

The Bihar Private Forest Act, 1947

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Act 9 of 1948

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The Bihar Private Forest Act, 1947Bihar Act 9 of 1948This Act received the assent of the Governor-General on the 15th February, 1948 and the assent was first published in the Bihar Gazette of the 3rd March, 1948. An Act to re-enact the Bihar Private Forests Act, 1946, with certain modifications. Whereas the Bihar Private Forests Act, 1946 (III of 1946), was enacted by the Governor in exercise of the power assumed to himself by the Proclamation dated the 3rd November, 1939, issued by him under Section 93 of the Government of India Act, 1935; And whereas under sub-section (4) of Section 93 of the Government of India Act, 1935, the said Bihar Private Forests Act, 1946 (III of 1946), shall not, unless reenacted by an Act of the Provincial Legislature, have effect after the 1st day of April, 1948; And whereas it is expedient to continue the said Bihar Private Forests Act, 1946 (III of 1946), after the 1st day of April, 1948 with certain modifications; It is hereby enacted as follows.

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Bihar Private Forests Act, 1947. (2) It extends to the whole of the State of Bihar. (3) It shall come into force at once.

2. Act not to apply to certain lands.

- This Act shall not apply-(a) to any land which is vested in the Government; or (b) to any land in respect of which notifications and orders issued under the Indian Forests Act, 1927 (XVI of 1927), are in force.

3. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(1)"Collector" in any provision of this Act includes any officer empowered by the State Government to discharge the functions of the Collector under that provision;(2)"Forest" means any land which the State Government may, by notification, declare to be forest for the purposes of this Act and shall be deemed to include any land which is entered as forest or jungle or jogle-jhaari or described by any synonymous term in any record-of-rights finally published under any law for the time being in force unless it is provided that such entry in respect of the land is incorrect;(3)"Forest offence" means an offence punishable under this Act or under any rule made thereunder;(4)"Forest Officer" means any person whom the State Government may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer;(5)"Forest produce" includes-(a)the following whether found in, or brought from, a forest or not, that is to say; timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark lac, mahua flowers, mahua seeds, kuth and robalans, and(b)the following when found in, or brought from a forest, that is to say,-(i)trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,(ii)plants not being trees (including grass, creeps, reeds and moss), and all parts or produce of such plants,(iii)wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and(iv)peat, surface oil and rock;(6)"Landlord" means the owner of the estate or tenure in which a forest is comprised who is entitled to exercise any rights in the forest;(7)"Owner" includes-(i)the Court of Wards constituted under the Court of Wards Act, 1879 (Bengal Act IX of 1879), in respect of any property under the superintendence or charge of such Court.(ii)a manager appointed under Section 2 of the Chota Nagpur Encumbered Estates Act, 1876 (VI of 1876), in respect of any property, the management of which is vested in such manner,(iii)any mortgagee in possession, lessee, receiver appointed by a competent Court and any person holding any property in trust;(8)"Prescribed" means prescribed by rules;(9)"Private forest" means forest which is not the property of the [Government] [Substituted by A.L.O.] or over which the [Government] [Substituted by A.L.O.] has no proprietary rights or to the whole or any part of the forest produce of which the [Government] [Substituted by A.L.O.] is not entitled;(10)"Private protected forest" means a forest specified in a notification issued under Section 30 or proviso thereto;(11)"Right-holder" means a person who has by custom a right of cutting or collecting in, and removing from a forest, timber, fuel and other forest produce for his domestic and agricultural purposes and of pasturing his cattle in a forest;(12)"Rule" means a rule made under this Act;(13)"Working plan" means a written scheme for the management and treatment of a forest prepared by the prescribed authority;(14)"Year" means a year beginning on the first day of April; and(15)Words and expression used in this Act and defined in the Indian Forest Act, 1927, (XVI of 1927), and not defined in this Act, have the meanings respectively assigned to them in the Indian Forest Act, 1927 (XVI of 1927).

Chapter II

General Provisions Relating to the exercise of rights in Forests

4. Rights in Forests to be exercisable in accordance with this Act.

- The right of the landlord and, notwithstanding anything contained in any record of rights prepared under any law for the time being in force, the rights of any other person to cut, collect or remove trees, timber or other forest produce in or from, or to pasture cattle in, any forest shall not be exercised in contravention of the provisions made in or under this Act.

5. Power to prohibit the cutting of trees for purposes of fencing or fuel.

- The [State] [Substituted by A.L.O.] Government may, by notification and subject to such conditions as may be prescribed, prohibit, either generally or in any local areas, the cutting of any trees or species of trees in any forest for the purpose of fencing or fuel.

6. Restrictions on right to cut, collect or remove timber, etc., for domestic or agricultural needs.

- A person who has the right to cut, collect or remove trees, fuel or timber from any forest shall not cut, collect or remove such trees, fuel or timber for his domestic or agricultural needs more than is permitted by the rules.

7. Restrictions on right to reclaim land in forest for purposes of cultivation.

- A person who has the right to reclaim land in any forest for the purposes of cultivation and the landlord of a forest shall not reclaim any land in such forest on hill slopes except in accordance with such conditions as may be prescribed including conditions as to the cutting of trees for reclaiming such land and making embankments along the contours of the land reclaimed on steep hill slopes.

8. Height at which trees and age of bamboo clump, that may be cut.

- No person shall, except in the exercise of right to reclaim land in a forest for the purpose of cultivation, and no landlord of a forest shall, except while reclaiming land in such forest for the purpose of cultivation, cut down any tree at a height of more than six inches from the ground or any bamboo clump less than one year old.

9. Certain persons not to sell or transfer timber cut in any forest.

- No person, not being a landlord, a person acting under the authority of the landlord or an officer acting under the provisions of this Act, shall sell or otherwise transfer any timber obtained by him in the exercise of a right to cut timber in any forest.

10. Restrictions on right of landlord or persons claiming through landlord to cut and remove timber or forest produce.

- A landlord, or a lessee or person claiming through the landlord, shall not cut or remove or permit any person to cut or remove, any tree, timber or other forest produce in or from any forest, to such an extent as to deprive the right-holders of such quantity as the rules permit them to take in the exercise of their rights in the said forest.

11. Restrictions on right to graze cattle.

- No person shall, in the exercise of any customary or other right of pasture or cause to be pastured in any forest any cattle of which he is not the owner.

12. Offences under this Chapter and trial of such offences and penalties therefor.

(1) Any person who contravenes any of the provisions of this Chapter shall be punishable with fine not exceeding fifty rupees for the first offence and with fine not exceeding one hundred rupees or simple imprisonment not exceeding three months or both for the second or any subsequent offence. (2) Offences under this Section shall be triable by a Magistrate of the first or second class, and proceedings under this Section may be instituted on a complaint made by the landlord of the forest in respect of which the offence is alleged to have been committed or by any right-holder of such forest or by Forest Officer or by any officer specially empowered by the [State] [Substituted by A.L.O.] Government in this behalf. (3) When any person is convicted of an offence under this Section, he shall forfeit any tree, timber or other forest-produce in respect of which the offence is committed, if such trees, timber or other forest produce is or are still in his possession or under his control or, if such trees, timber or other forest produce has or have been destroyed or converted or otherwise disposed of by him, the value thereof shall be recoverable from him, in the same way as a fine imposed on him under sub-section (1). (4) Any trees, timber or other forest produce forfeited under this section shall be disposed of in such manner as the Collector may, subject to rules, if any, direct.

Chapter III

Private protected forests

13. Power to constitute a private protected forest.

- If the [State] [Substituted by A.L.O.] Governments are satisfied at any time that it is necessary in the public interest to apply the provision of this Chapter to any private forest, they may constitute such forest a private protected forest in the manner hereinafter provided.

14. Notification by [State] [Substituted by A.L.O.] Government.

- [(1) Whenever it is proposed by the [State] [Section 14 re-numbered as (1) there of and sub-section (2) & (3) Inserted by Act 1 of 1950.] Government to constitute any private forest, a private protected forest, the [State] [Substituted by A.L.O.] Government shall issue a notification [x x x] [Repealed by A.L.O.](a)declaring that it is proposed to constitute such forest a private protected forest;(b)specifying as nearly as possible, the situation and limits of such forests; and(c)Stating that any landlord whose interests are likely to be affected if such forest is constituted a private protected forest may, within such period, not being less than three months from the date of the notification, as shall be stated in the notification present to the Collector in writing any objection to such forest being constituted a private protected forest.Explanation. - For the purpose of clause (b) it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.(2)[The Collector shall send a copy of the notification referred to in subsection (1) by registered post, with acknowledgement due, to the landlord recorded in the record-of-rights finally published under any law for the time being in force, or] [Section 14 re-numbered as (1) there of and sub-section (2) & (3) Inserted by Act 1 of 1950.] in case such landlord has ceased to have any interest in the forest before the date of the said notification, to his successor-in-interest, if any, known to the Collector.(3)The Collector shall also cause a copy of the notification to be affixed in a conspicuous place in every town and village, the revenue survey area of which contains any part of the forest comprised in the notification and shall further cause the purport of the notification to be published by beat of drum in such of the above town and villages as the Collector may deem necessary:Provided that no proceeding under this section shall be called in question on the ground of non-service of a copy of the notification issued under sub-section (2), unless, it is also shown that a copy of the notification was not affixed and the purport thereof was not published in the manner laid down in sub-section (3).]

15. Hearing of objection.

(1)The Collector shall in the prescribed manner hear any objection presented under clause (c) of Section 14 and shall pass an order-(a)dismissing such objection, or(b)directing that the proposal to constitute the said forest a private protected forest shall be dropped either in respect of the whole of the said forest or in respect of a part of it to be specified in the order.(2)Any landlord who is aggrieved by an order passed by the Collector under sub-section (1) or any Forest Officer or other person generally or specially empowered by the [State] [Substituted by A.L.O.] Government in this behalf may present an appeal to the Commissioner within the prescribed period and the order passed on such appeal by the Commissioner shall, subject only to revision by the authority appointed by the [State] [Substituted by A.L.O.] Government in that behalf, be final.(3)If no objection is presented under clause (c) of [sub-section (1) of Section 14] [Inserted by Bihar Act 1 of 1950.] or if such objection, is presented and is finally disposed of under the provision of this section, the [State] [Substituted by A.L.O.] Government may, where it considers that any area included in the notification issued under Section 14 should be constituted a private protected forest, issue a notification-(a)declaring that it has been decided to constitute such area a private protected forest;(b)specifying as nearly as possible the situation and limits of that area; and(c)appointing an officer (hereinafter called the "Forest Settlement Officer") to inquire into and determine the

existence, nature and extent of any rights other than landlords' rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest produce and to deal with the same as provided in this Chapter.(4)The officer appointed under clause (c) of sub-section (3) shall ordinarily be a person not holding any forest office except that Forest Settlement Officer and shall, in the prescribed manner, give an opportunity to the landlord to be heard in the inquiry referred to in that clause.(5)Nothing in sub-sections (3) and (4) shall prevent the [State] [Substituted by A.L.O.] Government from appointing any number of officers not exceeding three, nor more than one of whom shall be a person holding any forest office, except as aforesaid, to perform the duties of a Forest Settlement Officer under this Act.

16. Proclamation by Forest Settlement Officer.

- Where a notification has been issued under sub-section (3) of Section 15, the Forest Settlement Officer shall publish in the local vernacular in every town and village in the neighbourhood of the forest 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 when such forest is constituted a private protected 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 mentioned in Sub-section (3) of Section 15 (other than landlords' rights) within such period either to present to the Forest Settlement Officer a written notice specifying, or to appear before him and state the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

17. Inquiry by Forest Settlement Officer.

- The Forest Settlement Officer shall take down in writing all statements made under Section 16 and shall at some convenient place inquire into all claims duly preferred under that section and the existence of any right mentioned in sub-section (3) of Section 15 other than landlord's rights and not claimed under Section 16 so far as the same may be ascertainable from the records of Government and the evidence of any person likely to be acquainted with the same.

18. Powers of Forest Settlement Officer.

- For the purposes of such inquiry the Forest Settlement Officer may exercise the following powers, that is to say-(a)power to enter, by himself or any officer authorised by him for the purpose, upon any land and to survey, demarcate and make a map of the same, and(b)the powers of a Civil Court in the trial of suits

19. Extinction of rights.

- Rights (other than landlords' rights) in respect of which no claim has been preferred under Section 16 and of the existence of which no knowledge has been acquired by inquiry under Section 17, shall be extinguished, unless, before the notification under Section 30 is published, the person claiming

them satisfies the Forest Settlement Officer that he has sufficient cause for not preferring such claim within the period fixed under Section 16.

20. Prohibition of further contracts.

- After the issue of a notification under Section 14, the landlord of the forest specified in such notification shall not except with the permission of the [State] [Substituted by A. L.O.] Government or any authority appointed by them in this behalf, enter into any contract with any person conferring on such person the right to cut, collect or remove timber or other forest produce or trees in or from such forest, or to re-claim any part of the forest for the purposes of cultivation or otherwise and any such contract entered into after the issue of a notification under Section 14 shall be void: Provided that this restriction shall, without prejudice to the other provisions of this Act, cease if the proposal to constitute the forest concerned a private protected forest is dropped or the forest is eventually constituted a private protected forest.

21. Prohibition of cutting of trees.

(1) At the time of issuing a notification under Section 14, or at any time thereafter, the [State] [Substituted by A. L.O.] Government may by notification, apply to the forest specified in the notification under Section 14, such provisions of this Act as are deemed suitable to the circumstances thereof, and may make an order prohibiting, until the date of the publication of a notification under Section 30, and subject to such conditions and exceptions as may be specified in the order, the cutting, collection and removal of any trees, or any class of trees, in the forest in respect of which such notification is issued and effect shall be given to such order notwithstanding anything contained in any contract, grant, or record-of-rights to the contrary: Provided that the order shall not apply to a forest the proposal to constitute which as a private protected forest is dropped. (2) Such order shall be published in the neighbourhood of the said forest in the prescribed manner. (3) The provisions of Section 12 shall apply to any person who contravenes an order under sub-section (1).

22. Procedure for dealing with claims of forest contractors and grantees.

(1) In the case of a person who claims to have a right under any contract with, or grant made by the landlord before the issue of a notification under Section 14, to cut, collect or remove any forest produce in or from, or to pasture cattle in a forest notified under sub-section (3) of Section 15 or any part thereof, and who claims compensation for the loss or modification of such right, the Forest Settlement Officer shall determine the amount which should, in his opinion, be awarded as compensation to such claimant, and subject to the provisions of subsection (3), shall direct that the amount, if any, so determined shall be awarded to the claimant. (2) In determining the amount of compensation to be awarded to such claimant the Forest Settlement Officer shall take into consideration the following and no other matters, namely- (a) any payment made by the claimant to the landlord; (b) whether or not such payment was a reasonable and bonafide payment; (c) whether or not the exercise by the claimant of a rights under any contract entered into between the claimant and the landlord or under any grant made by the landlord contravened, or was likely to lead to the

contravention of the provisions of Section 7;(d)any expenses reasonably incurred by the claimant in order to cut, collect or remove trees, timber or other forest produce;(e)the value of the trees, timber or other forest-produce cut, collected or removed by, or with the permission of, the claimant;(f)any other matter which in the opinion of the Forest Settlement Officer, may be fairly taken into consideration in determining the amount of the compensation.(3)Instead of directing the award of compensation in cash, the Forest Settlement Officer may direct that the claimant shall be permitted to cut, collect and remove from the said forest such quantity of timber or other forest-produce as shall not exceed in value the amount determined by the Forest Settlement Officer under sub-section (1).(4)The claimant shall not cut, collect or remove any timber or other forest-produce except in such manner and at such times and in such parts of the said forest as may be specified in rules or in instructions issued by the Forest Officer.(5)The Forest Officer shall decide when the claimant has cut, collected and removed trees, timber or other forest-produce to the aggregate value mentioned in sub-section (3) and the decision of the Forest Officer shall, subject to any order that may be passed in revision by the Conservator of Forests, be final.

23. Power to acquire land over which right is claimed.

(1)In the case of a claim to 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 Forest Settlement Officer 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 Forest Settlement Officer 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 (1 of 1894).(3)For the purpose of so acquiring such land-(a)the Forest Settlement Officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894 (1 of 1894);(b)the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under Section 9 of that Act;(c)the provisions of the preceding sections of that Act shall be deemed to have been complied with; and(d)the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

24. 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 Forest Settlement Officer shall pass subject to the provisions of Sections 25 and 26, and order admitting or rejecting the same in whole or in part.

25. Manner in which Forest Settlement Officer should pass orders.

(1)The Forest Settlement Officer shall, when passing orders under Section 24,-(a)decide what fraction of the timber and other forest produce of the forest notified under sub-section (3) of Section 15 shall be allotted to the right holders;(b)prepare a list of the names, father's names, castes, residences and occupation of the right-holders;(c)decide the maximum amount of timber and other forest produce to which each right-holder is entitled;(d)determine the number and description of the cattle, if any, which the claimant is from time to time entitled to graze in the forest and the

season during which such pasture is permitted;(e)consider the capacity of the forest to supply, without danger to its conservation, the requirements of the right-holders.(2)In deciding what fraction of the timber and other forest-produce shall be allotted to the right-holders, the Forest Settlement Officer shall have regard to-(a)the entries in any record-of-rights prepared and finally published under any law for the time being in force and the value to be attached to such entries under such law;(b)any evidence to show the amount of forest-produce which the right holders have taken from the forest notified under sub-section (3) of Section 15 for their fuel or other domestic or agricultural purposes;(c)any evidence to show the attempts if any, made by the landlords of the right-holders to preserve the said forest; and(d)any other evidence to show the respective rights of the landlord and right-holders in the said forest; and(e)the extent of forest not included in the forest notified under subsection (3) of Section 15 and still available for exercise of the rights of right holders.

26. Suspension of rights when required for the conservation of a forest.

- If when passing an order under Section 24 on any claim, the Forest Settlement Officer is of opinion that the conservation of the forest concerned so requires, he may, instead of permitting the exercise of the full rights proved by the claimant, order that the right of pasture and the right to collect dry timber for domestic or agricultural needs shall be regulated, and the exercise of other rights shall be suspended, wholly or in part, for such period and subject to such conditions as may be specified in the order.

27. Appeal from orders passed under Section 22, Section 24 or Section 26.

- Any person who has made a claim under Section 16 or Section 22 or any Forest Officer or other person generally or specially empowered by the [State] [Substituted by A.L.O.] Government in this behalf, may within three months of the date of the order passed by the Forest Settlement Officer under [Section 22, Section 23, Section 24 or Section 26] [Substituted by Act 12 of 1950.], present an appeal from such order to the prescribed authority:[Provided that where an order has been passed under Section 23 within three months from the date of the commencement of the Bihar Private Forest (Amendment) Act, 1950, an appeal may be presented from such order to the prescribed authority, within three months of such date.] [Inserted Act 12 of 1950.]

28. Appeal under Section 27.

(1)Every appeal under Section 27 shall be made by petition in writing, and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the prescribed authority referred to in that section.(2)The petition of appeal received from the Forest Settlement Officer shall be heard in the manner provided for the time being for the hearing of appeals in matters relating to land revenue.(3)The order passed on the appeal shall, subject only to revision by the authority appointed by the [State] [Substituted by A.L.O.] Government in that behalf, be final.

29. Pleadings.

- The [State] [Substituted by A.L.O.] Government, or any person who has made a claim or presented, an objection under this Act, may appoint any person to appear, plead and act on its or his behalf before the Collector or the Forest Settlement Officer or the Appellate Officer, in the course of any inquiry, hearing or appeal under this Act.

30. Notification declaring forest to be a private protected forest.

- When the following events have occurred, namely-(a)the period fixed under Section 16 for preferring claims has elapsed, and all claims, if any, made under Sections 16 and 22 have been disposed of by the Forest Settlement Officer; and(b)if any such claims have been made, the period limited by Section 27 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented with such period have been disposed of by the Appellate Officer;the [State] [Substituted by A.L.O.] 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 constituted a private protected forest, and declaring the same to be a private protected forest from the date fixed by the notification, and from the date so fixed such forest shall be deemed to be a private protected forest:Provided that, if in the case of any forest in respect of which a notification under Section 14 has been issued, the [State] [Substituted by A.L.O.] Government consider that the inquiries, procedure and appeals referred to in this Chapter will occupy such length of time as to cause undue delay in the forest being declared a private protected forest, such delay, in the opinion of the [State] [Substituted by A.L.O.] Government, being prejudicial to the public interest, the [State] [Substituted by A.L.O.] Government may, pending the completion of the said inquiries, procedure and appeals, declare, by a notification containing the particulars specified in this section, such forest to be a private protected forest.

31. Publication of translation of such notification in neighbourhood of forests.

- The Officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.

32. Restriction on acquisition of rights in or over private protected forests.

- No right of any description shall be acquired in or over a private protected forest except by succession or under a grant or contract in writing made by or on behalf of the [State] [Substituted by A.L.O.] Government of some person in whom such right was vested when the notification under Section 30 was issued.

33. Rights not to be alienated without sanction.

(1)Notwithstanding anything contained in Section 32, no right admitted by an order passed under Section 21 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the [State] [Substituted by A.L.O.] Government:Provided that, when any such right is appendant 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 right shall be sold or bartered except to such extent as may have been admitted in the order recorded under Section 24.

Chapter IV

Control and management of private protected forests and Powers of Forest Officers

34. Control and management of private protected forests to vest in the [State] [Substituted by A.L.O.] Government.

- The control and management of every private protected forest shall vest in the [State] [Substituted by A.L.O.] Government.

35. Appointment of Forest Officer for private protected forests.

- The [State] [Substituted by A.L.O.] Government shall, by notification, appoint a Forest Officer for the purposes of each private protected forest or of a specified portion of each private protected forest.

36. Power to invest Forest Officer with certain powers.

- The [State] [Substituted by A.L.O.] Government may invest any Forest Officer with all or any of the following powers that is to say,-(a)power to enter upon any land and to survey, demarcate and make a map of the same;(b)the power of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;(c)power to issue a search warrant under the [Code of Criminal Procedure, 1898 (V of 1998)] [See, now Code of Criminal Procedure, 1973.]; and(d)power to hold an inquiry into forest offences and, in the course of such inquiry, to receive and record evidence.

37. Demarcation of private protected forests.

- The Forest Officer shall demarcate the private protected forest or portion of the private protected forest for which he is appointed in such manner as the [State] [Substituted by A.L.O.] Government may by general or special order direct.

38. Extent to which landlord is to be allowed to remove timber and other produce from private protected forest.

- The Forest Officer appointed for any private protected forest shall, subject to the requirements of any working plan prepared for the forest, allow the landlord of such forest to cut, collect or remove therefrom such quantity of trees, timber or other forest produce as may in the opinion of the Forest Officer, be required for his reasonable agricultural or domestic needs and not exceeding the maximum quantity to be fixed by the Conservator of Forest: Provided that the landlord shall not exercise his right to an extent not allowed by the Forest Officer or in such manner as to necessitate any departure from the required annual yield or any interference with the exercise of their rights by right holders.

39. Landlord to be allowed to construct irrigation works in private protected forest.

- The Collector may, after consulting the Forest Officer, permit the landlord of a private protected forest to erect embankments at suitable places in such forest at his own cost, if he desires to do so, for the purpose of irrigating land beyond the boundaries of the said forest.

40. State Government to receive all revenues from and incur all expenditure on, private protected forest.

- The [State] [Substituted by A.L.O.] Government shall receive all revenues accruing from the working and management of a private protected forest and shall pay the whole expenditure incurred in the working and management of such forest, and the landlord of such forest or any other person shall not be entitled to make any objection to any expenditure that the [State] [Substituted by A.L.O.] Government may consider it necessary to incur on such working and management.

41. Maintenance of revenue and expenditure account.

- The [State] [Substituted by A.L.O.] Government, or any authority appointed by them in this behalf, shall maintain in the prescribed manner a revenue and expenditure account of the working and management of every private protected forest and shall supply an abstract of the yearly account to the landlord of such forest.

42. Payment of allowances for, and net profits of, private protected forest to landlord.

(1) The [State] [Substituted by A.L.O.] Government shall, during the period of their control and management of any private protected forest, pay, at prescribed intervals to the landlord of the forest—(a) an allowance calculated on the total area of the forest as determined by the Conservator of Forests at the rate of one anna per acre per annum or such higher rate not exceeding one anna and

six pies per acre per annum as the [State] [Substituted by A.L.O.] Government may, from time to time, by general or special order, determine; and(b)the net profits, if any, accruing from the working and management of the forest:Provided that in case where the owner has after the publication of a notification under Section 14 and 21 continued to sell, without authority timber or other forest produce, the [State] [Substituted by A.L.O.] Government may, by special order forfeit the allowance for a specified period.(2)For the purpose of calculating the net profit, the total expenditure incurred on the working and management of the forest shall be adjusted against the total income from the working and management up to the date of account and the amount of any deficit shall be carried forward with interest at the prescribed rate from year to year till such amount is made up and surplus is effected.(3)For the purposes of sub-section (2)-(a)the total expenditure shall include the allowance paid to the landlord concerned under clause (a) of sub-section (1) and any sum determined as compensation under sub-section (1) of Section 22 or the value of any thing taken from the forest under sub-section (1) of that Section; and(b)the total income shall include the proceeds of confiscations or forfeitures for forest-offences not committed by the landlord in respect of the forest or the forest-produce thereof after deducting from such proceeds-(i)the rewards, if any, paid to informers and officers out of such proceeds; and(ii)such incidental expense as may be fixed by the Forest Officer including that incurred for the storage, transport and sale of the articles of forest-produce forfeited or confiscated.

43. Rights of right-holders to be exercised in accordance with rules.

- The rights of right-holder in a private protected forest shall be exercised in accordance with the rules.

44. Grouping of forest for management.

- The Forest Officer may, with a view to the more efficient management of the forests, order that the private protected forests in more than one village and under more than one landlord shall be grouped together for the purposes of control and management.

45. System of annual coupes.

(1)When the Forest Officer has ordered the grouping of private protected forests under Section 44, he may direct that the rights of right-holder in a private protected forest shall be exercised in such portion of such group as he may order.(2)In passing orders under sub-section (1) the Forest Officer shall have regard to the convenience of the right-holders so far as that is possible without prejudicing the efficient administration and conservation of the private protected forest.

46. Extent of rights of right-holders to be varied by Forest Officer.

- When the right-holder's share of the produce of a private protected forest is insufficient in any year to meet the maximum requirement of the right-holders, the Forest Officer shall determine for that year the amount of such produce which each right-holder may take in accordance with the rules.

47. Release of private protected forest.

(1)The [State] [Substituted by A.L.O.] Government may at any time, by notification declare that the provisions of this Chapter shall cease to apply to a private protected forest [or any portion thereof] [Inserted by Act I of 1950.] from such date as may be specified in the notification and that, with effect from that date, the forest [or such forest or portion as the case may be] [Inserted by Act I of 1950.] shall cease to be a private protected forest.(2)If on the date of publication of a notification under sub-section (1) the balance-sheet of the revenue and expenditure amount prepared under Section 41 shows that any amount is due to the [State] [Substituted by A.L.O.] Government in respect of the management and working of such forest, such amount shall be written-off.

48. Nothing in this Chapter to prohibit acts done in certain cases.

- Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest Officer or in accordance with any rule.

Chapter V

Penalties and procedure

49. Forest-offences.

- Any person who, without the permission of the Forest Officer in writing or in contravention of any provision of this Act or any rule or order made thereunder.-(a)fells, girdles, lops, taps or burns any tree in a private protected forest, or strips off the bark or leaves from, or otherwise damages, any such tree; or(b)quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process or removes any forest produce from a private protected forest; or(c)breaks up or clears for cultivation or any other purpose any land in a private protected forest; or(d)sets fire to a private protected forest or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest; or(e)permits cattle to damage any tree in a private protected forest; shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

50. Penalties for breach of rules.

- Any person contravening any rule, for the contravention of which no penalty is otherwise provided by this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

51. Seizure of property liable to confiscation.

(1)Where there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all tools, boats, carts or cattle used in committing such offence

if found within the private protected forest, may be seized by any Forest Officer or Police Officer.(2)Every Officer seizing 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.

52. Procedure thereupon.

- Upon the receipt of any report made under sub-section (2) of Section 51, 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 seized property according to law.

53. Power to release property seized under Section 51.

- Any Forest Officer of a rank not inferior to that of a Ranger, who or whose subordinate has seized any tools, boats, carts or cattle under sub-section (1) of Section 51, 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.

54. Trees, timber, forest-produce, tools, etc, when liable to confiscation.

(1)All trees, timber or other forest produce in respect of which a forest offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation.(2)Such confiscation may be in addition to any other punishment prescribed for such offence.

55. Disposal on conclusion of trial for forest offence of produce in respect of which it was committed.

- When the trial of any forest offence is concluded, any tree, timber or other forest produce in respect of which such offence has been committed shall, if it has been confiscated, be taken charge of by a Forest Officer, and, in any other case, may be disposed of in such manner as the Court may, subject to rules, if any, direct.

56. Procedure when offender not known or cannot be found.

- When the offender is not known or cannot be found, the 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, or to be made over to the person whom the Magistrate deems to be entitled to the same: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.

57. Procedure as to perishable property seized under Section 51.

- The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under sub-section (1) of Section 51 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

58. Appeal from orders under Sections 51, 54, 55, or 56.

- The Officer who made the seizure under Section 51 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 54, Section 55 or Section 56, appeal therefrom to the Court to which order made by such Magistrate are ordinarily appealable and the order passed on such appeal shall be final.

59. Property when to vest in the [State] [Substituted by A.L.O.] Government.

- When an order for the confiscation of any property has been passed under Section 54, or Section 56, as the case may be, and the period limited by Section 58 for an appeal from such order has elapsed and no such appeal has been preferred or when, on such appeal being preferred, the appellate court confirms such order in respect of the whole or portion of such property, such property or such portion thereof, as the case may be, shall, save as otherwise provided in sub-section (3) of Section 42, vest in the [State] [Substituted by A.L.O.] Government free from all encumbrances.

60. Saving of power to release property seized.

- Nothing herein before contained shall be deemed to prevent any officer empowered in this behalf by the [State] [Substituted by A.L.O.] Government from directing at any time the immediate release of any property seized under sub-section (1) of Section 51.

61. Punishment for wrongful seizure.

- Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

62. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

- Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code (XIV of 1860). -(a)Knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or trees belongs to a

private protected forest or is the property of some person or that it may lawfully be cut or removed by some person;(b)alters, defaces or obliterates any such mark placed on a tree in a private protected forest or on timber lying in or removed from any such forest by or under the authority of a Forest Officer; or(c)alters, moves, destroys or defaces any boundary-mark of any private protected forest;shall be punishable with imprisonment for term which may extend to two years, or with fine, or with both.

63. Power to arrest without warrant.

(1)When any person is reasonably suspected of having committed any forest offence punishable with imprisonment for one month or upwards and refuses on the demand of a Forest Officer or Police Officer to give his name and address or gives a name or address which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and address may be ascertained.(2)When the true name and address of such person has been ascertained, he shall be released.(3)If the true name and address of such person are not ascertained [xxx] [Repealed by A.L.O.] he shall forthwith be forwarded to the nearest Magistrate having jurisdiction or to the Officer Incharge of the nearest police station:[Provided that no person so arrested shall be detained in custody beyond twenty four hours from the time of his arrest without the authority of a Magistrate.] [Inserted by A.L.O.]

64. Power to prevent commission of offence.

- Every Forest Officer and Police Officer shall prevent, and may interfere in the prescribed manner for the purpose of preventing, the commission of any forest offence.

64A. [Summary trial of certain cases. [Inserted by Act I of 1950.]

- The District Magistrate, or any Magistrate of the first class especially empowered by the [State] Government to try cases summarily may try summarily under Section 260 of the [Code of Criminal Procedure 1898] [Now see Code of Criminal Procedure, 1973 (No. 2 of 1374)], any forest-offence punishable with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred rupees, or with both.]

65. Power to compound offence.

(1)The [State] [Substituted by A.L.O.] Government may, by notification, empower a Forest Officer-(a)to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in Section 61 or Section 62, a sum of money by way of compensation for the offence such person is suspected to have committed; and(b)when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer and to deal with any amount so paid for offences (not suspected to have been committed by the landlord) in respect of a private protected forest or the forest-produce, thereof as proceeds of confiscation relating to the forest for the purposes of

clause (b) of Section (3) of Section 42.(2)On the payment of such sum of money, or such value or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.(3)A Forest Officer shall not be empowered under this Section if he is of a rank inferior to that of a Gazetted Officer and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees.

66. Presumption that forest produce belongs to private protected forest.

- Whenever in connection with any forest offence a question arises as to whether any trees, timber or other forest produce seized within the limits of a private protected forest belongs to such forest, such trees, timber or other forest produce shall be presumed to `belong to such forest until the contrary is proved.

Chapter VI Cattle Trespass

67. Cattle Trespass Act, 1871, to apply.

- Cattle trespassing in any portion of a private protected forest shall be deemed to be cattle doing damage to a public plantation within the meaning of Section 11 of the Cattle Trespass Act, 1871 (1 of 1871) and may be seized and impounded as such by any Forest Officer or Police Officer.

68. Power to alter fines fixed under Cattle Trespass Act, 1871.

- The[State] [Substituted by A.L.O.] Government may by notification, direct that in lieu of the fines fixed under Section 12 of the Cattle Trespass Act, 1871 (1 of 1871),there shall be levied for each head of cattle impounded under Section 67 of this Act such fines as they think fit, but not exceeding the following, that is to say:

For each elephant	Tenrupees.
For each buffalo or camel	Tworupees.
For each horse, mare, gelding, pony, colt, filly mule, bull,bullock, cow or heifer.	Onerupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	Fiftypaise.

Chapter VII Forest Officers

69. Forest Officers deemed public servants.

- All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

70. Forest Officer not to trade.

- Except with the permission in writing of the [State] [Substituted by A.L.O.] Government, no Forest Officer shall, as principal or agent, trade in trees, timber or other forest produce, or be or become interested in lease of any forest or in any contract for working any forest.

71. Bar of suits and other proceedings.

- When a notification has been issued in respect of any forest under Section 14 or under Section 30 or under the proviso thereto or when an order has been made under sub-section (1) of Section 21 or under sub-section (3) of Section 22, no suit or other proceedings shall save as otherwise provided in this Act lie in, or be entertained by, any Civil, Criminal or Revenue Court-(a)in respect of any modification, suspension or extinction, as a result of any such notification or order or as a result of the restriction imposed by Section 19 or Section 20 of any rights which any person was entitled by virtue of any contract or otherwise to exercise in such forest:(b)to vary or set aside any order passed by the Forest Settlement Officer under Section 22 or Section 24 or Section 26 or any order passed in appeal or revision under sub-section (2) or sub-section (3) of Section 28;(c)against the [State] [Substituted by A.L.O.] Government or any servant of the [Government] [Substituted by A.L.O.] in respect of anything done or omitted to be done in a private protected forest by the [State] [Substituted by A.L.O.] Government or any such servant of the [Government] [Substituted by A.L.O.] while such forest was under the control or management of the [State] [Substituted by A.L.O.] Government in respect of any profits claimed by the landlord to be due to him in respect of the management and working of such forest;(d)in respect of anything in good faith done or purporting to be done by any servant of the Government in the discharge of any duty or the exercise of any power imposed or conferred on him by or under this Act.

72. Persons bound to assist Forest Officers and Police Officers.

(1)Every person who exercises any right in a private protected forest or who is permitted to take any forest-produce from, or to cut and remove trees or timber in or from, or to pasture cattle in such forest, and every person who is employed by such person in such forest, and every person in any village contiguous to such forest who is employed by the [Government] [Substituted by A.L.O.] or who receives emoluments from the [Government] [Substituted by A.L.O.] for service to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest Officer or Police Officer any information he may possess respecting the commission of, or intention to commit any forest offence, and shall forthwith take steps, whether so required by any Forest Officer or Police officer or not. -(a)to extinguish any forest fire in such forest of which he has knowledge or information;(b)to prevent by any lawful means in his power any fire in the vicinity of

such forest of which he has knowledge or information from spreading to such forest; and shall assist any Forest Officer or Police Officer demanding his aid-(c)in preventing the commission in such forest of any forest-offence; and(d)When there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.(2)Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails-(a)to furnish without unnecessary delay to nearest Forest Officer or Police Officer any information required by sub-section (1);(b)to take steps, as required by sub-section (1), to extinguish any forest fire in a private protected forest,(c)to prevent, as required by sub-section (1), any fire in the vicinity of such forest from spreading to such forest; or(d)to assist any Forest Officer or Police Officer demanding his aid in preventing the commission in such forest of any forest offence or, when there is-reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender; shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Chapter VIII

Miscellaneous

73. Recovery of money due to Government.

- All money payable to the [State] [Substituted by A.L.O.] Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, may, if not paid when due, be recovered under the law time being in force as if it were an arrear of land revenue.

74. Lien on forest produce for money due to Government.

(1)When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce and such produce may be taken in possession 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 produce by public auction and the proceeds of the sale shall be applied first in discharging such amount.(3)The surplus, if any, if not claimed within three months from the date of the sale by the person entitled thereto, shall be forfeited to [Government] [Substituted by A.L.O. for 'His Majesty']

75. Land acquired under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.

- Whenever it appears to the [State] [Substituted by A.L.O.] Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of Section 4 of the Land Acquisition Act, 1894 (1 of 1894)

76. Recovery of penalties due under bond.

- When any person in accordance with any provision of this Act, or in compliance with any rule, binds himself 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 Indian Contract Act 1872 (IX of 1872), be recovered from him in case of such breach as if it were an arrear of land revenue.

77. Power to make Rules.

(1)The [State] [Substituted by A.L.O.] Government may make Rules to carry out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such Rules may regulate all or any of the following matters, namely:-(a)the cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest-produce from private protected forests;(b)the granting of licences to the inhabitants of towns and villages in the vicinity of private protected forests to take trees, timber or other forest produce for their own use, and the production and return of such licences by such persons;(c)the granting of licences to persons for felling or removing trees or timber or other forest produce in or from such forests for the purposes of trade, and the production and return of such licences by such persons;(d)the payment, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees or to collect and remove such timber or other forest produce;(e)other payments, if any, to be made by them in respect of such trees, timber and forest-produce and the places where such payments shall be made;(f)the examination of forest-produce passing out of such forests;(g)the clearing and breaking up of land for cultivation or other purposes in such forests;(h)the protection from fire of timber lying in such forests and of trees;(i)the cutting of grass and the pasturing of cattle in such forests;(j)hunting, shooting, fishing, poisoning water and setting traps or snares in such forests and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879 (VI of 1879) is not in force:Provided that the rules made under this clause shall not require the landlord of private protected forest or any person authorised by him and by the Forest Officer to obtain a permit, or to pay any fee to hunt, shoot or fish in such forest;(k)the burning of charcoal, or the subjection of any forest produce to any manufacturing process in such forests;(l)the exercise in such forest of any rights of right-holders;(m)to regulate rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act;(n)to regulate working of mines and quarrying for minerals for purposes of Section 78 of this Act;(o)the powers and duties of a Forest Officer under this Act;(p)the items to be included as revenue and items to be included as expenditure in the account mentioned in Section 41, and the manner in which such account shall be prepared;(q)any matter which is by this Act expressly required or authorised to be prescribed or to be provided for by rules; and (r) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is in the opinion of the [State] [Substituted by A.L.O.] Government necessary for giving effect to the purposes of this Act.

78. Savings.

- Nothing in this Act shall affect any right to minerals lying in or under any private protected forest and the [State] [Substituted by A.L.O.] Government shall make adequate provisions for exercise of this right by the person or persons legally entitled to this right in accordance with any rule made by the [State] [Substituted by A.L.O.] Government in this behalf.

79. Repeals.

- The Bihar Private Forest Act, 1946 (Bihar Act III of 1946), is hereby repealed. [and any rules, orders or appointments made, notifications issued and anything done under the said Act and in force on the commencement of this Act, shall, so far as they are not inconsistent with this Act, be deemed to have been made, issued or done under this Act] [Inserted by Act 1 of 1950.].