereto in the "[Khyber Pakhtunkhwa];

AND WHEREAS the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended uptodate and the Provisional Constitution Order No. 1 of 1999, read with Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of the 5[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance:

CHAPTER - I
PRELIMINARY

1. Short title, extent and commencement.---(1) This Ordinance may be called the ®[Khyber Pakhtunkhwa] Forest Ordinance, 2002.

(2) It extends to the whole of the '[Province of the Khyber Pakhtunkhwa].

1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

2 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

3 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

4 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

5 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

© Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

7 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

'[Exemption: The provisions of Chapters II, III, [V and V of this Ordinance shall not be applicable in the merged districts for a period of ten (10) years, where matters shall be regulated in accordance with Chapters I, VI, VI, VIII, IX, X, XI, XII, XIII and the special provisions, contained in Schedule-III of this Ordinance.]

(3) It shall come into force at once.

2. Definitions.---In this Ordinance, unless the context otherwise requires,-

7[(1) "access and benefit sharing" means the over-arching aim of the access and benefit-sharing of genetic resources to enable fair distribution of benefits between the users and providers;]

3[(1A)] "accused" means any person, male or female, charged under this Ordinance or rules made thereunder, for any offence;

'[(1B) "adaptive forest management" means an integrated, multidisciplinary approach for confronting uncertainty in the management of forests and other renewable natural resources associated with and ancillary to the forestry sector in the Province;

(1C) "alpine or sub- alpine pastures" mean calcareous grasslands, occur above the timberline on base-rich soils in the high mountains, or located at altitude above three thousand (3000) meter and below the zone of perpetual snow cover;]

(2) "appellate court" means the Court of District and Sessions Judge concerned;

5[(2A) "arid or semi-arid grasslands" mean the grasslands, found in sub-tropical dry ecological zone, located between tropical desert zone and sub-tropical sub-humid zone in the valleys;]

(3) "arrears of land revenue" shall have the same meaning as assigned to it by the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967), and includes all moneys payable to Government under this Ordinance or any rules made thereunder;

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Added vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Renumbered vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

4 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

5 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

1[(3A) “badlands” mean the areas, subjected to heavy soil erosion, causing loss in

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biodiversity, land slides, which treats to blockage of road, main streams, water channels or rivers and human population;

“bio-diversity ” means the bio-diversity as defined in clause (h) of section 2 of the Khyber Pakhtunkhwa Wildlife and Bio-diversity (Protection, Preservation, Conservation and Management) Act, 2015 (Khyber Pakhtunkhwa Act No. I of 2015) ;

“bio-prospecting” means exploration of bio-diversity for commercially, scientifically or culturally valuable genetic and biochemical resources and any activity or process undertaken as part of discovery and commercialization of new products, based on biological resources;

“bio-diversity reserve” means an area of land, water or both, declared as such under this Ordinance or the rules, for the in-situ conservation of bio-diversity relating to flora;]

“Board of Revenue” means the Board of Revenue, *[Khyber Pakhtunkhwa], established under the West Pakistan Board of Revenue Act, 1957 (W.P. Act XI of 1957);

“brushwood” includes all woody plants, bushes, shrubs and small trees growing on wastelands, reserved forests and protected forests, with the exception of trees, that is pears, apples, plums, cherries, apricots, peaches, almonds, citruses, persimmons, pistachios, guavas, litchies and vines grown thereon;

“cattle” includes horned cattle, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, donkeys, asses, yaks, pigs, rams, ewes, sheep, lambs, goats and their young ones;

“Chief Conservator of Forests” means the Chief Conservator of Forests, 3[Khyber Pakhtunkhwa];

“Collector” means a Collector appointed under the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967);

“Conservator of Forests” means the concerned Conservator of Forests, Government of the “[Khyber Pakhtunkhwa];

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

3 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

4 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

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“conveyance” means any means of transport whether mechanically propelled or otherwise;

“Department” means the Forestry, Environment and Wildlife Department of Government;]

“Divisional Forest Officer” means the Divisional Forest Officer of the concerned Forest Division;

“ecosystem” means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

71(13A) “eco-tourism” means a form of tourism involving responsible travel to natural

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areas by using eco-friendly transport, conserving the environment and including the wellbeing of the local people, having low negative impact on flora, eco-system and bio-diversity;]

“environment” means:

(a) air, water and land;

(b) all layers of the atmosphere;

(c) all organic and inorganic matter and living organisms;

(d) the ecosystem and ecological relationships;

(e) buildings, structures, roads, facilities and works;

(f) all social and economic conditions affecting community life; and

(g) the inter-relationships between any of the factors in clauses (a) to (f);

“Forest Magistrate” means a Magistrate of the first class specially appointed for taking cognizance of the offences under this Ordinance or rules made thereunder;

“forest” means a tract of land mostly or predominantly covered with trees and other woody vegetation, and declared as forest by Government through a notification issued under this Ordinance or rules made thereunder;

3[(16A) “Forest Development Fund” means the Forest Development Fund,

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established under section 104 of this Ordinance;]

“forest offence” means an offence punishable under this Ordinance or rules made thereunder;

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

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“Forest Officer” means '[any officer or official of Forest Force] appointed or empowered by Government in this behalf to carry out all or any of the purposes of this Ordinance, or to do anything required by this Ordinance or any rule made thereunder;

“forest produce” includes:

(a) the following wherever found:

timber, bark, charcoal, gum, natural varnish, resin, rosin, lac, wax, wood-oil and derivatives thereof;

(b) the following when found in, or brought from, a forest:

(i) trees, leaves, flowers, fruits, seeds, roots and all other parts or produce of trees including fuelwood;

(ii) plants, not being trees, including grasses, creepers, reeds, mosses, mushrooms, medicinal plants and brushwood, and all parts or produce of such plants and other non-wood produce;

(iii) ~— wildlife and all other parts or produce of wildlife including skins, horns, bones, silk, cocoons, honey and wax;

(iv) peat, surface soil, water, sand, stones, rocks and minerals, including minerals oil, limestone, laterite, marble and all products of mines and quarries; and

(v) standing or harvested crops or the grains thereof such as wheat, barley, maize, rice, pulses and produce thereof; and

(c) any other produce which may be notified as forest produce by the Department from time to time;

“Forestry Commission” means the Forestry Commission established under section 3 of the *[Khyber Pakhtunkhwa] Forestry Commission Act, 1999 (@ [Khyber Pakhtunkhwa]. Act No. XV of 1999);

“Forest Force” mean the entire forest establishment of the Department employed for the purposes of this Ordinance, but does not include

ministerial staff;

“Government” means the Government of the *[Khyber Pakhtunkhwa];

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

3 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

4Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

(23) “guzara forest” means protected wasteland of the villages set aside at the time of regular settlement for meeting the requirements of landowners and right holders, in the areas comprising the Districts of Haripur, Abbottabad, Mansehra, Kohistan and Batagram or elsewhere in the Province or which may be declared as such under this Ordinance or the rules made thereunder;

1[(23A) “Himalayan forest grazing lands” means the Himalayan forest grazing lands, based on climatic and ecological conditions, which can be divided into moist temperate, sub-tropical humid and sub-tropical sub-humid zones;]

(24) “interested party” means any person having a bonafide interest in the sustainable development of the forest and natural resources and includes Forest Officers, landowners, right holders, local beneficiaries and users, and concerned community-based organizations, village-based organizations or Joint Forest Management Committees established under this Ordinance, or rules made thereunder;

(25) “land-owner” means person or persons owning land in a village as per revenue record or as per custom where revenue record is not available;

(26) ““mazri” means the dwarf palm plant (*Nannorhops ritchieana*);

(27) “mazri produce” includes the mazri plant and its leaves, stems, fruits, roots and all articles made from mazri;

?[(27A) “National Park” means the National Park, declared under section 119D of this Ordinance;]

(28) “natural resources” include land, water, forests, wildlife, mineral deposits and fishes found in natural waters;

(29) “prescribed” means prescribed by rules made under this Ordinance;

3[(29A) “private forests” mean forests, owned privately by local communities or families, individually or jointly;]

(30) “protected forests” means all forests existing as such on the commencement of this Ordinance and any other forest that may be declared as protected

forest under section 29;

(31) “Protected wasteland” means wasteland declared as such under section 36;

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

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“Province” means the '[Khyber Pakhtunkhwa];

2[(32A) “rangelands” mean pasture or Himalayan forest grazing lands, alpine or sub-alpine pastures, arid or semi-arid grasslands and trans-Himalayan grazing lands, where livestock are allowed to feed freely by individuals or communities;

(32B) “REDD+” means the framework, created by United Nations Framework

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Conservation on Climate Change Conference of Parties, to guide activities in the forest sector that reduces emissions from deforestation and forest degradation, as well as sustainable management of forests and the conservation and enhancement of forest carbon stocks in developing countries;]

“reserved forests” means all forests existing as such on the commencement of this Ordinance, and any other forests that may be declared as reserved forests under section 20;

“right holder” means a person who does not have proprietary rights over forest but has rights or privileges over reserved forests, protected forests, wasteland as per record of rights admitted at the time of settlement or subsequently admitted as right holder by Government;

“river” includes any stream, canal, creek, water channel and lake, natural or artificial;

“rules” mean rules made under this Ordinance;

“sale depot” means any building, place, premises or enclosure registered with Divisional Forest Officer concerned where timber or forest produce is

brought and stored for sale;

“sawing unit” means a saw mill or a saw machine registered with Divisional Forest Officer concerned where timber is cut, sawn or fashioned;

“Schedule” means a Schedule appended to this Ordinance;

“section” means a section of this Ordinance;

“seigniorage fee” means a reciprocal fee payable by Government to right holders for trees harvested for sale from reserved forests, of one or other of the kind, entered in the seigniorage (fee) list and similar fee payable by right holders to Government for trees harvested from guzara forests and protected

‘Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
2 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

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wasteland for sale declared so under section 36 of this Ordinance and in areas wherever there are reserved forests;

“settlement” means the first regular settlement or subsequent regular settlements of land; provided wherever the rights of Government or right holder have been alienated or wherever boundaries of forest have been altered during the subsequent settlements without written consent of Government and right holders, the right, privileges and boundaries of forests recorded during the first regular settlement shall have precedence over the subsequent settlements;

“smuggle” means to bring into, or take out, of the Province any forest produce in breach of any prohibition or restriction for the time being in force, or take out from any reserved forest, protected forest or wasteland, any forest produce without lawful authority, or by evading payment of price, forest duties, or taxes leviable on forest produce, or to transport, store or sell such forest produce in violation of this Ordinance or the rules made thereunder;

1[(43A) “Shamilat” means some portion of land, which is set apart for the purpose

of common grazing, under the local traditions and customs;

(43B) “standing operating procedures” mean the standing operating procedures,

issue by the Department from time to time;

(43C) “strict nature reserve” means strictly protected areas, set aside to protect bio-

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diversity to the extent of ecology and flora, and also possibly geological or geo-morphological features, where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values. Such protection areas can serve as indispensable reference areas for scientific research and monitoring;]

“sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs;

“timber” includes trees when they have fallen, or have been felled, or uprooted, and all wood, whether cut up, sawn, split, or fashioned or hollowed out, or partially processed, for any purpose or not;

°[(45A) “trans-Himalayan grazing lands” mean trans-Himalayan grazing lands

which are found at elevation of 2300-3300 meters in dry temperate zone;]

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(46) “tree” includes stumps, bamboos, palms, reeds, canes, woody plants and brushwood specified in Schedule-I or any other kind which the Chief Conservator of Forests may add to, or delete from, the said Schedule;

(47) “urban area” means an area declare as such under any law for the time being in force;

1[(47A) “urban forestry” means plantations, within cities or town, through different forestry techniques in order to quickly combat global warming and reduce city carbon rates;]

(48) “vessel” denotes anything made for the conveyance by water of timber or forest produce or any property and human beings;

(49) “village forest officer” means any person entrusted by the Divisional Forest Officer with any function or charge with regard to forest protection, management, conservation or sustainable development of natural resources;

(50) “water bodies” means public water bodies and include:

(i) all natural bodies of water, such as rivers and their tributaries, creeks, brooks, lakes, channels, canals or lagoons or dug, dredged or blasted canals;

(ii) any water impounded by the construction of any lake or dam or other impounding device across the channel of a navigable stream; and

(iii) flowing water, which are not by law or customs property of any person;

2[(51) “wasteland” means all uncultivated or uncultivable land or Shamilat, common land or lands specified for grazing or the area, comprising the Districts of Haripur, Abbottabad, Mansehra, Kohistan and Batagram and in such other area or areas in the Province, as may be declared by Government as wasteland under this Ordinance or the rules made thereunder, but shall not include reserved forests, protected forests, graveyards, sacred places, land, recorded at settlement as part of the village site, land shown as “khali” or “banjar jaded” in annual records, land in urban areas and land under roads, railway tracks or water bodies;]

3. Objectives and guiding principles.----(1) The objectives of this Ordinance are:

3[(a) protection, conservation, management and sustainable development of forests, range lands, Himalayan forest grazing lands, alpine or sub-alpine pastures, arid or semi-arid grasslands and trans-Himalayan grazing lands;]

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

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promotion of the economic, social and ecological well-being of local people, of people of the Province, of Pakistan, and of international community in conformity with conservation needs, ecological significance and economic value of the natural resources;

involvement of local communities and interested parties in the formulation and implementation of forest policies and forest management plans;

definition of role and obligations of Government, and concessions, rights, duties and obligations of local communities; and

consolidation and updating of existing forest laws, with a view to enacting a comprehensive law which adopts modern concepts and provides means to make forest protection and administration effective, promotes present-day objectives, and is in consonance with existing forest policy and environmental laws.

(2) The following shall be the guiding principles for the realisation of the objectives as (1): set out in sub-section

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the forests shall be effectively protected, conserved, managed and sustainably developed in due recognition of their ecological significance and economic value for the well-being of the present and future generations, and for this purpose forest protection, administration and management mechanisms shall be strengthened;

appropriate production and security of goods and services shall be achieved at the level of local communities, concerned watersheds, as well as at the provincial level, while continually improving the productivity of forests and safeguarding the national and international interests regarding forests and forestry;

forests and other natural resources shall be managed as an integral part of the ecological system of which these are a part;

direct, strong and effective participation of local communities in the sustainable development and management of forests shall be secured and their concessions, rights, duties and obligations shall be clearly defined;

the role of Government regarding sustainable development of forests shall, as far as possible, be confined to preparing management plans, setting out objectives and criteria, monitoring progress, promoting research and education, and providing advisory services, while interested parties shall be encouraged to undertake leading role in

developmental activities where the forests are owned by the people or where the people are the major right holders; and

(f) the development of public awareness for proper appreciation of the environmental significance and economic value of forests shall be vigorously pursued.

CHAPTER - II RESERVED FORESTS

4. Power to declare reserved forest.---Government may declare any forest land or

wasteland which is the property of Government, or over which Government has proprietary rights, or to the whole, or any part of the forest produce, of which the Government is entitled, as a reserved forest in the manner hereinafter provided.

5. Notification by Government.---(1) Whenever it has been decided to constitute any land as a reserved forest, Government shall, by notification in the Official Gazette,-

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declare that it has been decided to constitute such land as a reserved forest;

specify, as nearly as possible, the situation and limit of such land by roads, rivers, streams, ridges or other well known or readily intelligible boundaries; and

appoint a Forest Settlement Board hereinafter referred to as "Board", to enquire into and determine the existence, nature and extent of any rights, alleged to exist in favour of any person in or over any land comprised within such limits or forest produce therefrom, and to deal with the same as provided in this Chapter.

The Board shall consist of the following:-

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a Revenue Officer not below the rank of a Collector; Chairman

the Divisional Forest Officer
concerned; and Member

one representative of the community-
based organisation or village-based
organization. Member

The representative of the community shall be selected by the concerned

(4) All decisions of the Board shall be taken by majority of votes.

6. Proclamation by Forest Settlement _Board.---(1)When a notification has been issued under section 5, the Board shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein, a proclamation-

(a) specifying, as nearly as possible, the situation and limits of the proposed forest;

(b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right in respect thereof either to present to the Board within such period a written notice specifying, or to appear before it and state, the nature of such right and the amount and particulars of the compensation (if any) so claimed.

(2) After the issuance of notification under section 5, 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 Government, or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land, except in accordance with such rules as may be made by Government in this behalf.

7. Inquiry by Forest Settlement Board.---The Board shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights referred to in section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

8. Powers of Forest Settlement Board.---For the purpose of such inquiry, the Board may exercise the following powers, that is to say:

(a) power to enter or authorise any of its member or any officer to enter upon any land, and to survey, demarcate and make a map of the same; and

(a) the powers of a Civil Court in the trial of suits.

9. Extinction of rights.---Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Board that he had sufficient cause for not preferring such claim within the period fixed under section 6.

10. Treatment of claims relating to practice of shifting cultivation.---(1) In the case of a claim relating to the practice of shifting cultivation, the Board shall record a statement

setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to Government together with its opinion as to whether the practice should be permitted or prohibited wholly or in part.

(2) On receipt of the statement and opinion, Government or any officer of the Department, duly authorised by it, may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Board 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 purposes 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 shifting cultivation therein under such conditions as the Board may prescribe.

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of Government or an officer of the Department duly authorised by it.

(5) The practice of shifting cultivation shall in all cases be deemed a privileges

subject to control and restriction by Government and may be done away with at any time by it.

11. Power to acquire land over which right is claimed.---(1) In the case of a claim to

a right in or over any land other than a right of way or right of pasture, or a right to forest produce or a water-course, the Board shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Board shall either-

(i) exclude such land from the limits of the proposed forest; or

(ii) come to an agreement with the owner thereof for the surrender of his rights; or

(iii) | proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894 (I of 1894).

(3) For the purpose of so acquiring such land-

(a) the Board shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894 (I of 1894);

(b) the claimant shall be deemed to be a person interested and appearing before it in pursuance of a notice given under section 9 of the said Act;

(c) the provisions of the said Act in this behalf shall be deemed to have been complied with; and

(d) the Collector, with the consent of the parties, or the Court as mentioned in section 9 of the said Act with the consent of both parties, may award compensation in land, money or partly in land and partly in money.

12. Order on claims to rights of pasture or to forest produce.---In the case of a claim to rights of pasture or to forest produce, the Board shall pass an order admitting or rejecting the same in whole or in part.

13. Record to be made by Forest Settlement Board.---The Board, when passing any order under section 12, shall record, so far as may be practicable,-

(a) the name, father's name, caste, residence and occupation of the person claiming the right; and

(b) the designation, position, area and Khasra Number/Survey Number of all fields or groups of fields (if any) and all buildings (if any) in respect of which the exercise of such rights is claimed.

14. Record where the Forest Settlement Board admits claim.---If the Board admits, in whole or in part, any claim under section 12, it shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is, from time to time, entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. It shall also record whether the timber or other forest produce obtained by the exercise of the rights claimed may be sold or bartered.

15. Exercise of rights admitted.---(1) After making such record the Board shall, to the best of its ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(2) For this purpose the Board may-

(a) set out some other forest tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest produce, as the case may be, to the extent so admitted; or

(b) alter the limits of the proposed forest as to exclude forest land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or

(c) record an order, continuing to such claimants a right of pasture or to forest produce, as the case may be, to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by Government.

16. Commutation of rights.---In case the Board finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, it shall, subject to such rules as Government may make in this behalf, commute such rights, by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as it considers appropriate.

17. Appeal from order passed under section 11, section 12, section 15 or section 16.-

--Any person who has made a claim under this Ordinance, or any Forest Officer, or other

person generally or specially empowered by Government in this behalf, may, within three months from the date of the order passed on such claim by the Board under section 11, section 12, section 15 or section 16, present an appeal from such order to such officer of the Revenue Department, of the rank not lower than that of a Collector, as Government may, by notification in the Official Gazette, appoint to hear appeals from such orders: (hereinafter referred to as 'the appellate officer'):

Provided that Government may establish a Tribunal (hereinafter called the Forest Tribunal) composed of three persons to be appointed by Government, and, when the Forest Tribunal has been so established, all such appeals shall be presented to it.

18. Appeal under section 17.---(1) Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Board, who shall forward it without delay to the authority competent to hear the same.

(2) If the appeal is made to an appellate officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land revenue.

(3) If the appeal is made to the Forest Tribunal, the Tribunal shall fix a date, time and convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

(4) The order passed on the appeal by such appellate officer or the Forest Tribunal, as the case may be, shall, subject to revision by Government, be final.

19. Pleadings.---Government or any person, who has made a claim under this Ordinance, may appoint any person to appear, plead and act on its or his behalf before the Board, or the appellate officer or the Forest Tribunal, in the course of any inquiry or appeal under this Ordinance.

20. Notification declaring forest_reserved.---(1) When the following events have occurred, namely:

(a) _ the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Board;

(b) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals of any presented within such period have been disposed of by the appellate officer or the Forest Tribunal; and

(c) all lands (if any) to be included in the proposed forest, which the Board has, under section 11, selected to acquire under the Land Acquisition Act, 1894 (I of 1894), have become vested in Government under section 16 of that Act;

Government shall publish a notification in the Official Gazette, specifying definitely, according to boundary marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

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

(3) The management of reserved forests shall for all intents and purposes be vested in the Forest Officers.

21. Publication of translation of notification in neighbourhood of forest.---The Board shall, before the date fixed by notification issued under section 20, cause a translation

thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.

22. Power _to revise arrangements made under section 15 or section 18.---Government may, within five years from the publication of a notification under section 20,

revise any arrangement made under section 15 or section 18(4), and may for this purpose rescind or modify any order made under section 15 or section 18(4), and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

23. No right acquired over reserved forest, except _as provided.---No right of any description shall be acquired in or over a reserved forest, except by succession or under a grant or contract in writing made by or on behalf of Government or some person in whom such right was vested when the notification under section 20 was issued.

24, Rights not _to be alienated without _sanction.---(1) Notwithstanding anything contained in section 23, no right continued under clause (c) of sub-section (2) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the written sanction of Government:

Provided that when any such right is appended to any land or house, it may be sold or otherwise alienated with such land or house.

(2) No timber or other forest produce obtained in exercise of any such right shall be sold or bartered, except to such extent as may have been admitted in the order recorded under section 14.

25. Power to stop ways and water-courses in reserved forests.---A Forest Officer may, with the previous sanction of Government or of any officer duly authorised by it in this

behalf, stop any public or private way or water-course in a reserved forest; provided that a substitute for the way or water-course so stopped, which the Government or the officer duly authorised by it deems to be reasonably convenient, already exists or has been provided or constructed by the Forest Officer in lieu thereof.

26. Acts prohibited in reserved forests and penalty.---(1) '[Subject to sub-section (7), no] person after issuance of a notification under section 20 shall, in a reserved forest,-

(a) encroach upon any land, or cultivate any land or clear or break up, or occupy any land for cultivation, or for any other purpose;

(b) construct or cause to be constructed any building or shed, road or enclosure, or any infrastructure, or alter or enlarge any existing building, road, shed, or any enclosure, or infrastructure;

(c) exercise the right of trespass, graze, browse, pasture or drive cattle, or permit cattle to trespass, or cut grass, or enter into a fenced enclosure or have any other rights, except the rights admitted under section 15;

(d) _ set fire or abet in setting fire, to a reserved forest or, in contravention of any rules made in this behalf, kindle any fire or leave any fire burning in such manner as may endanger such forest;

(e) cause any damage by negligence in felling any tree or cutting or dragging any timber;

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(f)

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(i)

cut, fell, uproot, girdle, lop, tap, burn any tree or brushwood listed in Schedule -I, or strip off its bark or leaves or collect or extract torch wood and any forest produce from or otherwise damage the same;

quarry stone, burn lime or charcoal, or collect, subject to any manufacturing process, or remove any forest produce;

pollute soil or water by sewerage, sewage, domestic or industrial waste or through any other pollutants or means; or

hunt, shoot, fish, or poison water, or set snares or traps in contravention of any rules made in this behalf by Government.

(2) No person shall abet in the commission or furtherance of any of the above

acts.

(3) Whoever contravenes or fails to comply with any of the provisions of this section or abets in commission or furtherance of any such acts shall be punishable with imprisonment for a term which may extend to '[three years], or with fine which may extend to "[rupees five lac], 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 to the forest as assessed by the Forest Officer:

Provided that—

(i)

(ai)

(iii)

where the value of the forest damage as assessed by the Forest Officer is less than ten thousand rupees, the offence shall be punishable with imprisonment which shall not be less than one month, or with fine which shall not be less than *[rupees fifty thousand] or with both; or

—

where the value of the forest damage, as assessed by the Forest Officer, exceeds ten thousand rupees but does not exceed thirty thousand rupees, the offence shall be punishable with imprisonment which shall not be less than three months, or with fine, which shall not be less than "[rupees one lac] or with both; or

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where the value of the forest damage, as assessed by the Forest Officer, exceeds thirty thousand rupees but does not exceed one hundred thousand rupees, the offence shall be punishable with imprisonment which shall not be less than six months, or with fine, which shall not be less than °[rupees two lac] or with both; or

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

4 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

5 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(iv) where the value of the forest damage, as assessed by the Forest Officer, exceeds one hundred thousand rupees, the offence shall be punishable with imprisonment which shall not be less than one year, or with fine, which shall not be less than 'Rupees five lac] or with both; and

(v) in all cases the value of the forest produce shall be assessed at double the current market rates *[and in case of pole crop, it shall be five times].

(4) When an offence is established then apart from fines and sentences awarded by the court, all forest produce, tools, implements, carriages, including mechanically propelled vehicles, pack animals, sawing unit, chain saw, arms, ammunitions and other equipments and conveyances used in the commission or furtherance of a forest offence shall stand confiscated in favour of Government, in addition to the punishment awarded under this section.

(5) If the offender be a woman, the Magistrate shall, except for reasons to be recorded in writing, dispense with her presence and permit her to appear by an agent, authorised in writing under the signature or thumb-impression of the woman, attested by a respectable person of the area concerned.

(6) When the person who is in charge of cattle which have trespassed in contravention of clause (c) of sub-section (1) is a child under the age of sixteen years, the owner of the cattle shall be deemed to be a person who is guilty of an offence within the meaning of that clause.

(7) Nothing in this section shall be deemed to prohibit,-

3[(a) the issuance of standing operating procedures to allow, in writing, such activities in the reserved forests in the manner and with such restrictions and limitations as may be specified therein;]

(c) the exercise of any right mentioned in section 15 or acquired under section 23 or admissible under section 24.

(8) Whenever fire is caused wilfully or by gross negligence to a reserved forest, or excessive damage is caused wilfully or by gross negligence to such forest through girdling, lopping, felling, torch wood extraction, or drying of trees through artificial means, the Forest Officer not below the rank of a Divisional Forest Officer may, notwithstanding that any punishment has been imposed or not for contravention of the provisions of this section, direct that in such forest or any portion thereof the exercise of all or any of the

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

rights, concessions or privileges of the offender, in respect of pasture or forest-produce or seigniorage fee or timber permit shall be suspended for such period as he may deem appropriate.

27. Power to declare forest no longer reserved.---(1) Government may, by notification in the Official Gazette, direct that any forest or any portion thereof constituting a

reserved forest, shall cease to be a reserved forest, with effect from a date specified in such notification.

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

CHAPTER - III VILLAGE FORESTS

28. Formation of village forests.---(1) Government may assign to any village community the rights of Government to or over any land which has been declared a reserved forest, and may cancel such assignment. All such land shall be called village forests.

(2) The situation and limits of such forest or land shall be specified, as nearly as possible, by well-known and permanent boundary pillars and proper map shall be prepared and maintained.

(3) Government may, for the purposes of this Chapter, make rules,-

(i) for regulating the management of village forests;

(ii) prescribing the conditions under which the community to which any assignment is made under this section may be provided with timber and other forest produce;

(iii) for grant of permission to pasture;

(iv) for assignment of duties and obligations in relation to protection, management and sustainable development of such forests; and

(v) prescribing joint responsibility and liability of the community for contravention of any of the provisions of this Chapter.

(4) In all other matters the provisions of this Ordinance relating to reserved forests shall apply to village forests.

CHAPTER - IV PROTECTED FORESTS

29. Power to declare protected forests.---(1) Government may, by notification in the Official Gazette, declare any forest land or wasteland which is not included in a reserved forest, but which is the property of Government or over which Government has proprietary rights, or to the whole or any part of the forest produce of which Government is entitled, a protected forest.

(2) The situation and limits of such land or forest shall be specified in the notification, as nearly as possible, by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(3) The management of the forest or wasteland comprised in the notification issued under sub-section (1) shall vest in the Forest Officers.

(4) No notification under sub-section(1) shall be made unless the nature and extent of rights of Government and of private persons, in or over the forest or wasteland comprised therein, have been inquired into and recorded at a survey or settlement, or in such other manner as Government may consider appropriate. Every such record shall be presumed to be correct unless the contrary is proved; and that rights recorded under this section cannot be interfered with at all, except in a closed forest or when rights are suspended on account of fire, excessive damage to forest or on account of any act prohibited under section 33:

Provided that if, in the case of any forest or wasteland, Government considers that such inquiry and record will occupy such length of time as in the meantime to endanger the rights of Government, it may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

(5) Government may, in the interest of forest conservancy, conduct proper enquiry into the nature and extent of rights of Government and of private persons in or over protected forest, as soon as possible, after issuance of notification under sub-section (1) or declaration under the proviso to sub-section (4) and constitute any such forest or land, a protected forest, in accordance with the procedure laid down in respect of reserved forests as contained in sections 5 to section 21 of this Ordinance.

30. Power to reserve trees, close forests and prohibit certain acts.---(1) Government may by notification,-

(a) declare any trees or class of trees or brushwood listed in Schedule-I or any other forest produce in a protected forest to be reserved from a date fixed by notification;

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as Government considers fit and that the rights of private person, or village community, if any, over such portion shall be suspended during such term:

Provided that when any portion of the forest is closed, it shall be ensured that the remainder of such forests is sufficient and is reasonably convenient for the due exercise of the rights suspended in the portion so closed; or

(c) prohibit, from a date fixed as aforesaid, the quarrying of stones, or the burning of lime or charcoal, or their collection or subjection to any manufacturing process, or removal of any timber or forest produce in any such forests, and the breaking up or clearing of land for cultivation, or for construction of any building, or enclosure, or for herding cattle or the extension of any kind of encroachment over such land for any other purpose, or pasturing of cattle, or any other act or acts mentioned in sub-section (1) and sub-section (2) of section 33, in any such forest.

(2) All the trees on Government lands resumed by Government, or declared protected under this Ordinance, or any of the laws repealed by this Ordinance shall be deemed to be reserved under this section with effect from the commencement of this Ordinance.

31. Publication of translation of such notification in neighbourhood.---The Divisional Forest Officer shall cause a translation into local vernacular of every notification

issued under section 29 or section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

32. Power _to declare _forest_ no longer _protected.---(1) Government may, by notification in the Official Gazette, direct that any protected forest or any portion thereof,

shall cease to be a protected forest with effect from a date specified in such notification.

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

33. Acts prohibited in protected forests and penalties.--- (1) No person shall set fire or abet in setting fire to a protected forest, or in contravention of any rules made in this

behalf, kindle any fire or leave any fire burning in such manner as may endanger such forest, or keep, kindle or carry any fire, except during such seasons as the Forest Officer may notify in this behalf.

(2) No person shall, in contravention of any notification issued under section 30 or rules made under section 34, in a protected forest,-

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)

cultivate any land or clear or break up any land for cultivation or occupy or encroach upon any land for any other purpose;

construct or cause to be constructed any building, or alter or enlarge any existing building, or make any enclosure or alter or enlarge any existing enclosure;

trespass, graze, browse, pasture or drive cattle, or permit cattle to trespass, or cut grass, or enter into a fenced enclosure;

cause any damage by negligence in felling any tree or cutting or dragging any timber;

cut, fell, uproot, girdle, lop, tap, burn any tree, or brushwood listed in Schedule-I, or extract torch wood, or strip off its bark or leaves from or

otherwise damage the same;

quarry any stone, burn lime or charcoal, or collect, subject to any manufacturing process, or remove any forest produce;

pollute soil or water by sewerage, sewage, domestic or industrial waste or through any other pollutants or means; [or]

hunt, shoot, fish, or poison water, or set snares or traps; and

abet in the commission or furtherance of any of the above acts.

(3) Whoever contravenes or fails to comply with any of the provisions of this section, or abets in commission or furtherance of any such acts, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to 'rupees five lac], 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 to the forest as assessed by the Forest Officer:

Provided that—

(i)

where the value of the forest damage, as assessed by the Forest Officer is less than ten thousand rupees, the offence shall be punishable with imprisonment which shall not be less than one month, or with fine which shall not be less than [rupees five lac] or with both; or

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(ii) where the value of the forest damage, as assessed by the Forest Officer, exceeds '[rupees one lac] but does not exceed thirty thousand rupees, the offence shall be punishable with imprisonment which shall not be less than three months, or with fine, which shall not be less than ten thousand rupees, or with both; or

(iii) | where the value of the forest damage, as assessed by the Forest Officer, exceeds thirty thousand rupees but does not exceed one hundred thousand rupees, the offence shall be punishable with imprisonment which shall not be less than six months, or with fine, which shall not be less than 7[rupees two lac] or with both; or

(iv) where the value of the forest damage, as assessed by the Forest Officer, exceeds one hundred thousand rupees, the offence shall be punishable with imprisonment which shall not be less than one year, or with fine, which shall not be less than *[rupees five lac] or with both; and

(v) in all cases the value of the forest produce shall be assessed at double the current market rates "[and in case of pole crop, it shall be five times].

(4) When an offence is established then apart from fines and sentences awarded by the court, all the forest produce, tools, implements, carriages, including mechanically propelled vehicles, pack animals, sawing unit, chain saw, arms, ammunitions and other equipments and conveyances used in the commission or furtherance of the offence shall stand confiscated in favour of Government, in addition to the punishment awarded under this section.

(5) If the offender be a woman, the magistrate shall, except for reasons to be recorded in writing, dispense with her presence and permit her to appear by an agent, authorised in writing under the signature or thumb impression of the woman, attested by a respectable person of the area concerned.

(6) When the person who is in charge of cattle which have trespassed in contravention of clause (c) of sub-section (2) is a child under the age of sixteen years, the owner of the cattle shall be deemed to be a person who is guilty of the offence within the meaning of that clause.

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

4 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(7) Nothing in sub-sections (1) and (2) shall be deemed to prohibit the issuance of standing operating procedures to allow, in writing, such activities in the protected forests in the manner and with such restrictions and limitations as may be specified therein, except as regard any portion of a forest, closed under section 30 or as regards any rights the exercise of which has been suspended under sub-section (8) or in the exercise of any right recorded under section 29 of this Ordinance.]

(8) Whenever fire is caused wilfully or by gross negligence to a protected forest, or excessive damage is caused wilfully or by gross negligence to such forest through girdling, lopping, felling, torch wood extraction, or drying of trees through artificial means, the Forest Officer not below the rank of a Divisional Forest Officer may, notwithstanding that any punishment has been imposed or not for contravention of the provisions of this section, direct that in such forest or any portion thereof all or any of the rights, concessions or privileges of the offender, in respect of pasture or forest produce or timber permit shall be suspended for such period as he may deem appropriate.

34. Power to make rules for protected forests.---Government may for the purposes of this Chapter, make rules to prohibit or regulate the following matters, namely,-

(a) cutting, felling, sawing, converting, obtaining, storing, selling, transporting, and removal of trees and timber and the collection, manufacture and removal of forest produce from protected forests, and the use of any tools, implements, carriages, boats, vehicles, pack-animals, conveyances, power saw, and sawing unit in protected forests;

(b) granting of licenses or permits to the inhabitants of towns and villages and the community-based organisation in the vicinity of protected forests to take trees, timber or other forest produce from forest for their own use, or for the purposes of trade, and the production and return of such licenses or permits by such persons or organisation;

(c) payments, if any, to be made in pursuance of grant of licence or permits under clause (b) and the manner in which such payment shall be made, including the manner to cut such trees, or to collect and remove such timber or other forest produce;

(d) other payments, if any, to be made in respect of such trees, timber and produce, and the manner in which such payments shall be made;

(e) examination of forest produce passing out of such forests by Forest Officers;

(f) protection from fire of timber lying in such forests and of trees

reserved under section 30;

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

- (g) cutting of grass and pasturing of cattle in such forests;
- (h) hunting, shooting, fishing, poisoning water, polluting soil or water and setting traps or snares in such forests;
- (i) protection, conservation, management and sustainable development of any portion of a forest closed under section 30;
- Gj) grant, sale, lease and mortgage of timber or any forest produce, or lease or grant of any such land for a specified time, for eco-tourism, mining, research, trade, sustainable development or any purpose not being inconsistent with the objectives of this Ordinance; and
- (k) the exercise of rights, if any, determined under section 29.

CHAPTER - V

CONTROL OVER GUZARA FORESTS AND WASTELANDS

35. Rights in guzara forests and wastelands.---(1) Subject to the rights and powers of

Government in respect of seigniorage, forest conservancy, sustainable development and management as defined in this Ordinance or in the rules made thereunder, and subject also to the claims of right-holders not being owners of the land, all guzara forests and wastelands are the property, held jointly or severally, as the case may be, of the land-owners of the village in whose boundaries these are included and such land-owners are entitled to use, free of charge, for their own domestic, and agricultural requirements any trees and forest produce found in those guzara forests and wastelands, but they shall have no right or power to sell any tree, timber, brushwood or any other forest produce growing on such lands, except with the permission of the Conservator of Forests and under such conditions as the Conservator of Forests may impose. All such sales shall be subject to payment to Government of timber surcharge, forest development charges, seigniorage fees, and management charges, which shall be creditable to the Forest Development Fund.

(2) The claims of right holders other than land-owners of the village shall be recognised to the extent defined and recorded at settlement, or in case of doubt or dispute, to the extent which may hereafter be defined by the Collector with the sanction of the Board of Revenue, and exercise of such rights shall be subject to the provisions of this Ordinance and the rules made thereunder.

(3) All deodar trees in Kaghan Ilaqa, whether grown on Government or private lands, shall be deemed to be the property of the Government; Provided that in case of deodar trees growing on private lands, the right holders shall be paid half the price of timber from the commercial sale of trees, after deducting at source the extraction costs, timber surcharge, other forest development charges and surcharges, and managerial charges.

36. Protection of wastelands.---(1) Subject to sub-section (6), Conservator of Forests may, by Order, with prior approval of the Government, declare any wasteland to be protected wasteland with effect from the date specified in the order, when, in his opinion, it becomes necessary to do so for any of the following purposes, namely:

(i) the protection against storms, winds, rolling stones, floods and avalanches, or any other natural calamities;

(ii) the conservation or preservation of soil on the ridges and slopes, and in the valleys of hilly tracts, the prevention of land-slips or land-slides, or of the formation of ravines and torrents, or the protection against erosion and floods, or the deposit thereon of sand, stones or gravel;

(iii) the protection of catchment basins, banks and beds of rivers, streams, torrents and ravines;

(iv) the protection, conservation and regeneration of particular types of trees, brushwood or grasses;

(v) the maintenance of water supply in springs, rivers, tanks and reservoirs; and

(vi) _ the protection of lines of communication including roads, bridges and railways, and other infrastructure.

(2) The order under sub-section (1) shall clearly define the area declared as protected wasteland and cause the same to be shown on the village map, besides

demarcating on the ground with boundary marks so far as may be necessary.

(3) The following acts shall be prohibited in the protected wasteland, declared under sub-section (1), that is to say--

(a) the encroachment by breaking up or clearing of land for cultivation or construction of sheds, building, road, enclosure or any other infrastructure, or its occupation as sites for sheds, buildings or enclosures;

(b) pasturing of cattle;

(c) burning or clearing of vegetation;

(d) cutting of particular types of trees listed in Schedule-I or removal of forest produce;

(e) quarrying of stones, mining of minerals, burning of lime or charcoal;

(f) hunting, shooting, poisoning of water, or setting of traps and snares;
or

(g) polluting of soil or water by sewerage, sewage, domestic or industrial waste or any other pollutants, or means.

(4) No order made under sub-section (1) shall be cancelled, or the boundary of the protected wasteland shall be altered without the approval of Conservator of Forests.

(5) Subject to sub-section (6), the Conservator of Forests may, with the approval and at the expense of Government, for any purpose mentioned in sub-section (1), construct or carry out in or upon such protected wasteland such engineering or cultural works as he deems fit.

(6) No order shall be made under sub-section (1) nor shall any work be begun under sub-section (5), until after the issue of a notice by the Conservator of Forests concerned to the owners of such wasteland calling on them to show cause, within a reasonable period of time which shall not be less than ninety days, as to why such order should not be made or construction work carried out, as the case may be, and the explanation or objections, if any, and any evidence they may produce in support of the same, have been heard, considered and disposed of by the Conservator of Forests.

(7) No compensation shall be claimable by the owners or other right holders of such protected wasteland in respect of any order passed under this section.

(8) The management of the protected wasteland shall vest in the Department.

37. Management of guzara forests and wastelands. ---(1) The management of guzara

forests shall vest in the Department.

(2) Incase of wastelands, if-

(a) the landowners neglect or wilfully disobey any order under section 36 or rules (or regulations) made under this Chapter; or

(b) the purpose of any work to be constructed or carried out under section 36

(5) so requires;

the Conservator of Forests may, by notification, after giving the land-owners an opportunity of being heard in accordance with the procedure as laid down in sub-section (6) of section 36, assume the management of such wasteland and place the same under the control of a Forest Officer, and may declare that all or any of the provisions of this Ordinance or the rules made thereunder relating to reserved forests or protected forests shall apply to such wasteland, as the Conservator of Forests may deem fit.

(3) The Divisional Forest Officer shall demarcate such wasteland and shall prepare a map thereof or construct boundary pillars around such land.

(4) The Conservator of Forests may transfer the management of such lands back to the land-owners for sustainable development or for any other reason as he deems fit in the circumstances.

38. Management of wastelands at the request of owners.---(1) If the owner of any wasteland other than guzara forests, or if there be more than one owner, the owners of shares

therein amounting in the aggregate to at least two-third thereof, with a view to the formation, protection, conservation, management or sustainable development of forests thereon, request in writing to the Conservator of Forests-

(a) that such wasteland be set apart and managed on his or their behalf by the Forest Officer as a reserved or a protected forest, or by the community-based organization, or village-based organization as a village forest in the manner as provided in section 28 or by the Joint Forest Management Committee as provided in section 102 on such terms as may be mutually agreed upon; or

(b) that all or any of the provisions of this Ordinance or rules made thereunder be applied to such wasteland .

(2) The Conservator of Forests may, by notification, apply to such wasteland such provisions of this Ordinance, with such modifications, as he deems suitable to the circumstances thereof.

(3) The management and protection of such wasteland shall be the responsibility of the Forest Officer, the community-based organisation, the village-based organisation or the Joint Forest Management Committee, as the case may be.

(4) The Conservator of Forests may transfer the management of such lands back to the land-owner for sustainable development or for any other reason as it deems fit in the circumstances.

39. Apportionment of net profit.---The net profit, if any, arising from the management of guzara forests or wastelands under section 37 or section 38 shall be paid to the said land-owners, after deducting at source, the harvesting or any other charges incurred in connection with management of such land, timber surcharges, other charges/surcharges, as well as 20% managerial charges on the profit. The deductions so made shall be credited to the Forest Development Fund.

40. Power to acquire guzara forest or wasteland.---(1) If Government considers that, in lieu of placing any guzara forest or wasteland under the control of a Forest Officer, the

said land should be acquired for public purposes, it may acquire the same under the Land Acquisition Act, 1894, and place it under the management of Forest Officer.

(2) All or any of the provisions of this Ordinance, or the rules made thereunder relating to a reserved forest or a protected forest may be applied to such land or separate rules may be made to regulate such land.

41. 'Protection of cultivation by retaining walls and treatment of cultivation in dangerous position on hill slopes.---(1) In the case of cultivation in dangerous position on hill-slopes the Divisional Forest Officer may require the owner or tenant of the land so cultivated to protect it by a retaining wall or to take such other precautionary measures to ensure the stability of the soil as he may deem necessary.

(2) If the owner or tenant fails to comply with the requisition within a period of thirty days and also persists in cultivating the said land, the Divisional Forest Officer may summarily eject him from so much of the land as may be in danger and deal with it in accordance with the provisions of section 36.

(3) Where the cultivation on hill-slopes is in such a dangerous position and the slope is too steep to admit of the construction of retaining walls, the Divisional Forest Officer may, if he is of the opinion that the prohibition of such cultivation is in the general interest of the village or public, eject the person cultivating the same and direct that the land shall remain uncultivated in future.

(4) No compensation shall be admissible in respect of any order passed under this section.

42. Treatment of encroachment on common land.---(1) Where waste-land, which has been recorded at settlement as "Shamilat" or common land, the Divisional Forest Officer may declare or specially reserve such land as a grazing ground or as a fuel or timber preserve of the village or village community.

(2) Where such land is broken into by cultivation, or is encroached upon for any purpose other than a purpose under sub-section (1), the Divisional Forest Officer, on the application of any right holder in the village or of his own motion, may eject the author of the encroachment and forbid its repetition by an order issued in a like manner as an order under section 36 of this Ordinance.

(3) Violation of the order passed under sub-section (2) shall constitute a contravention of the provision of clause (b) of section 44.

43. Controlled burning of guzara forest and wasteland.---A Forest Officer, not below the rank of a Divisional Forest Officer, may issue special order in writing, permitting the

controlled burning of any guzara forest and wasteland within such limits and subject to such conditions as he may think fit.

44. Acts prohibited in guzara forests and waste-lands.--- No person shall, in a guzara forest or wasteland,-

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)

break up or cultivate or occupy or construct any building or enclosure, or make any other kind of encroachment, or being the owner of the land or a joint owner thereof, permit the breaking up, or cultivation or occupation, or construction of the shed, building or enclosure or any other kind of encroachment in any wasteland;

contravene any general or special management order passed under this Chapter or contravene any rules made under this Chapter'[or standing operating procedures];

sell or convey for sale any tree, timber or brushwood listed in Schedule-I or other forest produce without permission, or cut, fell, uproot, girdle, lop, or tap for resin or for any other purpose, or burn any tree, or brushwood, or extract torch wood, or strip off its bark or leaves from, or otherwise injure any such tree or brushwood contrary to any general or special management orders issued under or rules made under this Chapter;

set fire to any wasteland otherwise than as permitted by the Forest Officer under section 43, or negligently permit any fire to extend thereto;

cause any damage by negligence in felling any tree or cutting or dragging any timber;

quarry stones, burn lime or charcoal, or collect subject to any manufacturing process, or remove any forest produce;

pollute soil or water by sewerage, sewage, domestic or industrial waste or through any other pollutants or means;

hunt, shoot, or poison water, or set snares or traps; or

abet in the commission or furtherance of any of the above acts.

45. Penalties.---(1) Whoever contravenes or fails to comply with the provision of

section 44, shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to [rupees five lac] or with both, in addition to such compensation for the damage done to the guzara forest or wasteland as the convicting court may direct to be paid, which shall not be less than the value of the actual damage done to the guzara forests or wasteland as assessed by the Forest Officer and that all timber and forest produce illicitly obtained or removed and seized shall be restored to the Government:

Provided that—

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(i) where the value of the forest damage as assessed by the Forest Officer is less than ten thousand rupees, the offence shall be punishable with imprisonment which shall not be less than one month, or with fine which shall not be less than '[rupees fifty thousand] or with both; or

—

(ii) where the value of the forest damage, as assessed by the Forest Officer, exceeds ten thousand rupees but does not exceed thirty thousand rupees, the offence shall be punishable with imprisonment which shall not be less than three months, or with fine, which shall not be less than 7[rupees one lac] or with both; or

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(iii) | where the value of the forest damage, as assessed by the Forest Officer, exceeds thirty thousand rupees but does not exceed one hundred thousand rupees, the offence shall be punishable with imprisonment which shall not be less than six months, or with fine, which shall not be less than >[rupees two lac] or with both; or

(iv) where the value of the forest damage, as assessed by the Forest Officer, exceeds one hundred thousand rupees, the offence shall be punishable with imprisonment which shall not be less than one year, or with fine, which shall not be less than "[rupees five lac] or with both; and

(v) in all cases the value of the forest produce shall be assessed at double the current market rates °[and in case of pole crop, it shall be five time].

(2) When an offence is established then apart from fines and sentences awarded by the court, all forest produce, tools, implements, carriages, including mechanically propelled vehicles, pack animals, sawing unit, chain saw, arms, ammunitions and other equipments and conveyances used in the commission or furtherance of a forest offence shall stand confiscated in favour of Government.

(3) If the offender be a woman, the Magistrate shall, except for reasons to be recorded in writing, dispense with her presence and permit her to appear by an agent, authorised by writing under the signature or thumb impression of the woman, attested by a respectable person of the village concerned.

(4) Whenever fire is caused wilfully or by gross negligence to a guzara forest or protected wasteland, or forest damage valuing fifty thousand rupees or more, as assessed by a Forest officer, is caused wilfully or by gross negligence to such guzara forest or protected wasteland through girdling, lopping, felling, torch wood extraction, or drying of trees through artificial means, the Forest Officer not below the rank of a Divisional Forest Officer

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

4 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

5 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

may, notwithstanding that any punishment has been imposed or not for contravention of the provisions of this section, direct that in such forest or any portion thereof the exercise of all or any of the rights of the offender, concessions or privileges of the offender or offender community, in respect of pasture or forest produce or seigniorage fee or timber permit shall be suspended for such period as he may deem fit.

46. Power to make rules for guzara forests, protected wastelands and wastelands.---

The Government may make rules for the protection, regulation, sustainable development and

management of guzara forests, protected wastelands and wastelands and the Conservator of Forests may issue general or special management orders for prohibition of the barking, boring or otherwise injuring of trees or brushwood and for regulating the felling or lopping of trees or brushwood in such land for meeting the domestic and agricultural requirements of the land owners, right holders or the village community.

CHAPTER - VI

THE CONTROL OVER MAZRI AND MAZRI PRODUCE

47. Protection, preservation, propagation and control of mazri and mazri produce.-

--(1) Whenever it appears desirable to provide for better protection, preservation,

propagation and control of mazri and mazri produce in any area in Kohat and Hangu Districts in particular, or in any other area to be specified by Government in general, Government may, by notification in the Official Gazette,-

(a) fix the period during which mazri shall not be cut or transported, including the transportation of its produce;

(b) specify the route by which mazri or mazri produce shall be transported during the period not covered by clause (a); and

(c) determine the authority under whose order the means through which and the extent to which mazri or mazri produce may be transported.

(2) Except specifically permitted by such authority as determined by Government, no person shall possess mazri produce at one time in excess of the quantity fixed by general or special order of the Conservator of Forest.

48. Mazri to be a protected plant.---(1) Mazri shall be a protected plant wherever it is so declared by the Conservator of Forests and except as provided by this Ordinance, or rules made thereunder, the cutting of its leaves, shoots, roots or stem shall be prohibited.

49. Management of mazri growing tracts.---(1) The management of all mazri-growing tracts including tracts which have been denuded of mazri, shall vest in the Forest Department.

(2) For the purposes of protection, conservation, regeneration and sustainable development of mazri, the Department may, in the prescribed manner:

(a) prohibit the breaking up or clearing for cultivation of mazri-growing tract or its occupation as sites for sheds, buildings or enclosures in such land;

(b) specify the mode in which mazri and mazri produce may be transported; and

(c) control the export, import and sale of mazri and mazri produce.

(3) The Conservator of Forests may issue orders prohibiting such breaking up or occupation and defining the area to which such prohibition shall extend and may cause the limits of such area to be shown on the village map and to be demarcated on the ground with the boundary marks so far as may be necessary.

(4) The Conservator of Forests may, in a similar manner, revise such orders from time to time by altering the boundary of the protected land so as to exclude any particular plot which is not necessary to be protected any longer.

(5) The Conservator of Forests may cause to be summarily ejected any person cultivating land or committing any other act in contravention of an order passed under the foregoing sub-sections and may direct that any breaking up or occupation of land shall be removed or crop grown in contravention of such order shall be confiscated in favour of Government.

50. Control _of the mazri_produce.---(1) Subject to the overall control of the Department, the Divisional Forest Officer or any other Forest Officer authorised by Government shall have power to control and regulate the sale and export of any of the mazri produces within, from or through Kohat and Hangu Districts, and shall also have power to appoint and control markets for its sale within the Kohat and Hangu Districts, and to restrict such sale to such markets.

(2) No mazri or mazri produce shall be allowed to be brought into Kohat and Hangu Districts unless it is covered by a permit issued by the Political Agent concerned or any other officer authorised by Government and brought through the routes prescribed by the Department for the purpose.

(3) Subject to rights defined and recorded at the latest settlement, the mazri income accruing from Government owned land shall be credited to the Government as forest revenue.

(4) Subject to the rights defined and recorded at the latest settlement, the income from mazri and mazri produce accruing from the wastelands after deduction of such departmental expenditure incurred on harvesting at source and the managerial charges

amounting to 20% of the net profit shall be paid to the right holders according to their shares through the Revenue Department of Government

51. Management orders.---(1) Subject to the approval of Government, the Divisional Forest Officer, may by a general or special order prohibit the cutting or injuring of mazri and regulate the cutting and transporting of mazri for the domestic requirements of the right holders.

(2) In case of contravention of any order issued under sub-section (1) the Divisional Forest Officer may direct that no mazri shall be cut in any area to which the provisions of this Ordinance apply or are made applicable, without his previous permission in writing or of such officer as may be authorised by him in this behalf.

52. Power to search.---(1) Any Forest Officer or Police Officer, not below the rank of Range Forest Officer or Inspector of Police, may search any house, room, tent, enclosure, vehicles, vessels or place where he has reason to believe that mazri or mazri produce is placed in contravention of any provisions of this Ordinance or of any order, rule or direction made thereunder and may seize any such mazri or mazri produce.

(2) Search under this section shall be made in accordance with the provisions contained in sections 102 and 103 of the Criminal Procedure Code, 1898 (V of 1898).

53. Penalty.---(1) Any person who commits a breach of any of the provisions under this Chapter or orders or rules made thereunder shall, on conviction by the court, be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to '[rupees one lac] or with both, in addition to the confiscation of the mazri or the mazri produce in respect of which the offence has been committed and such compensation as the convicting court may direct to be paid, which shall not be less than the value of the damage done to the mazri as assessed by the Forest Officer:

Provided that--

(i) where the value of the damage done to the mazri, as assessed by the Forest Officer, exceeds fifteen thousand rupees, the sentence of imprisonment shall not be less than three months; and

(ii) if the offender is a woman, the court shall, except for reason to be recorded in writing, dispense with her presence and permit her to appear by an agent authorised in writing under the signature or the thumb impression of the women, attested by a respectable person of the village concerned.

54. Power to make rules.---(1) Government may make rules to carry out the purposes of this Chapter.

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may-

(a) provide for the preservation, cutting, re-production, collection, storage, sale, transportation, transit, checking or examination, levy of duty and disposal of mazri and mazri produce; and

(b) provide for the management, prohibition and regulation of the breaking of wastelands, control of illicit cultivation, closure, plantation, removal of encroachment and annual cutting programmes.

CHAPTER - VII

THE DUTY AND FEES ON TIMBER AND OTHER FOREST PRODUCE

55. Seigniorage fee.---(1) In the case of trees harvested from the reserved forest, Divisional Forest Officer shall credit to Government as forest revenue the sale proceeds of such trees after deducting the timber surcharge, forest development surcharge or any other charges for the time being invogue and creditable to Forest Development Fund, and on the other hand debit to Government and pay to the right holders entitled thereto, the seigniorage fees due, according to the list of such fees that is in force for the time being.

(2) Similarly, in the case of trees which are harvested for sale from guzara forests or wastelands, wherever there are counterpart reserved forests, Divisional Forest Officer shall credit to Forest Development Fund the seigniorage fees, and the balance of the net sale proceeds realised shall be paid to the right holders entitled thereto after deducting the prescribed timber and forest surcharges, managerial and other development charges; provided that the trees referred to in this sub-section are of one or other of the kind entered in the seigniorage-list which is in force for the time being.

(3) The list of the seigniorage fees in force at the commencement of this Ordinance given at Schedule-II is hereby maintained.

(4) Government shall after every ten years with due reference to the average actual sale prices realisable for timber or fuel wood, revise the rates of fees in such list and may add trees to it or exclude trees from it.

(5) The fees may vary in different areas comprising the Districts of Haripur, Abbottabad, Mansehra, Kohistan and Batagram, but shall not exceed in any case a fair estimate of half the average net profits realisable on the sales.

(6) Whenever the list of seigniorage fees has been revised, Government shall publish a notification in the Official Gazette, which shall setforth the rates of seigniorage fees payable, the circumstances under which any trees have been exempted from charge, and

such other matters connected with seigniorage-payments as Government may deem fit to regulate.

(7) Notwithstanding anything contained anywhere else in this Ordinance, this section shall be applicable only to areas comprising the districts of Haripur, Abbottabad, Mansehra, Kohistan¹, Batagram and other wasteland placed under management of Divisional Forest Officer].

56. Duty and forest development charges on timber and other forest produce.--- (1) Government may, by notification, levy a duty or forest development charges, or both, in

such manner, at such places and at such rates as may be prescribed on any timber or other forest produce, which is-

(a) produced in the Province, or

(b) brought from any place outside the Province, or is transported from or through any place within the Province, or from beyond the frontier or elsewhere.

(2) In every case in which such duty or forest development charges, or both, are directed to be levied ad valorem, Government may fix, by notification, the value on which such duty or forest development charges, or both, shall be assessed.

(3) All duties on timber or other forest produce listed in Schedule-I and all forest development charges, or both, which at the time when this Ordinance comes into force, are levied therein under the authority of Government, shall be deemed to have been duly levied under the provisions of this Ordinance:

Provided that the fees and forest development charges so levied shall not exceed in any case a fair estimate of twenty five percent of the average market price realisable on the sales.

(4) The amount realised from duties and forest development charges shall be credited to the Forest Development Fund.

57. Permits fees and other cesses.---(1) In addition to the forest duty and forest development charges, Government may levy permit fees and other cesses on timber coming from Federally Administered Tribal Areas or areas outside Pakistan into the settled part of Province.

(2) The amount realized from such cesses shall be charged to the Forest Development Fund.

¹ Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

CHAPTER - VIII

THE CONTROL OF TIMBER AND OTHER

FOREST PRODUCE IN TRANSIT

58. Power to make rules to regulate transit of timber or other forest produce.---(1)

The control of all rivers, streams and reservoirs and their banks as regards the floating of

timber, as well as the control of all timber and other forest produce in transit by land or water, or air ways is vested in Government, and it may make rules to regulate the transit of all timber and other forest produce.

(2) In particular and without prejudice to the generality of the foregoing power

such rules may-

(a)

(b)

(c)

(d)

(e)

(f)

prescribe the routes by which alone, timber or other forest produce may be imported, exported, transported or moved into, from or within the Province, provided that in the case of imported and exported timber the routes shall be the designated Customs Entry or Exit Points under the Custom Act, 1969(IV of 1969);

prohibit the import, export, transport or moving of such timber or other forest produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;

provide for the issue, production and return of such passes and for the payment of fees thereof;

provide for the stoppage, reporting, checking or examination and marking of timber or other forest produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty or any other charge due thereon, or to which it is desirable for the purposes of this Ordinance to affix a mark;

provide for the establishment and regulation of transit, road side, river side or other depots and for the establishment of forest check posts or barriers for checking or examination of timber or other forest

produce;

provide for the places and for the establishment and regulation of depots to which such timber or other forest produce shall be taken by those in charge of it for checking or examination, or for the payment of such money, or in order that such marks may be affixed to it and the conditions under which such timber or other forest produce shall be brought to store at and removed from such depots, barriers or check posts;

(g) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;

(h) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitate the same;

(i) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing or marking of timber, the altering, effacing or defacing of any marks of the same, or the possession or carrying of marking hammers or other implements used for marking timber; and

Gj) regulate the use of property marks for timber, and the registration of such marks, prescribe the time for which such registration shall hold good, limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration .

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

59. Penalty for breach of rules made under section 58.---(1) Contravention of any of the provisions of the rules made under section 58 shall be punishable with imprisonment

which may extend to six months, or with fine which may extend to '[rupees three lac], or with both:

Provided that in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence the offender shall render himself liable to double of the penalties mentioned above.

60. Government and Forest Officers not liable for damage to forest produce at depot.---Government shall not be responsible for any loss or damage which may occur in

respect of any timber or other forest produce while at a depot established under a rule made under section 58, or while detained elsewhere, for the purposes of this Ordinance, and no Forest Officer shall be responsible for any such loss or damage, unless he causes such loss or damage maliciously or fraudulently.

61. All persons bound to aid in case of accident at depot.---(1) In case of any accident or emergency involving danger to any property at any such depot, every person employed at

such depot, whether by Government or by any private person, shall render assistance to any

Forest Officer or Police Officer demanding his aid in averting such danger or securing such property from damage or loss.

(2) Any person who fails to provide the required aid or assistance, without lawful excuse, in contravention of sub-section (1) shall be punishable with imprisonment which may extend to six months, or with fine, which may extend to ten thousand rupees, or with both.

CHAPTER-IX

THE COLLECTION OF DRIFT AND STRANDED TIMBER

62. Certain kinds of wood and timber to be deemed the property of Government

until the title thereto proved, and may be collected accordingly.---(1) All timber found a drift, beached, stranded or sunk; all wood and timber bearing marks which have not been

registered in accordance with the rules made under section 58, or on which marks have been obliterated, altered, effaced or defaced by fire or otherwise, and all un marked wood and timber found in such areas as Government directs, shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto; as provided in this Chapter.

(2) Such timber may be collected by any Forest Officer or other person entitled to collect the same by virtue of any rules made under section 68, and may be brought to any depot which the Forest Officer may notify as a depot for the reception of drift timber.

(3) Government may, by notification, exempt any class of timber from the provisions of this section.

63. Notice to claimants of drift timber.---Public notice shall, from time to time, be given by the Forest Officer of timber collected under section 62. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period of not less than two months but not more than four months, from the date of such notice, a written statement of such claim.

64, Procedure on claim preferred to such timber.---(1) When any such statement is presented as aforesaid, the Forest Officer may, after making such inquiry 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 any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court, and retain the timber pending the receipt of an order from any such 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 timber claimed by him; but no person shall have right to claim any compensation or costs against 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 subject to process of any civil, criminal or revenue court until it has been delivered, or a suit has been brought, as provided in this section.

65. Disposal of unclaimed timber.---If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 63, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by section 64, the ownership of such timber shall vest in Government, or, when such timber has been delivered to another person under section 64, in such other person free from all encumbrances not created by him.

66. Government and its officers not liable for damage to such timber.---Government

shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 62, and no Forest Officer shall be responsible for any such loss or damage, unless he causes such loss or damage maliciously or fraudulently.

67. Payments to be made by claimant before timber is delivered to him.--- No person shall be entitled to recover possession of any timber collected or delivered as

aforesaid until he has paid to the Forest Officer or other person entitled to receive it such sum on account thereof as may be due under any rule made under section 68.

68. Power to make rules and prescribe penalties.---(1) Government may make rules to regulate the following matters, namely :

(a) the salving, collection and disposal of all timber mentioned in section 62;

(b) the use and registration of boats or launches used in salving and collecting timber;

(c) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber ; and

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

(2) Any person contravening any of the provision, or any of the rules made under this section, shall be punishable with imprisonment for a term which may extend to two years, or fine which may extend to '[rupees five lac], or with both.

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

CHAPTER - X
THE SALE AND SAWING OF TIMBER

69. Restriction on establishment of a sale depot or a sawing unit.---(1) No sale depot or a sawing unit shall be established, unless the same is registered with Divisional Forest

Officer in such manner and on payment of such fee as may be prescribed.

(2) A Divisional Forest Officer may, for reasons to be recorded in writing, refuse to register a sale depot or a sawing unit, between the forests and forest check post or forest barrier of the Forest Department, or refuse to register a sale depot or a sawing unit elsewhere, or cancel the registration of an existing sale depot or a sawing unit:

Provided that no order under this sub-section shall be made without giving the owner of the sale depot or the sawing unit, as the case may be, an opportunity of being heard:

Provided further that the forest contractors, during the currency of their contract and the Government owned sale depots or sawing units may be exempted from the operation of sub-section (2) as may be considered fit by the registering officer in the circumstances.

(3) Where registration of a sale depot or a sawing unit is refused or cancelled under sub-section (2), or its validity period has expired, the sale depot or the sawing unit, as the case may be, shall cease to function or operate, except in the case of expiry of registration, if the owner of the sale depot or the sawing unit, as the case may be, has, in the prescribed manner, applied for renewal of the registration and his request for renewal has not been refused; provided that no request for renewal shall be refused without apprising the owner of the sale depot or the sawing unit concerned of the reasons for refusal and without giving him an opportunity of being heard.

70. Maintenance of record.---(1) Every owner of a sale depot or a sawing unit shall maintain such record or keep such register as may be prescribed.

(2) The record or register being maintained under sub-section (1) shall be open to inspection by the Forest Officer.

71. Appeal.---(1) Any person aggrieved by any order passed by Divisional Forest Officer under section 69 shall have right of appeal before the Conservator of Forests within thirty days of the issuance of such order.

(2) In computing the period of 30 days under sub-section (1) the day on which the order sought to be appealed against was made and the time requisite for obtaining a copy thereof, shall be excluded.

(3) The Conservator of Forests shall not confirm, modify, alter or set aside any order appealed against, except after giving the parties an opportunity of being heard.

(4) The decision of the Conservator of Forests on an appeal under sub-section (3) shall be final.

72. Offences and penalties.---(1) Contravention of any of the provisions of this Chapter or the rules made thereunder shall constitute an offence rendering the offender liable to imprisonment for a term which shall not be less than three months and may extend to two years, or to a fine which shall not be less than '[rupees fifty thousand] and may extend to *[rupees five lac], or with both, and may further entail seizure and confiscation of illicit timber as well as seizure, sealing, dismantling and confiscation of the apparatus, machinery, tools, equipment and the sawing unit to the Government:

Provided that where the value of the illicitly possessed timber and forest produce, as assessed by the Forest Officer exceeds thirty thousand rupees, the offence shall be punishable with imprisonment which shall not be less than six months, or with fine, which shall not be less than *[rupees three lac], or with both, in addition to such compensation for the damage done to the forest as assessed by the Forest Officer which shall not be less than the value of the damage so assessed:

Provided further that where the offence is committed after the sunset and before the sunrise or when the offender causes hindrance in the performance of lawful duties of a Forest Officer under this Chapter or rules made thereunder, or has been previously convicted of a like offence, he may be inflicted with double the penalties specified above.

73. Power to make rules.---(1) Government may make rules for control and regulation of the sale depots and sawing units providing for all or any of the following matters,

namely:

- (a) the classes of timber and the kind of timber to which the rules shall apply;
- (b) establishment, registration, regulation and inspection of sale depots and sawing units;
- (c) fee for registration, including the renewal fee and the period for which the registration shall hold good;
- (d) conditions under which timber may be brought to, stored at, and removed from, sale depots, or cut, sawn or fashioned at a sawing unit;
- (e) specification of timber, its sale, cutting, sawing or fashioning;
- (f) form of registers to be maintained at the sale depots and sawing units;

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(g) security to be pledged with the Divisional Forest Officer for the establishment of sale depots and sawing units; and

(h) seizure and sealing of un-registered sale depots and sawing units, including dismantling thereof and confiscation of timber, forest produce and all machinery, tools, equipment and appliances found therein.

CHAPTER - XI

THE FOREST PROTECTION, PENALTIES AND PROCEDURE.

74. Constitution of the Forest Force.---(1) The entire forest establishment under Government, excluding ministerial staff, for the purposes of this Ordinance, shall be deemed to be a Forest Force and shall be constituted in the prescribed manner.

(2) Members of the Forest Force shall wear such uniform as may be prescribed.

(3) The Forest Force shall be equipped with such arms and ammunition, vehicles, vessels, tools, equipment and communication system as may be deemed appropriate and necessary by Government.

(4) The Forest Officer may use such force as may be reasonable in the circumstances to arrest the offender, seize the case property, recover the forest produce, detain or take into custody any forest offender or case property, 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 offence has occurred or is likely to occur:

Provided that where it becomes necessary to stop for checking, searching and apprehending any mechanically propelled vehicle, boat, launch, railway wagon, pack animal, cart and carriage or any kind of conveyance, 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 defence 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/conveyance or apprehension of the offender.

(5) The Forest Officer may enter any depot, sawing unit, sale depot or any premises, any enclosure, or any building other than a dwelling house, to make a search and seizure of timber or forest produce and arrest offender, or break open the lock of any door, fixture or conveyance for the purpose of search and seizure of timber, any other forest produce or case property or arrest of offender.

(6) The Forest Officer shall have the powers to hold enquiry or investigation into forest offences, and in the course of such enquiry or investigation, to receive and record statements.

(7) The Forest Officer shall have the power of Civil Court to compel the attendance of witnesses and the production of documents and material objects for the purpose of enquiry or investigation.

(8) The Divisional Forest Officer having passed the prescribed departmental examination in forest laws shall, subject to the Code of Criminal Procedure, 1898(V of 1898), have the power to issue a search warrant under the Code of Criminal Procedure, 1898, where deemed necessary.

(9) Any evidence recorded under sub-section (6) shall be admissible in any subsequent trial before a magistrate to the same extent as evidence recorded by the police officer during investigation; provided that it has been taken in the presence of the accused person.

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

(11) No suit, prosecution or other legal proceedings shall be instituted except with the previous sanction in writing of Government, against any Forest Officer in respect of anything done or purported to be done in exercise of the powers conferred by sub-section (4) or sub-section (5) of this section.

75. Power of arrest without warrant.---(1) Any Forest Officer or a Police Officer may, without orders from a magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been involved in any forest offence punishable with imprisonment for one month or more.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Ordinance as to release on bond, take or send the person arrested before the magistrate having jurisdiction or to the officer in charge of the nearest police station within twenty four hours of such arrest.

76. Power of release on a bond a Person arrested.---Any Forest Officer of a rank not inferior to that of a Forest Ranger or Police officer not inferior to that of an Inspector, who, or whose subordinate, has arrested any person under the provisions of section 75, may release such person on his executing a bond to appear, if and when so required, before the magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station.

77. Power of seizure of property liable to confiscation.---(1) Any Forest Officer or a Police Officer may seize-

(a) timber or any other forest produce which he has reason to believe has been obtained, stored, possessed, or is being transported contrary to any provisions of this Ordinance, or of any rules or orders made thereunder ; and

(b) any implements, tools, equipment, carts, carriages, wagons, pick up, lorry, truck, boat or launch, van, motor car, bus, or any other mechanically propelled vehicles, saw machine, sawing unit, chain saw, power saw, pack animals, arms and ammunition or any other kind of conveyances used in the commission, abetment or furtherance of the offence under this Ordinance, rules or orders.

(2) Every officer seizing any timber, forest produce or 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:

Provided that when the timber or forest produce with respect to which such offence is believed to have been committed is the property of Government, or the offender is not known, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to the Divisional Forest Officer who shall appropriate it in favour of Government:

Provided further that the Police Officer shall inform the Forest Officer about such seizure and deliver the case property to him, as soon as possible.

(3) The timber, forest produce or any case property seized under sub-section (1) may be placed in the custody or possession of a custodian and shall not be removed, transferred, damaged, altered, or disposed of in any manner except with the previous permission of the Forest Officer.

(4) When the offender is not known or cannot be found, the magistrate shall, if he is satisfied that an offence has been committed, direct that the case property seized under sub-section (1) shall be confiscated in favour of Government:

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

78. Power to release property seized under section 77 and procedure thereupon.---

(1) Any Forest Officer of a rank not inferior to that of a Range Forest Officer, or Police

Officer not inferior to that of an Inspector, who, or whose subordinate, has seized any tools, equipments, conveyances, etc., mentioned in clause (b) of sub-section (1) of section 77, may release the same, on the execution by the owner 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.

(2) Upon the receipt of any report or challan under section 77, the magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

79. Disposal on conclusion of trial for forest offence of produce in respect of which any offence was committed.---When the trial of any forest offence is concluded, timber or

any other forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest Officer.

80. Procedure as to perishable properties seized under section 77.---(1) The magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any

property seized under section 77 if he is of the opinion that its sale would be for the benefit of the owner or when the forest produce so seized is subject to speedy and natural decay, and may deal with the sale proceeds in accordance with the decision of the Court, as and when arrived.

(2) If the person entitled to possession of any perishable property is unknown or cannot be found, the magistrate shall, if he is satisfied that an offence has been committed, direct the sale of such property seized under section 77, and the sale proceeds so realised shall be credited to Government Treasury.

81. Appeal from orders under section 79 or section 80.---The officer who made the seizure under section 77, or any of his official superiors, or any person claiming to be

interested in the property so seized, may, within one month from the date of any order passed under section 79 or section 80, appeal to the Court to which orders made by such magistrate are ordinarily appealable, and the orders passed on such appeal shall be final.

82. Property when to vest in Government.---When an order for the confiscation of any property has been passed under section 79 or section 80, as the case may be, and the period limited by section 81 from such order has elapsed, and no such appeal has been preferred, or when on such an appeal being preferred, the appellate court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof as the case may be, shall vest in the Government free from all encumbrances.

83. Punishment for wrongful seizure.---Any Forest Officer or Police Officer who vexatiously seizes any property on pretence of seizing property liable to confiscation under this Ordinance shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

84. Counterfeiting or effacing or defacing marks on trees and timber and altering boundary marks.---(1) No person shall, with intent to cause damage or injury to the public

or to any person, or to cause wrongful gain as defined in the Pakistan Penal Code,-

(a) knowingly counterfeit upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of

Government or of some person, or that it may lawfully be cut or removed by some person, or that it is designated for scientific, educational or other purposes; or

(b) alter,

deface or obliterate any such mark placed on a tree, or on timber, by

or under the authority of a Forest Officer; or

(c) alter,

move, destroy or deface any boundary mark or boundary pillar of

any reserved forest, protected forest, waste-lands, village forest or any

other

(2) Whoever

forest made by or under the authority of a Forest Officer.

contravenes or fails to comply with any of the provisions of this

section or abets in commission or furtherance of any such acts shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to 'Rupees five lac], 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 to the

forest as assessed by the

Provided

Forest Officer:

that-

(i) where the value of the forest damage as assessed by the Forest Officer

is

less than ten thousand rupees, the offence shall be punishable with

imprisonment which shall not be less than 7[three months], or with fine which shall not be less than 3[rupees fifty thousand], or with both; or

(ii) w

h

wl

ct

(iii) Ww

h
wl

ct

here the value of the forest damage, as assessed by the Forest

Officer, exceeds ten thousand rupees but does not exceed thirty

ousand rupees, the offence shall be punishable with imprisonment
hich shall not be less than "[six months], or with fine, which shall

not be less than *[rupees one lac], or with both; or

here the value of the forest damage, as assessed by the forest officer,

exceeds thirty thousand rupees but does not exceed one hundred

ousand rupees, the offence shall be punishable with imprisonment
hich shall not be less than 'fone year], or with fine, which shall not

be less than "[rupees two lac], or with both; or

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

3 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

4 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

5 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

© Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

7 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(iv) where the value of the forest damage, as assessed by the forest officer, exceeds one hundred thousand rupees, the offence shall be punishable with imprisonment which shall not be less than one year, or with fine, which shall not be less than '[rupees five lac], or with both.

(3) If the offender be a woman, the magistrate shall, except for reasons to be recorded in writing, dispense with her presence and permit her to appear by an agent, authorised by writing under the signature or thumb impression of the woman attested by a respectable person of the area concerned.

(4) In cases where the offence is committed after sunset and before sunrise or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence, in such cases all the forest produce, tools, implements, carriages, including mechanically propelled vehicles, pack animals, sawing unit, chain saw, arms, ammunitions and other equipments and conveyances used in the commission or furtherance of the offence shall stand confiscated in favour of Government, in addition to the punishment awarded under this section.

85. Penalties and procedure.---(1) Notwithstanding anything contained in any law for the time being in force, the offences under section 26, section 33, section 44, Chapter VI, Chapter VIII, Chapter X and section 84 and section 86 shall be non-bailable:

(a) where the value of the forest damage, as assessed by the Forest Officer, exceeds one hundred thousand rupees;

(b) where an accused has been previously convicted of an offence valuing fifty thousand rupees or more; and

(c) where an accused puts a lawful authority in fear of any injury or causes hurt, or grievous hurt, or assaults, or threatens lawful authority or uses criminal force or commits criminal intimidation against any Forest Officer or Police Officer.

(2) The Forest Magistrate shall, in passing sentence thereunder,-

(a) take into account the extent and duration of the contravention or failure constituting the offence, and the attendant circumstances; provided that where the value of the forest damage, timber or forest produce in respect of which the offence has been committed exceeds ten thousand rupees, as assessed by the Forest Officer, the sentence imposed shall be imprisonment of not less than three months or fine of not less than [rupees one lac], or both;

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

- (b)
- (c)
- (d)
- (e)
- (f)

order confiscation and restoration to the Government of all timber, or any other forest produce in respect of which the offence has been committed;

order confiscation, in favour of the Government of all implements, tools, equipment, carts, carriages, wagons, mechanically propelled vehicles, pack animals, sawing units, power saws, chain saws, arms and ammunition, or vessels, or any other kind of conveyances used in the commission, abetment or furtherance of the offence adjudicated and seized under section 77 where value of the forest damage, timber and forest produce as assessed by the Forest Officer '[rupees three lac]:

Provided that when the offender is not known or cannot be found, the Forest Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest Officer:

Provided further that no such order shall be passed until the expiration of one month from the date of seizure of such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which such person may produce in support of the claim;

where he is satisfied that as a result of the commission of the offence monetary benefits have accrued to the offender, order the offender to pay an additional fine, which shall not be less than the amount of the monetary benefits that have accrued to the offender;

order the offender, where practicable to repair the damage to the reserved forest, protected forest, guzara forest, or wasteland or any other movable and immovable property of the Department caused by him by restoring it to the condition existing prior to the commission of the offence, or as close to such condition as may be reasonable in the circumstances, to the satisfaction of the Forest officer;

order, where appropriate, that out of the fines paid by the offender, an amount by way of compensation be paid to any person who has suffered damages to his person or property as a result of the act of offender in commission of the offence, or an amount by way of reward not exceeding three-fourth of the amount of fine so realised by court to be paid to any person who has seized the case property or has

in any way assisted in apprehending the offender, or property, or detecting the offence within the meaning of section 89 or has

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

furnished information under section 90 leading to conviction of the offender;

(g) order an offender who has been convicted for clearing or breaking up for cultivation or any other purpose any land in a reserved forest or protected forest, to deliver the possession of the same to the Forest Officer and to remove any encroachment thereon within thirty days, failing which he may be ordered to be ejected therefrom and the encroachment removed or demolished with such force as may be necessary, and in such manner as may be prescribed or ordered; provided that if such forest is being managed by a community- based organization or a village-based organization under section 101 or a Joint Forest Management Committee under section 102, possession will be delivered to the said organization or Committee and encroachment removed and demolished with such force as may be necessary.

(3) Any offender under this section who is found to have been previously convicted under this Ordinance or rules made thereunder or the enactments repealed under this Ordinance shall be punished with imprisonment which may extend to three years and a fine which may extend to '[rupees five lac], or with both, in addition to any other punishment which may be awarded under this Ordinance.

(4) In all cases of illicit cultivation in any reserved forest, protected forest, guzara forest, protected wasteland, and other protected areas irrespective of the fact whether any punishment has been awarded to the offender or not, the Forest Officer may demarcate the land so cultivated and may suspend the exercise of all rights in such land for a period as may be necessary for the reproduction of any tree or turf that may have been destroyed.

(5) Where the offence under this section is committed after the sunset and before the sun-rise or when the offender causes hindrance in the performance of lawful duties or to lawful authority or threatens lawful authority during enforcement of this Ordinance or rules made thereunder or has been previously convicted of a like offence, he may be inflicted with double the penalties specified above.

86. Removal of encroachments, etc., from reserved forests, protected forests and wastelands.---(1) A Court convicting an accused person of an offence under section 26,

section 33 and section 45 shall direct the accused, if he or any other person on his behalf be in possession of the land in respect of which he is convicted, to deliver possession of the same within such period not exceeding thirty days, or as the Court may fix in this behalf, to the Forest Officer, and to remove within the said period any encroachments which the accused may have put up or erected on such land.

(2) Any accused person directed by a Court under sub-section (1) to deliver possession of land in a reserved forest, protected forest or a protected wasteland to the

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

Forest Officer or to remove therefrom any encroachment made by him, who fails so to deliver the land or to remove the encroachment, within the period specified by the court,-

(a) may, by order of the Court, be ejected from such land, and any encroachment made by him on such land, may be removed or demolished with such force as may be necessary; or in such manner as may be prescribed, or ordered ; and

(b) shall also be liable to a fine which shall not be less than '[rupees fifty thousand] and may extend to [rupees one lac] per kanal, for every day, or imprisonment which shall not be less than five days, and may extend to ten days for every day of illegal occupation, or both, after the period fixed by the Court under the provisions of sub-section (1) has expired, that he remains in possession or occupation of the land in respect of which he has been convicted or fails to demolish or remove the encroachment on such land; and that the cost of demolition or removal of structure shall be recovered as arrears of land revenue from the person from whose possession the encroachment of the reserve forest has been vacated or in default shall be punishable with imprisonment which shall not be less than one month and may extend to six months.

87. Forest Officers and Police Officers who are authorised to demolish and remove any encroachment or unauthorised building or structure.---The Chief Conservator of Forests, Conservators of Forests, Divisional Forest Officers and Range Forest Officers in Province and all Police Officers of the rank of Inspector and above within their respective jurisdictions are authorised to enter upon Government land, reserved forest, or protected forest or any Government building in charge of, or under control of the Forest Department which the lessee, licensee, encroacher, or unauthorised occupant, as the case may be, has failed or refused to vacate, either by order of the court or by order of the Forest Officer competent to issue such order, and to recover the possession of such land or building by evicting the lessee, licensee, encroacher, or unauthorised occupant, as the case may be, and to demolish or remove any structure un-authorisedly erected or built on such land by the lessee, licensee or un-authorised occupant by using such force as may be necessary in the circumstances.

88. Five or more persons conjointly committing or attempting to commit a forest

offence by putting a lawful authority in fear of any injury or causing hurt.---(1) When five or more persons conjointly commit or attempt to commit a forest offence, valuing

tupees thirty thousand or more, as assessed by Forest Officer, by putting a lawful authority in fear of any injury or during the commission of any offence, whoever causes hurt or grievous hurt or assaults or threatens lawful authority or wrongfully restrains or uses criminal force or commits criminal intimidation against any Forest Officer or Police Officer (these words shall be deemed to have the meaning respectively attributed to them by

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

Pakistan Penal Code, Act No. XLV of 1860), or whoever abets in commission or furtherance of such offence, shall be punishable with imprisonment which shall not be less than six months and may extend to seven years, or with fine, which shall not be less than twenty thousand rupees and may extend to one hundred thousand rupees, or with both, and that all tools and implements, mechanically propelled vehicles, pack animals, equipment, sawing unit, power saw, arms and ammunition or any other kind of conveyances used in the commission, abetment or furtherance of the offence adjudicated shall be confiscated in favour of Government and that all forest produce illicitly obtained or removed shall be restored to the Government.

(2) All the offences mentioned in subsection (1) shall be non-bailable and non-compoundable.

89. Power to prevent commission of offence.---Every Forest Officer, Police Officer, or village forest officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.

90. Persons bound to inform and assist Forest Officers, etc.---(1) Every person having any right in a reserved forest, protected forest, guzara forest, wasteland, or any forest land which have been placed under the management of a Forest Officer, every person employed by such person therein, and every person in any village contiguous thereto who is employed by Government, shall be bound-

(a) to furnish without unnecessary delay to the nearest Forest Officer, Police Officer or village forest officer, or concerned community-based organization, village-based organization or Joint Forest Management Committee, any information he may possess regarding the commission of, or intention to commit, any forest offence;

(b) to forthwith take steps,-

(i) to extinguish any fire occurring in such reserved forest, protected forest, guzara forest or wasteland;

(ii) to prevent any fire in the vicinity of such forest or wasteland from spreading thereto;

(c) to assist any Forest Officer, Police Officer, village forest officer, community-based organization, village-based organization or Joint Forest Management Committee,-

(i) in preventing the commission of any forest offence therein;

(ii) in discovering and arresting the offender when there is reason to believe that a forest offence has been committed and in apprehending the timber, forest produce or case property and in taking into possession the same under superdnama.

(2) Any person who, being bound so to do, without lawful excuse fails:

(a) to furnish without unnecessary delay any information as required by clause (a) of sub-section (1);

(b) to take steps as required by clause (b) of sub-section (1); or

(c) to assist as required by clause (c) of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees, or with both.

91. Seizure of cattle found trespassing.---(1) Any Forest Officer or Police Officer may seize and impound any cattle found trespassing in a reserved forest, or in any portion of a protected forest, or any protected wasteland, or any other forest area which has been lawfully closed to grazing.

(2) When a cattle under sub-section (1) is impounded, it shall, subject to sub-section (3), be governed by the provisions of the Cattle Trespass Act, 1871 (I of 1871).

(3) Government may, by notification, direct that in lieu of the fines fixed under section 12 of the Cattle Trespass Act, 1871 (I of 1871), there shall be levied for each head of cattle impounded under sub-section (1) such fines as it considers fit, but the fine shall not exceed one-tenth of the fair market average sale value of each head of cattle.

92. Bar of jurisdiction.—Except as provided in section 93, no Civil Court shall exercise jurisdiction over any of the matters relating to the implementation of this Ordinance or rules made thereunder.

93. Jurisdiction of Forest Magistrates.---(1) All offence cases punishable under this Ordinance and rules made thereunder shall be tried exclusively by the Forest Magistrate or in his absence by a Magistrate of First class duly empowered by the District and Sessions Judge concerned.

(2) A Forest Magistrate shall not take cognisance of an offence triable under sub-section (1), except on a complaint in writing by the concerned Forest Officer, or by the concerned community-based organization, village-based organization or the Joint Forest Management Committee.

94. Powers to try offences summarily.---(1) All offences under this Ordinance or rules made thereunder shall be tried summarily in accordance with the provisions of the code of Criminal Procedure, 1998 (V of 1898).

(2) A Court taking cognisance of an offence under this Ordinance or rules made there-under, may direct a Forest Officer of the area to serve summons on the accused person to appear before the Court on a given date. In case of refusal or non-compliance by the accused, the Court shall direct the police of the concerned police station to serve a warrant on the accused and produce him before the Court on the given date.

95. Burden of proof as to lawful authority, etc.---When any person is alleged to have

committed an offence under this Ordinance and any question arises whether he did any act or was in possession of anything with lawful authority or under a permit, licence 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, licence or other documents shall lie on him.

96. Prosecution of forest offence _cases.---When an accused does not request for compounding an offence or the Forest Officer refuses to compound an 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, will forward the case to the court concerned for prosecution.

97. Appeals from orders of Forest Magistrates.---(1)Any person or the Forest Officer aggrieved by an acquittal order or sentence passed by the Forest Magistrate under this

Ordinance or the rules made thereunder may, within thirty days of communication of such order or sentence, appeal to the Court of District and Sessions Judge concerned.

(2) The appeal against the decision of the District and Sessions Judge shall lie with the High Court having jurisdiction and final appeal shall be made before the Supreme Court of Pakistan.

CHAPTER-XII THE FOREST MANAGEMENT

98. Forest_management _plans.---(1) All reserved forests, protected forests, guzara forests, wastelands, and other forests placed under the management of a Forest Officer, including village forests, areas under Joint Forest Management under section 38 and areas leased out under section 105, shall be managed in accordance with the provincial forest policy, strategic management plans/forest management plans, '[adoptive forest management,] operational plans and village plans duly approved by the Department or an officer authorized by the Department for this purpose.

(2) Where such management plans do not already exist, they shall be prepared as expeditiously as possible and updated regularly under the direction of the Department and with such involvement of local communities and interested parties as may be possible.

(3) In the case of reserved forests, the forests management plan shall emphasize in particular the protection, conservation, management and sustainable development of

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

forest and protection of watersheds, the promotion of eco-tourism, recreation, education and research, and consistent with these objectives, the commercial harvesting of timber and other forest produce.

(4) In the case of protected forests, guzara forests, waste-lands, and other forests placed under the management of Forest Officer, the forest management plan shall emphasise in particular the sustainable production of timber and other forest produce for meeting the domestic requirements of the village communities and commercial harvesting; provided that in case of wastelands, the domestic requirements of land-owners and right-holders shall be given priority.

(5) Every forest management plan shall-

(a) include a description of the forests and other natural resources in the areas covered thereunder, an analysis of the rate at which these resources can be sustainably used and harvested, a detailed listing of the measures proposed for their sustainable management, regeneration, development, and provide for conservation of biological diversity and estimates of the funds required for the effective implementation of the plan, showing expected contributions from beneficiaries for meeting the costs of management;

(b) provide for appropriate production and security of goods and services, at the optimum level, while continually improving the productivity of forest and safeguarding the national concerns regarding forests and forestry; and

(c) take into account, as far as possible, the village land use planning process.

(6) Government may prescribe procedure for preparation of management plans, including guidelines for sharing of the costs of preparation of management plans by interested parties.

99, Duties _and_ responsibilities of Government.---(1) Government, assisted by the

interested parties, shall be responsible for the protection, conservation, management and sustainable development of reserved forests, protected forests, guzara forests, wastelands and any other forests which may have been placed under the management of a Forest Officer.

(2) Government shall ensure that its laws, policies, orders, measures and actions promote the objectives outlined in sub-section (1).

(3) Government shall facilitate the participation of village communities and interested parties in the sustainable development of forests and wastelands, and will make efforts to encourage women to participate in the management process.

(4) In discharging its duties and responsibilities under sub-sections (1), (2) and (3), Government shall, as far as possible and practicable, act upon the advice and guidance of the Forestry Commission.

100. Restrictions on commercial harvesting of timber.---(1) No forest shall be subjected to commercial harvesting, except with permission in writing by the Divisional

Forest Officer in accordance with approved management plan or regeneration scheme, and subject to such conditions, including payment of fees and duties as Government may, from time to time, notify in the Official Gazette.

(2) The management plan or regeneration scheme mentioned in sub-section (1) shall,-

(a) be supported by proof of availability of adequate funds for implementation purposes from the Forest Development Fund or other sources;

(b) ensure the participation and assistance of communities in the regeneration of the cut over areas, particularly owners, right holders, users, and women as far as possible or practicable;

(c) include adequate measures and assistance of interested parties for protection against grazing and pasturing, or illicit removal of timber and forest produce;

(d) provide for mitigatory measures to alleviate hardship caused from closure of regeneration areas to particular segment of society like woman or nomads as a result of such closure.

(3) Where the progress of regeneration in the area set aside for the said purpose is considered unsatisfactory, the Forest Officer may, after giving the grantee of the permission an opportunity of being heard, withdraw the said permission, whereupon the grantee shall cease the harvesting operations forthwith.

101. Community forest.---(1) The Divisional Forest Officer may assign to any village forest community, village organization, Joint Forest Management Committee constituted in the prescribed manner all or any of its rights of management over any protected forest, guzara forests, and protected wasteland, and may cancel such assignment, or such agreement, as the case may be, if he is of the opinion that such revocation is in the interest of forest conservancy. All forests so assigned shall be called community forest.

(2) The situation and limits of such forest or land shall be specified, as nearly as possible, by well-known and permanent boundary pillars and proper map shall be prepared and maintained of such forest.

(3) Government may, for the purpose of this section, make rules for regulating the management of community forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest produce or permission to pasture be granted, and their duties, liabilities and obligations for the protection, management and sustainable development of such forest be clearly defined.

(4) No assignment under sub-section (1) shall be cancelled or modified by Forest Officer unless the Village Forest Committee, or Joint Forest Management Committee concerned has been given an opportunity of being heard. In case there is a disagreement, the Forest Officer shall record his reasons for cancellation.

102. Joint forest management.---(1) Subject to the provisions of sections 98 and 99, the Forest Officer may, where he considers appropriate, manage protected forests, reserved forest, guzara forest, wastelands, mazri-growing tracts and other forests which have been placed under the management of a Divisional Forest Officer, with the help and participation of community-based organizations, village-based organizations, village development committees or any group of persons representing such organisations, constituted in a prescribed manner, in accordance with such procedure, and on such terms and conditions, as may be deemed fit.

(2) For purposes of sub-section (1), the Forest Officer may enter into agreements for joint management of the forests mentioned therein, which may provide, among other matters, for establishment of Joint Forest Management Committees comprising representatives of the concerned organisations and staff of the Forest Department.

(3) Forest Officer may revoke any such management or agreement, as the case may be, if he is of the opinion that such revocation is in the interest of forest conservancy.

(4) No revocation shall be ordered under sub-section (3), unless the concerned organisation is given an opportunity of being heard, and in case of disagreement the Forest Officer shall record his reasons for revocation.

103. Appointment of village forest officers and issue of management orders.---(1) The Divisional Forest Officer may appoint village forest officers for sustainable management of

reserved forest, protected forest, village forest, or wasteland and may issue general or special management orders to such officers for the prohibition of the cutting, felling, removing of timber or forest produce, debarking, boring, girdling, or otherwise injuring of trees or brushwood, or clearing of land for cultivation, building or road construction, or any other infrastructure, or lopping of trees or brushwood in such lands, and for the regulation of any timber or forest produce for village requirements.

(2) In case of any contravention of orders issued under sub-section (1), the Divisional Forest Officer may direct that no trees be felled, or any forest produce be removed from such lands without his prior permission in writing or of such officials as may

be authorised by him in this behalf, and if permission to sell forest produce or brushwood has been accorded, he may withdraw such permission.

104. Forest Development Fund.---(1) To ensure adequate and timely availability of funds for implementing the forest management plans with specific reference to ensuring forest regeneration, or forest development schemes, Government shall establish a Forest Development Fund.

(2) There shall be credited to the Fund-

(a) an initial amount of Rs. 50 million from the existing cash reserves of [Khyber Pakhtunkhwa] Forest Development Corporation (FDC) plus 70% of its pre-taxed profit each year;

2[(b) timber surcharge, on commercial timber harvesting and sale from reserved forests, protected forests, guzara forests, protected

wastelands and other forest areas, are-

(i) Deodar timber = Rs. 100/- per cubic foot converted;

(ii) Blue pine timber = Rs. 80/-per cubic foot converted;

(iii) Fir/spruce timber = = Rs. 60/- per cubic foot converted;

(iv) — Chir pine timber = Rs. 40/- per cubic foot converted;

(v) Shisham timber = Rs. 100/- per cubic foot converted; and

(vi) Timber from other = Rs. 40/- per cubic foot converted.]

Species notified on
Government land

(c) managerial charges levied by Government on the management of various types of forest;

(d) seigniorage fee recovered from landowners and right holders;

(e) all fines imposed by the Forest Magistrate in forest offence cases; and

(f) any other source notified by Government.

(3) The Fund shall be managed in the prescribed manner.

‘Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

2 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

(4) The Fund shall be utilised in accordance with such procedure as may be prescribed for-

(a) raising forest nurseries;

(b) forestation in the cut-over areas if warranted by silviculture principles and in the blank areas of forests;

(c) range management; and

(d) any other purpose which will help realize the objectives set out in sub-section (1) above.

105. Power to lease out forests.---(1) The Forest Department may, where it considers appropriate, lease out the whole or any portion of a reserved forest, protected forest, wasteland, or other forest placed under the management of a Forest Officer, for the following purposes-

(a) to plant trees, and increase production of forest produce;

(b) to implement agro-forestry and social forestry schemes for the benefit of the local communities;

(c) to operate farms for breeding of wildlife and conservation of biodiversity and nature reserves subject to any law for the time being in force:

Provided that for the achievement of above purposes, no activities shall be allowed which are inconsistent with the principles of forest conservancy and sustainable management or prejudicial to the rights and concession of the local communities.

(2) Lease under sub-section (1) shall be granted in such manner and on such terms and conditions, as may be prescribed.

(3) Department may cancel or modify such leases, as the case may be, if it is of opinion that such cancellation or modification is in the interest of forest conservancy.

(4) No such cancellation or modification shall be ordered unless the leaseholder has been given an opportunity of being heard.

106. Strengthening of legal services.---(1) The Department may, in consultation with Law, Parliamentary Affairs and Human Rights Department, engage as many lawyers as forest standing counsels, as may be deemed fit for effective defence and pleading of the civil suits, criminal cases and appeals of civil/criminal cases filed by or against the Department or any Forest Officer.

(2) For the purpose of sub-section (1), the Department shall make appropriate budgetary provisions.

CHAPTER - XIII

THE FOREST OFFICERS, POWERS AND OBLIGATIONS

107. Conferment of certain powers on Forest Officers.---(1) Government may invest any Forest Officer, with all or any of the following powers-

(a) power to enter upon any land and to survey, demarcate and make its map,

(b) power to hold inquiry into forest offences, and in the course of such inquiry, to receive and record statements and put up challans;

(c) power of a civil court to compel the attendance of witnesses and the production of documents and material objects;

(d) power to issue a search-warrant under the Code of Criminal Procedure 1898; and

(e) power to use force as may be necessary in the circumstances to check and examine any timber or forest produce, to apprehend unlawfully obtained or removed timber or forest produce, or to apprehend any person, vessel or conveyance used in the commission or furtherance of forest offence, or to remove encroachments from Government property or demolish any unauthorised building erected on Government land.

(2) Any statement recorded under clause (b) of sub-section (1) shall be admissible in any subsequent trial before a Forest Magistrate or Court provided that it has been taken in the presence of the accused person.

108. Powers to arrest without warrant.---(1) A Forest Officer or Police Officer may without order from a magistrate and without a warrant, arrest any person who is committing an offence within his sight or against whom a reasonable suspicion exists of his having been concerned in any forest offence, punishable with imprisonment for one month or more.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Ordinance as to release on bond, take or send the person arrested before the magistrate having jurisdiction in the case, or to the officer incharge of the nearest police station.

109. Forest Officers deemed public servants.---All Forest Officers shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

110. Compounding of offences and payment of compensation.---(1) A Forest Officer not below the rank of Divisional Forest Officer, on the application of the accused, may

compound a forest offence in accordance with such procedure as may be prescribed.

(2) Subject to rules, a Forest Officer not below the rank of Range Forest Officer in this behalf may-

(a) accept from any person against whom a reasonable suspicion exists that he has committed a forest offence other than an offence specified in section 84, section 86 and section 88, a sum of money by way of compensation for the said offence; and

(b) release any property seized as liable to confiscation under clause (a) or (b) of sub-section (1) of section 77, on payment of the value thereof including compensation for timber or forest produce, notified by Government.

111. Indemnity for acts done in the good faith.--- No suit, prosecution or other legal proceedings shall lie against Government, the Forest Officers and other employees, experts, advisors, committees or consultants of the Department, the Forest Magistrate or any other person for anything which is done or intended to be done in good faith under this Ordinance or the rules made thereunder.

112. Forest Officers not to trade.---Except with the permission in writing of the Department, no Forest Officer shall, as principal or agent, trade in timber or other forest produce, or be or become interested in any lease of any forest or in any contract for management of any forest or wastelands, within or outside Province.

113. Penalties for breach of rules.---Any person contravening any rule made under this Ordinance, for the contravention of which no special penalty is provided shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty thousand rupees, or with both.

114. Rules when to have force of law.---All rules made by Government under this

Ordinance shall be published in the Official Gazette, and shall there upon, so far as they are consistent with this Ordinance, have effect as if enacted therein.

CHAPTER - XIV MISCELLANEOUS

115. Powers to make rules.---(1) Government may, make rules-

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)
- (h)
- (i)
- G)
- (k)
-)

to prescribe and limit the powers and duties of any Forest Officer under this Ordinance;

to regulate the rewards not exceeding three-fourth of the amount recovered from offenders and realised from case property and out of the proceeds of fines, confiscation, appropriation, compensation and other sums received to be paid to officers, officials, informers, helpers under this Ordinance;

for the preservation, reproduction and disposal of trees and timber belonging to Government, or grown on lands belonging to or in the occupation of private persons;

to prescribe procedures for issue of permits for cutting of trees or brushwood growing in reserved, protected and guzara forests or wastelands;

to provide guidelines for preparation of management plans for any forest, guzara forest, wasteland, reserved forests, and protected forests;

to prescribe procedures for disbursements from the Forest Development Fund;

to prescribe procedures for constitution of community-based organizations, village-based organizations and their duties, powers and obligations;

to regulate the management of village forests or community forests

including provision of incentives to village communities, delegation of duties and obligations to them, and the imposition of fine as joint liability on villagers in case of their wilful gross negligence, mismanagement and forest damage;

to prescribe procedures and terms and conditions for joint forest management;

to prescribe the manner and terms and conditions for grant of leases of forests compatible with the principles and objectives set out in section 3 of this Ordinance;

to prescribe procedures for eviction or ejectment of offenders, removal and demolition of encroachments, enclosures, buildings or

other infrastructures;

to prescribe procedure for compounding of forest offences;

'[(i) to provide procedure for preparation of plans and rules for eco-tourism, rangelands, bio-spheres, bio-diversity (ecology and flora), strict nature reserve, all categories under International Union for Conservation of Nature and Natural Resources (IUCN) of protected areas, bio-diversity reserve, bio-prospecting, urban forestry, badlands, national parks for management of ecology and flora or any rules, which are required under this Ordinance for all categories of forests and definitions therein;

(l-ii) to provide for the protection, conservation, regulation, sustainable development and management of forests, private forests, jointly managed communal forests, socially managed forests, range management and royal trees;]

(m) to provide for the compensation to be paid to the forest officers, officials, functionaries and helpers in case of death, injury or other physical and financial damages sustained by them in the course of duty; and

(n) generally to carry out the purposes of this Ordinance.

116. Dues recoverable _as_ arrears of land _revenue.--- All moneys payable to Government under this Ordinance or the rules made thereunder, or on account of the price of any timber or forest produce, or of expenses incurred in the execution of this Ordinance in respect of such timber or forest produce, or on any other account may, if not paid when due, shall be recoverable as arrears of land revenue.

117. Lien on forest produce for such money.--- (1) When any money is payable for or in respect of any forest produce, the amount thereof shall be deemed to be a first charge on

such timber or forest produce, and such timber or forest produce may be taken possession of by a Forest Officer until such amount has been paid.

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

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

118. Acquisition of Land.---Whenever it appears to Government that any land is required for any of the purposes of this Ordinance, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.

119. Recovery of penalties due under bond.---When any person, in accordance with any provision of this Ordinance, or in compliance with any rules made thereunder, binds himself

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Contract Act, 1872, be recovered from him in case of such breach as if it were an arrears of land revenue.

11119A. Bio-prospecting.--- The Department, in the prescribed manner, shall regulate bio-prospecting in forest ecosystems, protected areas, rangelands, watershed lands, wetlands and riverbeds.

119B. Forest carbon rights.--- Government shall take steps to protect and enforce forest carbon rights and make rules for carbon rights to achieve REDD+ objectives and carbon sequestration.

119C. Establishment _of protected areas categories system.---(1) Government may declare certain areas to be protected under all categories of protected areas as specified in

Guidelines for Applying Protected Area Management Categories of International Union for Conservation of Nature and Natural Resources (IUCN).

(2) For the purpose of sub-section (1), the management of ecology or flora and fauna shall rest with Chief Conservator of Forests and Chief Conservator of Wildlife, respectively.

(3) The Department may manage any reserved forest under any categories of International Union for Conservation of Nature and Natural Resources (IUCN).

119D. National Park.--- For the purpose to protect natural, physical and biological formations or groups of such formulations, which are of outstanding national or global value from the aesthetic or scientific point of view, Government may declare any forest and adjoining area to be a National Park, which shall be regulated and managed in the manner as may be prescribed.

119E. Range Management.---(1) For the purpose of protection, conservation and improvement of carrying capacity or sustainable use of rangelands or waste lands, the Chief Conservator of Forests may, on the recommendation of Conservator of Forests Range Management Circle and in consultation with local communities, convert any rangeland into range improvement cycle coupes.

(2) The Divisional Forest Officer Range Management may, under Chapter-XI of this Ordinance, charge any offender, for over grazing beyond carrying capacity.

(3) For purpose of this section, the Divisional Forest Officer, Range Management, may register Joint Range Management Committee.

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

119F. Eco-tourism.---The Department may, for the purpose of flourishing eco-tourism, within the Province, declare any area as eco-tourism sites, from time to time, as it may deem fit.

119G. Research, education and development.---The Department may, for the purpose of research, education and development, enter into access and benefit sharing, in the manner as may be prescribed.]

120. Repeals and savings.---(1) The following enactments are hereby repealed:

1. The Forest Act, 1927 (Act No. XVI of 1927), in its application to the Khyber Pakhtunkhwa.

2. The Hazara Forest Act, 1936 (Act VI of 1937).

3. The Kohat Mazri Control Act, 1953 (Act No. II of 1954).

4. The North-West Frontier Province (Sale and Sawing of Timber) Act, 1996 (N.-W.F.P. Act XIX of 1996).

(2) Notwithstanding the repeal of the enactments mentioned above, any appointments made, orders passed, notifications issued, rules made, contracts entered into, proceedings commenced, rights acquired, liabilities incurred, penalties, rates, fees or charges levied, forfeitures made, things done or action taken under any of the provisions of the repealed enactments shall, so far as they are not inconsistent with the provisions of this Ordinance, be deemed to have been respectively made, passed, issued, entered into, commenced, acquired, incurred, done, taken or levied under this Ordinance.

121. Removal of difficulties, disposal of pending cases and constitution of Special Courts.---If any difficulty arises in giving effect to any of the provisions of this Ordinance,

Government may make such orders, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing such difficulty disposal of pending cases and constitution of Special Courts.

SCHEDULE — I OF SECTIONS 2(46), 26(1) 30(1)(a), 33(2)(e), 36(3)(d), 44(c), 48(1), 56(3

'TSCHEDULE-II]. LIST OF PROTECTED TREES WHEN FOUND IN RESERVED FORESTS, PROTECTED FORESTS AND PROTECTED ARELANDS AND FOR LEVY OF DUTY.

Scientific Name Local Name English Name

A

Abies Pindrow Paludar, achar Himalayan silver fir.

Acacia modesta

Acacia nilotica

Acer caesium, Acer
cultratum

Aesculus Indica Indian horse chestnut.

Ailanthus altissima

Albizzia Lebbek

Alnus nitida

Azedrachta indica, Melia
indica

Bauhinia variegata

Betula utilis

Bombax malabaricum

Birch

Silk cotton tree.

Cassia Fistula Amaltas Indian Laburnum

Cedrela Serrata Drawa Hill toon

Cedrela Toona Drawa Tooa

Cedrus deodara, Cedrus Diar Deodar
labani

Celtis Australus Batkar, Baktara, Batkarar Nettle-tree

Cornus macrophylla Kandar

D

Dalbergia Sissoo Tali, Shawa Shisham

Diospyros lotus Amlok European date palm

Eugenia Jambolana

Ehretia scuminata

Eucalyptus spp.

Scientific Name

Ficus bengalensis

Ficus religiosa

Ficus Roxburghi

Fraxinus floribunda,
Fraxinus excelsior
Fraxinus xanthoxyloides

Pipal
Barh or Hurmul

Ash
Quetta Ash

Sum

Hanzu,

1 Inserted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

G

Grewia oppositifolia Dhaman

Grewelia robusta Silver Oak

J

Juglans regia Akhrot, Akhor Walnut

M

Tut, Tutli

N

Nammorephs rietichiana Dwarf Palm

Olea ferruginea, *Olea*

Persian lilac or bastard cedar

White mulberry

Melia azedarach

Motus alba

Indian olive

Cuspidata

Olea Glandulifera Bankao

Picea smithiana, *Picea Kachal* Himalayan spruce
morinda

Pinus excelsa, *Pinus Biar*, Nakhtar Blue pine
wallachiana

Pinus Roxburghii Chir Long-leaved pine

Populus alba, *Populus x-eur-* ; . ; .

Americana, *Populus deltoides* Sofeda, Sofedar White poplar, Hybrid poplar

Phoebe lancrealata

Phyllanthus emblica

Pistachia integerrima Sheenai, Kangar Wild Pistachio

Populus ciliata Palach Himalayan Poplar

Populus nigra Sofeda, Sofedar Black Poplar

Plantanus orientalis Plane

Prunus padus Bird Cherry

Pyrus pashia Batangi Wild pear

Scientific Name Local Name English Name

Q

Quercus dilatata Barungi White Oak

Quercus ilex Rhin Holm Oak

Quercus glauca Barin Oak

Quercus semicarpifolia Barh barungi Oak

R

Rhododendron arboreum Rantol, chhan *Rhododendron*

Ss

Salix tetrasperma, *Salix* Spp. Bis, Bins, Valla Willow, English Willow

T

Tamarisk articulata Rukh, Farash Tamarisk

Taxus baccata Yew

U

Ulmus wallichiana Kain Large leaved elm

Ulmus villosa Mannu Small leaved elm

[SCHEDULE-I,
see section 55(3)

LIST OF SEIGNIORAGE FEES FOR RESERVED AND PROTECTED
WASTELANDS IN HAZARA

Name of Species. Rate of Forest Development Charge per cubic foot.

Juniper Species-All
Junipers.

1

2 3

24 inches DBH
and Above
(for green trees

except Serials No.
3 and 11).

Rs. 100/- per cubic
foot.

16-23 inches Per dead
DBH Sound tree.

Rates High to
discourage
cutting of young
trees (for green
trees except
Serials No. 3
and 11)

Rs. 150/- per
cubic foot.

One-Quarter the
rate fixed for

Taxus Species-All
Taxus Species.

Pinus gerardiana-
Chilghoza Pine
(dead trees).

Cedrus deodara-
Deodar.

Rs. 100/- per cubic
foot.

Rs. 150/- per cubic
foot.

Rs. 50/- per cubic
foot.

Rs. 150/- per
cubic foot.
0/- per
oot.

green trees in
Sub-Columns |
and 2 of
Column 3.]

0/- per
oot.

Pinus wallachiana-
Blue Pine or Kail.
Abies pindrow-
Silver Fir.

Rs. 50/- per cubic
foot.
Rs. 30/- per cubic
foot.

0/- per
oot.

Picea smithiana-
Spruce.

Rs. 30/- per cubic
foot.

Pinus roxburghii- Rs. 20/- per cubic
Chir Pine. foot.

Other Coniferous
Species except
protected
coniferous species.

Rs. 20/- per cubic
foot.

Rs. 50
cubic

Protected
Coniferous
Species.

Rs. 150/- per cubic
foot.

0/- per
oot.

Juglans regia-

Rs. 50/- per cubic

Rs. 50/- per

1 Substituted vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

Walnut dead trees cubic foot.
or recommended
under walnut

policy.

12. Dalbergia sissoo- Rs. 50.- per cubic Rs. 100.- per
Shisham. foot. cubic foot.

13. Other Hardwood Rs. 50/- per cubic Rs. 100/- per
Species except foot. cubic foot.

protected

Hardwood Species.

14. Protected Rs. 150/- per cubic Rs. 150/- per

Hardwood Species. | foot. cubic foot.

"SCHEDULE-II

[see section 1(2)]

SPECIAL PROVISIONS FOR REGULATION AND MANAGEMENT OF MERGED DISTRICTS

1. Forests, Private Forests, Jointly Managed Communal Forests and Socially
Managed Forests:

1. This Schedule shall apply to merged districts for a period of ten years.

2. For the purposes of this Schedule, the following words and expressions shall
have the same meanings as are assigned to them below:

(a) Bandarh/Salwaishtai/Quomi-Tarun" means socially imposed
traditional mechanism of tribes to control illegal cutting of trees and
natural regeneration and restoration of forests, for certain period or to
stop grazing during seed dispersal, as management tool of wasteland to
improve grasses or fodder;

(b) "Dispute Resolution Committee" means the Dispute Resolution Committee,
constituted under Paragraph IV of this Schedule;

(c) "Islahi/Aman Committee" means group of elders, involved in management of
forests and resolution of community related disputes, to be regulated in the
prescribed manner;

(d) "Jirgah" means the group of elders or elites of an area, leading community or
communities or traditional indigenous institution, for administering justice in
case of any dispute, to be regulated in the prescribed manner;

1 Added vide Khyber Pakhtunkhwa Act No. XXXI of 2022.

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“jointly managed communal forest” means the forest, jointly “managed by communities or families, individually or jointly, and the Department, through social local system or Joint Forest Management Committees;

“Khels” mean a group of people or different, living in a village;

“local traditional committees” mean group of elders, involved in the process of Bandarh, Salwaishtai or Quomi-Tarun, which also includes Islahi/Aman Committee, Jirgah, Shura Committee, etc;

“merged districts” means the areas merged in the Province, in sequel to the Constitution (Twenty-fifth Amendment) Act, 2019;

“Nagha System” means fines or punishments, socially imposed on offenders, for damage to trees or illegal grazing, carried out during Bandarh, Salwaishtai or Quoami Tarun or the compensation payable by a defaulter;

“Qouam” means a group of families living with named identity;

“Riwaj” means local traditional customs and way of living in merged district;

“Shura Committee” means group of nominated elders, constituted for management of forests and other community related issues;

“socially managed forests” mean the private or communal forests, managed under local social system i.e Bandarh, Salwaishtai, Quoami-Tarun, Nagha System etc; previously. managed in erstwhile Federally Administered Tribal Areas of the Province;

“Sub-Khels” means a group of people or different families, living in different sub-sections, within the village; and

“taqsim” the most notable features of:Pathan land tenure, that it was based on a

strong sense of territorial right which was collective, while providing for the separate enjoyment of the individual family share in the land. The first important feature of the Pathan tenure or the division of newly conquered tracts among the tribes, their clans and sub-sections i.e. the possession of a separate tract by each tribe was parceled out into blocks and held separately by different clans or sections of clans.

3: The ownership of the forests, private forests, jointly managed communal forests and socially managed forests shall vest with the concerned individual or the local communities, Quoam, Khels, Sub-Khels etc, as pertaqsim, however, they shall be managed in a collaborative manner through Joint Forest Management Mechanism or local traditional committee by the concerned individual, families or community/communities and the Department as per provisions of this Schedule.

4. Government may also regulate and manage any or all forests, private forests, jointly managed communal forests and socially managed forests or wastelands, whether covered with trees or not, including forest lands, rangelands, watershed areas, etc; which are owned by private persons, individually or jointly, and which is not the property of Government or over which Government has no proprietary rights.

5. The forests, private forests, jointly managed communal forests and socially managed forests may be managed and protected for the following special purposes:

(a) protection against storms, winds, rolling stones, floods and avalanches or any other natural calamities;

(b) conservation or preservation of soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of land-slips or land-slides or of the formation of ravines and torrents, the protection against erosion and floods, the deposit thereon of sand, stones or gravel;

(c) protection of catchment basins, banks and beds of rivers, streams, torrents and ravines;

(d) protection, conservation and regeneration of particular types of trees, brushwood or grasses;

(e) maintenance of water supply in springs, rivers, tanks and reservoirs; and

(f) protection of lines of communication, including roads, bridges and railways and other infrastructure.

6. The following acts shall be prohibited in the forests, private forests, jointly managed communal forests and socially managed forests:

(a) illicit cutting, sawing, converting, obtaining, storing, selling, transporting, removal of trees and timber and the collection, manufacture and removal of forest produce from these forest and the use of any tools, implements, carriages, boats, vehicles, pack-animals, conveyances, power saw and sawing unit;

(b) breaking up or clearing of land for cultivation;

(c) the irregular pasturing of cattle;

(d) setting fire or clearing of the vegetation; or

(e) any other act which is prohibited under the local social system or Nagha System.

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All forests, private forests, jointly managed communal forests and socially managed forests and forest produce, found anywhere in merged districts, in a Government owned forest or Government owned lands, shall be the property of Government unless otherwise: stated hereinafter.

Any person, being owner of the private forests, jointly managed communal forests and socially managed forests, may lawfully take a forest produce, subject to this Schedule.

Where a forest produce is lawfully taken under a permit to be granted by Divisional Forest Officer concerned or where a forest user rights, granted or issued under this Ordinance or rules, the ownership of such produce shall, subject to the provisions of this Ordinance or rules and to the terms and conditions of the permit, vest in the person, who holds such permit.

Where, before the commencement of the Khyber Pakhtunkhwa Forest (Amendment) Act, 2022, forest produce has been lawfully vested in any person or Quoam, such forest produce shall, subject to the provisions of this Ordinance or rules, vest or continue to be vested in that person or Quoam.

Where a person unlawfully takes any forest produce, in contravention of the provisions of this Schedule, the ownership of such forest produce shall not be transferred to that person.

Government may prescribe measures for the registration and management of forest produce specimens, used for cultural purposes by any traditional community.

The Divisional Forest Officer concerned may remove encroachments from wastelands and the forests, managed under this Schedule.

For the purpose of this Schedule, the concerned Forest Officer may make Forest Management Plan in the manner as provided in section 98 and sub-section (1) of section

Notwithstanding anything contained in,-

(a) any law for the time being in force and sub-section (1) of section 85 of this Ordinance, the offences under this Schedule, Nagha System and under local social system shall be non-bailable;

(b) sub-section (1) of section 101 of this Ordinance, the Divisional Forest Officer may assign to any local traditional committee all or any of its rights of management over any forests, private forests, jointly managed communal forests and socially managed forests and protected wasteland, and may cancel such assignment or such agreement, as the case may be, if he is of the opinion that such revocation is in the interest of forest conservancy. All forests so assigned shall be called jointly managed communal forests;

(c) sub-section (1) of section 102 of this Ordinance, subject to the provisions of sections 98 and 99 of this Ordinance, the Forest Officer may, where he considers appropriate, manage forests, private forests, jointly managed communal forests, socially managed forests, wastelands, mazri-growing tracts and other forests, which have been placed under the management of a Divisional Forest Officer,

with the help and participation of community-based organizations, village-based organizations, village development committees or any group of persons, representing such organizations, constituted in a prescribed manner under this Schedule, in accordance with such procedure, and on such terms and conditions, as may be deemed fit; and

(d) sub-section (2) of section 102 of this Ordinance, for purposes of sub-clause (b) above, the Forest Officer may enter into agreements for joint management of the forests mentioned therein, which may provide, among other matters, for establishment of Joint Forest Management Committees or local traditional committee.

Rights in Forests, Private Forests, Jointly Managed Communal Forests and Socially Managed Forests:

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Subject to the rights and powers of Government, in respect of different fees for forest conservancy, sustainable development and management, as defined under this Ordinance, the rules made thereunder or this Schedule, all forests, private forests, jointly managed communal forests and socially managed forests are the property, held individually, jointly or severally, as the case may be, of the individual, families, or community or communities of the village or valley, in whose boundaries these are situated or settled with the then Political Agents and Assistant Political Agents, during the erstwhile Federally Administered Tribal Areas or natural boundaries, fixed between Quoam, Khels and Sub-Khels as per traditional taqsim or Riwaj.

The owner or owners of forests, private forests, jointly managed communal forests and socially managed forests are entitled to use, free of charge, for their own domestic and agricultural requirements, described in village plan or application, approved by Divisional Forest Officer, recommended by Joint Forest Management Committee or local traditional committees or whatever the case may be to be registered with Divisional Forest Officer, any trees and forest produce, found in the said forests.

The commercial sale of any tree, timber, brushwood or any other forest, prescribed in the working plans for every Quoam, Khel, Sub-Khels or taqsim or Riwaj or subdivision level or identified by Dispute Resolution Committee or focal traditional committee, as the case may be, growing on these forests, private forests, jointly managed communal forests and socially managed forests, shall be allowed by the Divisional Forest Officer concerned,

All such sales shall be subject to payment to Government of timber surcharge, forest development charges, various other fees, levied by Government, and management charges, which shall be credited to the Forest Development Fund.

The claims of right holders, other than land owners of the village or valley, shall be recognized to the extent recorded at settlement or fixed under local social system or in case of doubt or dispute, to the extent which may hereafter be specified by the Dispute Resolution Committee or local traditional committee, previously settled during erstwhile Federally Administered Tribal Areas era, and exercise of such rights shall be subject to the provisions of this Ordinance, rules made thereunder and this Schedule.

6. Green or pole crop of all Juniper Species, Oleaspp, Pinusgerardiana (Chilghoza), Juglansregia (Walnut) and all Quercusspp, grown on these forests, private forests, jointly managed communal forests and socially managed forests, except growing on agriguitural land, shall be deemed to be reserved and protected and shall not be harvested commercially, except with the permission of Divisional Forest Officer for domestic use or as prescribed in working plans or under the social control system.

t The Department shall levy twenty percent (20%) managerial charges in case of commercial harvesting of forests, private forests, jointly managed communal forests and socially managed forests.

Til. Offences and penalties:

Any person,-

- (a) who violates the provisions of this Schedule; or
- (b) who illegally cuts, debarks and damage to roots of any species, mentioned in

clause 6 of paragraph II, within the limits of Government land or any forest under management of Divisional Forest Officer in merged districts;

shall be treated as offence, which shall be punished under sections 84 and 85 of this Ordinance.

IV. Dispute Resolution Committee:

1. In case any dispute arises between the stakeholders of rights of any forests, the matter shall be referred to Dispute Resolution Committee.

2, The Dispute Resolution Committee shall consist of-

- (a) | concerned Deputy Commissioner; Chairman
- (6) concerned Divisional Forest Officer; and Member-Cum-Secretary
- (c) Representatives or elders, each from five Members

Quoam, three Khels and one sub khels, to be appointed by the Chairman on _ the recommendation of concerned Conservator of Forest.

3. Dispute Resolution Committee shall also recommend resolution of inter-tribe rights of forests produce as per traditional taqsim or Riway and clans, documented on the basis of mutually~agreed agreement or notified rights with the then Political Agents and Assistant Political Agents (now Deputy Commissioners and Assistant Commissioners) or documented in official Gazette, if any, and settled principles of due share within thirty (30) days time, extendable for further thirty (30) days. The shares of rights agreed be documented and shall be notified in official Gazette, after expiry of sixty (60) days, if no dispute arises.

The Conservator of Forests, on the recommendation of the Divisional Forest Officer, may notify any disputed forests, private forest, jointly managed communal forest and socially managed forests as protected, in case of their illicit cutting at large, which is subjected to soil erosion and landslides. After declaring such forests as protected, the cases of such disputes shall be referred to the Dispute Resolution Committee or local traditional committee, as the case may be. In case the dispute is not resolvable, the forest shall be considered as protected forests or protected Shamilat, till the dispute is resolved.

Any person, aggrieved from the decision of the Conservator of Forest, under Clause 4 above, may prefer an appeal to the Chief Conservator of Forest, within such time and on such terms and conditions as may be prescribed.

All commercial harvesting of forests, private forests, jointly managed communal forests and socially managed forests shall be subject to the approval of management plans. The timber, harvested from any of forests, managed under working plan or timber, so confiscated, shall be put to auction in central sale depots, notified by Government.

V: Miscellaneous:

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If any difficulty arises in giving effect to any of the provisions of this Schedule, the Secretary of the Department may make such orders, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing such difficulty.

Where scope of mines and minerals exist in the forests, private forests, jointly managed communal forests and socially managed forests, the Mines and Mineral Committee, constituted at the level of the Minerals Department of Government, may make recommendations with regard to such forests.]