

The Orissa Preservation of Private Forests Act, 1947

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Act 8 of 1947

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The Orissa Preservation of Private Forests Act, 1947Orissa Act 8 of 1947Published in Orissa Gazetted, dated 22nd March, 1947.For Statement of Objects and Reasons, see Orissa Gazette, 1947, Dated 31.1.1917-Part X, page 7 : for Reports of the Select Committee, see Orissa Gazette Extraordinary, dated 18th February, 1947.(Received the assent of the Governor General on the 14th March, 1947).An Act for Preservation of Private Forests in the [State] [Substituted by A. O. 1950 for 'provincial'.] of Orissa.Whereas it is expedient to provide for the preservation of private forests and to prevent their indiscriminate destruction in the [State] [Substituted by A. O. 1950 for 'provincial'.] of Orissa.It is hereby enacted as follows:

1. Short title, Extent, Commencement and Duration.

(1)The Act may be called the Orissa Preservation of Private Forests Act, 1947.(2)It [extends] [Extended to the partially excluded areas with modification by Notification No. 4236, Rule-P/7.6.1 947-Orissa Gazette-Dated 13.6.1947-Part III, page 185.] to the whole of the [State] [Substituted by A. O. 1950 for 'provincial'.] of Orissa.(3)[It shall come into force in such areas and from such date as the [State] [Applicable to Merged Territories only by Orissa Merged States (Laws) Act IV of 1950-Section 8 and Schedule.] Government may by notification, from time to time direct.](4)It shall cease to have effect on the expiration of a period of twenty-four years except as respects things done or omitted to be done before the expiration thereof a Section of the Orissa General Clauses Act of 1937, shall apply upon the expiry of this Act as if it had then been repealed by an Orissa Act.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context-(a)"forest" includes communal land containing trees and shrubs, land used for pasture and any class of land declared to be a forest by notification of the [State] [Substituted by A. O. 1950 for 'provincial'.] Government but does not include -(i)a reserved forest constituted under the provisions of the Madras Forest Act, V of 1882;(ii)reserved and protected forests constituted or a forest placed under the protection at the

request of owners under the provisions of the Indian Forest Act, XVI of 1927; Explanation. - For the purposes of this clause 'communal land' means any land of the description mentioned in Sub-clause (a) or Sub-clause (b) of Clause (16) of Section 3 of the Madras Estates Land Act, 1 of 1908. (b) "owner" in relation to forest including a mortgagee, lessee or other person having right to possession and enjoyment of the forest; (c) "forest produce" has the meaning assigned to that in Clause (4) of Section 2 of the Indian Forest Act, XVI of 1927 as the case be.

3. Preservation of Private Forests.

(1)(a) No owner of any forest shall without the previous sanction of the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government or any officer authorised by them in this behalf, sell, mortgage, lease or otherwise alienate the whole or any portion of the forest. Explanation. - (a) Nothing in this clause shall be constituted as preventing the owner from selling or otherwise dealing with the right to gather and remove forest produce other than trees and timber in the usual or customary manner. (b) Any alienation made in contravention of Clause (a) shall be null and void. (2) No owner of any forest or, any person claiming under him, whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of this Act, shall without the previous permission of the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government or any officer authorised by them in this behalf, cut trees or do any act likely to denude the forest or diminish in its utility as a forest: Provided that nothing in this sub-section shall apply [* * *] [Omitted by Orissa Act 8 of 1960.] or to any act done for the usual or customary domestic purpose or for making agricultural implements. (3) The permission referred to in Sub-section (2) may be granted either in any particular case or generally with reference to a specified forest or in respect of a class of trees therein. (4) If in the opinion of the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government, it is necessary for the preservation of a forest they may, by notification prohibit or regulate the doing of any act likely to be detrimental to the preservation of such forest.

4. Appeals.

- Any person aggrieved by an order under Clause (a), of Section 3 or under Sub-section (2) of that section made by an officer authorised by the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government in this behalf, in regard to the sanction or permission referred to in that clause or sub-section may within two months of the receipt of such order prefer an appeal to the Revenue Commissioner, or any other officer specially empowered by the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government in this behalf. The officer shall pass such orders on the appeal as may think fit.

5. Penalties.

(1) Whoever contravenes the provisions of Sub-section (2) of Section 3 or any of the terms of a notification under Sub-section (4) of that section shall be punishable for the first offence with fine which may extend to two thousand rupees and for a second or subsequent offence with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both. (2) Notwithstanding anything contained in Section 322 of the Code of Criminal

Procedure, V of 1893, it shall be lawful for any Magistrate of the first class, specially empowered by the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government in this behalf, to impose a fine exceeding one thousand rupees.

6. Bar of Suits.

- No order made under this Act either by the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government or by an officer authorised by them and no notification issued by the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government under Sub-section (4) of Section 3 shall be called in question in any Court of law.

7. Power to make Rules.

(1)The [State] [Substituted by A. O. 1950 for 'Provincial'.] Government may make rules for carrying out the purposes of this Act.(2)Without prejudice to the generality of the foregoing power such rules may provide for-(a)the classes or kinds of trees which may be permitted to be cut and the girth of such trees;(b)the terms and conditions subject to which permissions may be granted;(c)the procedure to be followed before granting permissions.

8. Repeal and Savings.

(1)The Orissa Preservation of Private Forests Ordinance, IV of 1949, is hereby repealed.(2)Any sanction or permission given, or any notification issued, and anything done under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be given, issued and done under the corresponding provisions of this Act.

9. Power to remove Difficulties.

- If any difficulty arises in giving effect to the provisions of this Act the [State] [Substituted by A. O. 1950 for 'Provincial'.] Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.