

The Gujarat Private Forests (Acquisition) Act, 1973

GUJARAT

India

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Act 14 of 1973

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1. [Amended by Gujarat Private Forests (Acquisition) Amendment Act, 1974 (Act 9 of 1974) on 21 July 1974]

The Gujarat Private Forests (Acquisition) Act, 1973 Gujarat Act No. 14 of 1973 [Dated 30th June 1973] For Statement of Objects and Reasons, see Gujarat Government Gazette Extraordinary, Part. V, dated the 10th November 1973, page 272. This Act was assented to by the President on the 30th June 1973. This Act has ceased to have effect on the expiry of the period of one year after revocation of the Proclamation by the President. An Act to acquire private forests in the State of Gujarat for conserving their material resources and protecting them from destruction and over-exploitation by their owners and for promoting systematic and scientific development and management of such forests for the purpose of attaining and maintaining ecological balance in public interest. It is hereby enacted in the Twenty-third year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Private Forests (Acquisition) Act, 1972. (2) It extends to the whole of the State of Gujarat. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires-(a) "appointed day" means the date on which this Act comes into force; (b) "Code" means the Bombay Land Revenue Code, 1879 (Bombay V of 1879); (c) "Collector" includes an officer not below the rank of a Deputy Collector appointed by the State Government to exercise the powers and perform the duties of the Collector under this Act; (d) "Forest Act" means the Indian Forest Act, 1927 (XVI of 1927), in its application to the State of Gujarat; (e) "prescribed" means prescribed by rules made under this Act; (f) "private forest" means any forest which is not the property of the Government and includes, -(i) any land declared before the

appointed day to be a forest under section 34A of the Forest Act;(ii)any forest in respect of which any notification issued under section 35 of the Forest Act, is in force immediately before the appointed day;(iii)where in forest, forest-land vested in any person other than the State Government and trees vest in the State Government, such forest-land(iv)sites of dwelling houses constructed in such forest which are considered to be necessary for the convenient enjoyment or use of forest and lands appurtenant thereto;(v)in a case where the State Government and any other person are jointly interested in the forest, the interest of such person in such forest;(g)"Schedule" means the Schedule appended to this Act;(h)"Tribunal" means the Gujarat Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1957 (Bombay XXXI of 1958);(i)Words and expressions used in this Act, but not defined in this Act shall have the meanings assigned to them in the Code or, as the case may be, in the Forest Act.

3. Vesting of private forests in the State Government.

(1)Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom or any decree or any order of any Court, Tribunal or any authority or any other document, with effect on and from the appointed day, all private forests in the State of Gujarat shall vest, free from all encumbrances, in, and shall be deemed to be, with all rights in or over the same appertaining thereto, the property of the State Government, and all rights, title and interest of the owner or any person other than the Government subsisting in any such forest on the said day shall be deemed to have been extinguished.(2)Nothing contained in sub-section (1) shall apply to so much extent of land comprised in a private forest as is held by an occupant or tenant lawfully under his personal cultivation on the appointed day and as is not in excess of the ceiling area within the meaning of the expression in the Gujarat Agricultural Lands Ceiling Act, 1960 (Gujarat XXVII of 1961), for the time being in force or any building or structure standing thereon or appurtenant thereto.Explanation. - In this section, the expressions "tenant" and "Personal" cultivation" shall have the same meanings as they have in any law relating to tenancies of agricultural lands for the time being in force in the State of Gujarat.

4. Duty of person to hand over possession of private forests.

(1)Where any private forest vested in the State Government under the provisions of this Act, any person who is in possession of such forest at the time of such vesting shall immediately hand over possession thereof to the Collector or to any other officer authorized by the State Government or by the Collector in this behalf.(2)Any person not handing over possession as required by sub-section (1) shall be deemed to be in unauthorized occupation of such forest and shall be liable to be summarily evicted.

5. Settlement of disputes.

- Where any question arises as to whether any forest is a private forest, or not, or whether any private forest or portion thereof has vested in the State Government or not, the Collector shall decide the question, and the decision of the Collector shall, subject to the decision of the Tribunal in appeal which may be preferred to the Tribunal within sixty days from the date of the decision of the

Collector, or the order of the State Government under section 17, be final.

6. Payment of amount to owners of private forests.

- Every owner of a private forest which vests in the State Government under the provisions of this Act, shall be paid by the State Government, an amount which shall be the aggregate of the following, that is to say:-(a)in respect of forest land, on amount calculated in accordance with the principles specified in Part A of the Schedule;(b)in respect of trees, an amount calculated in accordance with the principles specified in Parts B and C of the Schedule;(c)in respect of dwelling houses, an amount calculated in accordance with the provisions of section 23 and 24 of the Land Acquisition Act, 1894 (I of 1894),

7. Application for payment of amount.

- Any owner of a private forest entitled to payment of an amount under section 6 shall, within the prescribed period, make an application in the prescribed form, to the Collector for determining the amount payable to him under section 6.

8. Collector to determine the amount.

(1)On receipt of an application under section 7, the Collector shall, after making a formal enquiry in the manner provided in the Code, make an award determining the amount payable to him under section 6.[Provided that where the amount so determined exceeds three lakhs of rupees the award shall not be made without the previous approval of the State Government.] [Proviso added by Gujarat 6 of 1985, dated 25,h April 1985 (w.r.e.f 07-01-1985)][***] [Sub-section (2) deleted by Gujarat 6 of 1985, dated 25th April 1985 (w.r.e.f 07-01-1985)](3)Every award under sub-section (1) shall, so far as may be, be in the form prescribed in section 26 of the Land Acquisition Act, 1894 (1 of 1894).

9. Manner in which the amount is to be paid.

(1)The amount specified in the award [shall be paid in the prescribed manner] [Substituted for 'shall be paid in cash' by Gujarat 6 of 1985, dated 25th April 1985 (w.r.e.f 07-01-1985)] to the person entitled thereto.(2)Where the amount awarded is not paid at the time of or before taking possession of the private forest, the amount awarded shall be payable with interest thereon at the rate of four and a half per cent per annum from the time of taking possession till the amount is paid.

10. Deduction of the amount of encumbrances from the amount payable to the owner.

(1)During an inquiry held under section 8, the Collector shall determine in the prescribed manner the amount of encumbrances, if any, lawfully subsisting on the private forest in question, on the appointed day.(a)If the total amount of encumbrances is less than the amount, determined as

payable to the owner, the amount of encumbrances shall be deducted from the amount determined as payable to the owner. The balance shall then be paid to the owner and the amount so deducted shall be utilised for the payment of the encumbrances; and (b) If the total amount of encumbrances is equal to or more than the amount determined as payable to the owner, the amount payable to the owner shall be distributed among the holders of the encumbrances in proportion to the respective amounts of the encumbrances, and having regard to the claims inter se of such holders on the basis of their priorities: Provided that if any sum of money is due to the State Government by the owner of the private forest, such sum of money shall first be adjusted against the amount payable to such owner by the State Government and the surplus alone shall be available as the balance to be paid to the owner under clause (a), or the case may be, as the amount to be distributed amongst the holders of the encumbrances under clause (b). (3) If the determination of any issue under this section involves any question of law regarding the validity of any encumbrance or the claim of the holder of any encumbrance or any question regarding the amount due to the holder in respect of the encumbrance, the Collector shall, in the manner prescribed, refer the question for decision to the relevant Civil Judge within the territorial limits of whose jurisdiction the forest is situated. On receipt of such reference, the Judge concerned shall, after giving notice to the parties concerned, try the question referred to him and record findings thereon, and send the same to the Collector. The Collector shall then give decision in accordance with the said findings. (4) Nothing in this section shall affect the rights of the holder of any such encumbrance to proceed to enforce against the owner of the private forest his right in any other manner or under any other law for the time being in force.

11. Payment of amount for extinguishment of rights of other persons.

(1) If any person other than the owner of a private forest is aggrieved by any provision of this Act, as extinguishing any right enjoyed by him otherwise than as a member of the general public and such person proves that such extinguishment amounts to the transference to the State Government or to public ownership of such right, such person may apply to the Collector for payment of amount for such extinguishment. (2) Such application shall be made in prescribed form within six months from the appointed day. (3) On receipt of an application under sub-section (1), the Collector shall after holding a formal inquiry in the manner provided in the Code and also giving an opportunity to be heard to the owner of the private forest concerned, award such amount to the applicant as the Collector deems reasonable [and the amount so awarded shall be paid in the prescribed manner] [Added by Gujarat 6 of 1985, dated 25th April 1985 (w.r.e.f 07-01-1985)]. (4) The amount so awarded to the applicant shall be liable to be deducted from the amount determined as payable to the owner of such forest under section 6.

12. Appeals.

- Notwithstanding anything contained in the Bombay Revenue Tribunal Act, (Bombay XX of 1958), an appeal shall lie to the Tribunal against an award of the Collector under section 8 or against any order of the Collector passed under section 10 or 11.

13. Procedure before Tribunal.

(1)The Tribunal shall, after giving notice to both the parties, decide the appeal and record its decision.(2)In deciding an appeal under this Act, the Tribunal shall exercise all the powers which a Court has, and shall follow the same procedure which a Court follows, in deciding appeals from a decree or order of an original Court under the Code of Civil Procedure, 1908 (V of 1908).

14. Limitation 36 of 1936.

- Save as otherwise provided in section 5, every appeal made under this Act to the Tribunal shall be filed within a period of sixty days from the date of the award, or as the case may be, order of the Collector. The provisions of sections 4, 5, 12 and 14 of the Limitation Act, 1963 (36 of 1963), shall apply to the filing of such appeal.

15. Court fees.

- Notwithstanding anything contained in the Bombay Court-fee Act, 1959 (Bombay XXXVI of 1959), every appeal made under this Act to the Tribunal shall bear a Court-fees stamp of such appeal.

16. Finality of award and decision of Tribunal.

- The award made by the Collector under section 8 and an order passed by the Collector under section 10 or 11, subject to an appeal to the Tribunal or to an order of the State Government under section 17, and the decision of the Tribunal on an appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

17. Revision.

- [(1)] [Re-numbered by Gujarat 6 of 1985, dated 25th April 1985 (w.r.e.f 07-01-1985)] Where no appeal has been filed within the period provided for it against any decision, order or award of the Collector, the State Government may, within a period not exceeding one year from the date of such decision, order or award-(a)call for the record of any inquiry or proceedings of the Collector for the purpose of satisfying itself as to the legality or propriety of any decision, Order or award passed by, and as to the regularity of the proceedings of such Collector, as the case may be, and(b)pass such order thereon as it deems fit:Provided that no decision, order or award of the Collector shall be modified annulled or reversed unless opportunity has been given to the interested parties to appear and be heard.(2)[Notwithstanding anything contained in sub-section (1) no record of any inquiry or proceedings of the Collector in relation to an award made by him under section 8 with the previous approval of the State Government shall be called for nor shall any order be passed thereon by the State Government, under sub-section (1).] [Inserted by Gujarat 6 of 1985, dated 25th April 1985 (w.r.e.f 07-01-1985)]

18. Inquiries and proceedings before the Collector and Tribunal to be judicial proceedings.

- All inquiries and proceedings before the Collector and the Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. (XLV of 1860).

19. Indemnity.

- No suit, prosecution or other legal proceeding shall lie against the State Government, the Tribunal or any officer of the State Government for anything in good faith done intended to be done under this Act.

20. Declaration of certain lands as private forests.

(1) Whenever it appears to the State Government that any tract of land, not being the property of the Government, so abounds in natural growth of trees, shrubs or grass or in timber or other forest-produce that it should be declared in public interest and for furtherance of the objects of this Act, to be a private forest, the State Government shall issue a notification in the Official Gazette-(a) declaring that it is proposed to declare such tract of land to be a private forest; and (b) specifying as nearly as possible, the situation and limits of such tract. (2) On the publication of such notification, the Collector or any other officer authorised in this behalf by the State Government shall issue a notice in the prescribed manner to the owner of such tract of land and to all other persons having an interest in such tract of land, calling on them to show cause, within a reasonable period to be specified in such notice, why such declaration should not be made. (3) After hearing the objections, if any, of the owner and other persons and considering any evidence that they may produce in support of the same, the Collector, or as the case may be, the authorised officer shall submit his report to the State Government along with his opinion whether the tract of land should or should not be declared to be a private forest. (4) After taking into consideration the objections, proceedings and report and the opinion of the Collector, or as the case may be, of the authorised officer, the State Government shall decide whether such tract of land or any part thereof should or should not be declared to be a private forest, and such decision shall be final. Provided that before taking a decision to declare any tract of land, or part thereof as private forest, the State Government shall give an opportunity of being heard to the owner or other persons interested therein. (5) If the State Government decides to declare such tract of land or any part thereof to be a private forest, it shall publish such decision by notification to that effect and publish the same in the Official Gazette. (6) Upon such issue and publication of the notification under sub-section (5), the tract of land in question or any part thereof shall be deemed to be a private forest and thereupon, all the provisions of this Act shall apply thereto, subject to the modification that the appointed day in relation there shall be deemed to be the date of the issue and publication of the notification under sub-section (5) in relation thereto. (7) If the State Government decides not to declare such tract of land or any part thereof to be a private forest, it shall communicate also publish its decision by a notification in the Official Gazette. (8) On the publication of a notification under sub-section (1) in

respect if any tract of land, it shall not be lawful for the owner of such tract of land or any other person to do therein, except with the previous permission in writing of the Divisional Forest Officer, any of the following things, for any period not exceeding one year from the date of issue of such notification or till the date of publication of the notification under sub-section (7), whichever period expired earlier, namely:-(a)the breaking up or cleaning of the land for cultivation,(b)the pasturing of cattle;(c)the firing or cleaning of the vegetation;(d)the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any tree;(e)the lopping and pollarding of tree;(f)the cutting, sawing, conversion and removal of trees and timber; or(g)the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process.(9)If any person contravenes the provision of sub-section (8), he shall on conviction, be punished with fine, which may extend to five hundred rupees.

21. Owner of private forest to deliver records to authorised officers.

(1)Whenever an officer authorised by the State Government in this behalf so directs, the owner of a private forest, which has vested in the State Government under the provisions of this Act, shall deliver to such officer or to such other officer as may be specified in the direction, the records relating to such private forest maintained by the owner.(2)If the owner fails, without reasonable cause, to deliver any such records, he shall, on conviction, be punished with fine which may extend to two hundred rupees and in the case of a continuing failure to deliver any such records, he shall, be punished with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after conviction for the first such failure.

22. Power to make rules.

(1)The State Government may, by notification in the Official Gazette and, subject to the conditions of previous publication make rules for carrying out the purposes of this Act.(2)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following:(3)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

23. Repeal of sections 34A to 37 of the Forest Act.

(1)Sections 34A, to 37 of the Forest Act shall stand repealed with effect on and from the appointed day:Provided that such repeal shall not affect the continuance in force after the appointed day, of any notification issued under any of these sections before their repeal, until superseded by the State Government.

Schedule

(See Section 6)Part-APrincipals for calculating amount to be paid to owners of private forests in respect of forest land:-

1. Where the area of land does not exceed 400 hectares, an amount equal to one hundred times the assessment fixed for such land.
2. Where the area of land exceed 400 hectares but does not exceed 2000 hectares, an amount equal to ninety times the assessment fixed for such land.
3. Where the area of land exceeds 2000 hectares an amount equal to eighty times the assessment fixed for such land.
4. The amount payable under any of the aforesaid paragraphs shall be subject to the payment of a minimum amount of Rs. 37.50 paise per hectare.
5. If any forest land has not been assessed, the amount of assessment for the purpose of this Part shall be such as shall be fixed by the Collector, having regard to the amount of assessment which would have been leviable on the same extent of forest land of similar nature in the same area.

Part B – Principals for Calculating Amount to be Paid to Owners of Private Forests in Respect of Trees Other than Bamboos.

Girth at breast
height Amount per tree in rupees

		Teak	Superior in Jaili	Inferior in Jaili
(a)	For trees in Broach, Surat, Bulsar and Dangs Districts. -			
	Below 20 cm.	Nil	Nil	Nil
	20 cm. and above but below 30 cms.	0.66	0.30	0.06
	30 cm. and above but below 45 cms.	2.27	1.06	0.17
	45 cm. and above but below 60 cms.	4.05	2.23	0.33
	60 cm. and above but below 75 cms.	6.64	3.43	0.56
	75 cm. and above but below 90 cms.	10.08	4.36	0.62
	90 cm. and above but below 105 cms.	16.02	6.08	1.07
	105 cm. and above but below 120 cms.	22.26	8.49	1.46

	120 cm. and above	27.04	11.51	1.79
(b)	For trees in all districts of the State other than Broach, Surat, Bulsar and Dangs Districts:-			
	Below 20 cm.	Nil	Nil	Nil
	20 cm. and above but below 30 cms.	0.45	0.19	0.03
	30 cm. and above but below 45 cms.	1.39	0.48	0.12
	45 cm. and above but below 60 cms.	3.26	1.07	0.27
	60 cm. and above but below 75 cms.	5.75	1.75	0.60
	75 cm. and above but below 90 cms.	8.61	2.6	0.63
	90 cm. and above but below 105 cms.	13.22	4.23	1.02
	105 cm. and above	15.75	5.04	1.74

Note 1. - No amount shall be paid for any tree the height of which is reduced to 4 meters or less on account of the upper portion thereof being chopped off. Note 2. - (a) "Superior in jaili" means khair, sisam, haldu, sadad, kalam, bigo, tannach, sivan and mahuda. (b) "Inferior in jaili" means any trees other than teak or superior in jaili.

Part C – Principals for calculating amount to be paid to owners of private forests in respect of bamboos.

(1) For bamboos having length of 4 meters and above:-

	Amount in rupees per 100 bamboos		
	Kind of bamboo		
	Maval	Katus	Others
(a) in Broach, Surat, Bulsar and Dangs Districts. -	20	37.50	...
(b) In Panchmahals district	7.50
(c) In Rajkot, Jamnagar, Junagadh, Bhavnagar, Surendranagar, Amreli and Kutch districts.	10.00
(d) In all districts of the State, other than those specified above.	4.50