

The Indian Forest (Gujarat Amendment) Act, 1983

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Act 19 of 1983

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The Indian Forest (Gujarat Amendment) Act, 1983(Gujarat Act No. 19 of 1983)[Dated 9th June, 1998]Ministry of Home AffairsG.S.R. 342(E). - In exercise of the powers conferred by section 10 of the Dadra and Nagar Haveli Act, 1961 (35 of 1961), the Central Government hereby extends to the Union Territory of Dadra and Nagar Haveli, the Indian Forest (Gujarat Amendment) Act, 1983 (Gujarat Act No. 39 of 1983), as in force in the State of Gujarat on the date of this Notification, subject to the following modifications, namely :-Modifications

1. In the Indian Forest (Gujarat Amendment) Act, 1983 (Gujarat Act No. 19 of 1983),-

(a)for the words "State" or "State of Gujarat" wherever they occur, the words "Union Territory of Dadra and Nagar Haveli" shall be substituted;(b)for the words "State Government", wherever they occur, the word "Administrator" shall be substituted and there shall also be made such consequential changes as the rules of grammar may require.

2. in section 1,-

(1)after sub-section (1) the words "as extended to the Union Territory of Dadra and Nagar Haveli" shall be inserted; and(2)for sub-section (2), the following sub-section shall be substituted, namely:-"(2) It shall come into force at once.";

3. in section 2, sub-section (2), clause (a), and in section 9, for the words "property of the State Government", the words "property of the Central Government" shall be substituted;

4. section 11 shall be omitted.

AnnexureThe Indian Forest (Gujarat Amendment) Act, 1983 (Gujarat Act No. 19 of 1983) as in force in the State of Gujarat and as extended to the Union Territory of Dadra and Nagar Haveli. An Act to amend the Indian Forest Act, 1927, in its application to the State of Gujarat. It is hereby enacted in the Thirty-fourth Year of the Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Indian Forest (Gujarat Amendment) Act, 1983 as extended to the Union territory of Dadra and Nagar Haveli. (2) It shall come into force at once.

2. Amendment of section 52 of Act XVI of 1927.

- In the Indian forest Act, 1927, in its application to the Union territory of Dadra and Nagar Haveli (hereinafter referred to as "the principal Act") in section 52, -(1) after sub-section (1), the following sub-section shall be inserted namely :-(1A) Any Forest Officer or Police Officer may, if he has reason to believe that a vehicle has been or is being used for the transport of forest produce in respect of which there is reason to believe that a forest offence has been or is being committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary for examination of the contents in the vehicle and inspection of all records relating to the forest produce and in possession of such driver or other person in charge of the vehicle or any other person in the vehicle." ;(2) in sub-section (2), for the words "make a report of such seizure to the magistrate having jurisdiction to try the offence on account of which the seizure has been made" the following shall be substituted, namely:- "make a report of such seizure, -(a) where the offence on account of which the seizure has been made in respect of the forest produce which is the property of the Central Government or in respect of which the Administrator has any interest, to the concerned authorised officer under section 61A; and (b) in other cases, to the magistrate having jurisdiction to try the offence on account of which the seizure has been made."

3. Amendment of section 53 of Act XVI of 1927.

- In the principal Act, in section 53, for the words and figures "under section 52, may, release" the words, figures and letter "under section 52, may, subject to section 61G release" shall be substituted.

4. Deletion of section 54 of Act XVI of 1927.

- In the principal Act, section 54 shall be deleted.

5. Amendment of section 55 of Act XVI of 1927.

- In the principal Act, in section 55, in sub-section (1) for the words "shall be liable" the words, figures and letter "shall subject to section 61G be liable" shall be substituted.

6. Amendment of section 56 of Act XVI of 1927.

- In the principal Act, in section 56 for the words "in any other case may be disposed" the words, figures and letter "in any other case may, subject to section 61G, be disposed" shall be substituted.

7. Amendment of section 57 of Act XVI of 1927.

- In the principal Act, in section 57, for the words "that an offence has been committed" the words, figures and letter "that an offence has been committed, subject to section 61G", shall be substituted.

8. Amendment of section 58 of Act XVI of 1927.

- In the principal Act, in section 58,-(1)for the words "The Magistrate may notwithstanding anything herein before contained, direct the sale of" the words and figures "The Forest Officer who made the seizure under section 52 may, notwithstanding anything contained in this Act or any other law, sell" shall be substituted ;(2)the following shall be added at the end, namely:-"and shall report about every such sale to his official superior".

9. Insertion of new sections 61A, 61B, 61C, 61D, 61E, 61F and 61G in Act XVI of 1927.

- In the principal Act, after section 61, the following sections shall be inserted namely;- "61A. Confiscation by Forest Officers in certain cases. - (1) Notwithstanding anything contained in the foregoing provisions of this Chapter or in any other law for the time being in force, where a forest offence is believed to have been committed in respect of any forest produce which is the property of the Central Government, the officer seizing the property under sub-section (1) of section 52 shall without any unreasonable delay produce it, together with all tools, ropes, chains, boats, vehicle and cattle used in committing such offence, before an officer authorised by the Central Government in this behalf by notification in the Official Gazette, not being below the rank of an Assistant Conservator of Forest (hereinafter referred to as "the authorised officer").(2)Where the authorised officer seizes under sub-section (1) of section 52 any forest produce which is the property of the Central Government or where any such property is produced before the authorised officer under sub-section (1) and he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may whether or not a prosecution is instituted for the commission of such forest offence, order confiscation of the property so seized together with all tools, ropes, chains, boats, vehicles and cattle used in committing such offence.(3)(a)where the authorised officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may, order the confiscated property or any party thereof

to be sold by public action.(b)Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of any such action or other incidental expenses, relating thereto, shall, where the order of confiscation made under section 61A is set aside or annulled by an order under section 61C or 61D, be paid to the owner thereof or to the person from whom it was seized as may be specified in such order.

61B. Issue of show cause notice before confiscation under section 61A. - (1) No order confiscating any forest produce or tools, ropes, chains, boats, vehicles or cattle shall be made under section 61A except after notice in writing to the person from whom it is seized informing him of the grounds on which it is proposed to confiscate it and considering his objections, if any:

Provided that no order confiscating a motor vehicle shall be made except after giving notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so and considering his objections, if any.(2)Without prejudice to the provisions of sub-section (1), no order confiscating any tool, rope, chain, boat, vehicle or cattle shall be made under section 61A if the owner of the tool, rope, chain, boat, vehicle or cattle proves to the satisfaction of the authorised officer that it was used in carrying forest produce without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the tool, rope, chain, boat, vehicle or cattle and that each of them had taken all reasonable and necessary precautions against such use.

61C. Revision. - Any forest Officer not below the rank of Conservator of Forests specially empowered by the Central Government in this behalf by notification in the Official Gazette may, before the expiry of thirty days from the date of the order of the authorised officer under section 61A, suo moto call for and examine the records of that order and may make such inquiry or cause such inquiry to be made and may pass such orders as he deems fit:

Provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

61D. Appeal. - (1) Any person aggrieved by any order passed under section 61A or section 61C may, within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which the order, relates has been seized and the Sessions Judge shall, after giving an opportunity of being heard to the appellant and the authorised officer or the officer specially empowered under section 61C as the case may be, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(2)an order of the Sessions Judge under sub-section (1) shall be final and shall not be questioned in any court of law.

61E. Award of confiscation not interfere with other punishment. - The award of any confiscation under section 61A or 61C or 61D shall not prevent the infliction of any punishment which the person affected thereby is liable under this Act.

61F. Property confiscated when to vest in Government. - When an order for confiscation of any property has been passed under section 61A or 61C or 61D and such order has become final in respect of the whole or any portion of such property, such property or portion thereof or if it has been sold under sub-section (3) of section 61A the sale proceeds thereof as the case may be, shall vest in the Central Government free from all encumbrances

61G. Bar of jurisdiction in certain cases. - Whenever any forest produce belonging to the Central Government or any tool, rope, chain, boat, vehicle or cattle used in committing any offence is seized under sub-section (1) of section 52, the authorised officer under section 61A or the officer specially empowered under section 61C or the Sessions Judge hearing an appeal under section 61D shall have and, notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have, jurisdiction to make orders with regard to the custody, possession, delivery, disposal or distribution of such property".

10. Amendment of section 68 of Act XVI of 1927.

- In the principal Act, in section 68, in sub-section (1), in clause (b), after the words "as liable to confiscation" the words, figures and letter "subject to section 61G" shall be inserted.