

The Orissa Forest (Detection, Enquiry and Disposal of Forest Offence) Rules, 1980

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Rule

THE-ORISSA-FOREST-DETECTION-ENQUIRY-AND-DISPOSAL-OF-FOREST-OFFENCE-RULES-1980

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The Orissa Forest (Detection, Enquiry and Disposal of Forest Offence) Rules, 1980Published vide Notification Orissa Gazette, Extraordinary No. 71-D/28.1.1980 - S.R.O. No. 56/80-dated 11.1.1980In exercise of the powers conferred by Clause (d) of Sub-section (1) of Section 82 of the Orissa Forest Act, 1972 (Orissa Act 14 of 1972), the State Government do hereby make the following rules, namely -

1. Short Title and Commencement.

(1)These rules may be called 'The Orissa Forest (Detection, Enquiry and Disposal of Forest Offence) Rules, 1980'.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1)In these rules, unless the context otherwise requires,-(i)Act means the Orissa Forest Act, 1972;(ii)accused means any person who committed or in respect of whom it may be reasonably inferred, that he has committed or abetted the commission of a forest offence;(iii)case record means the records of a case relating to any forest offence maintained by a Forest Officer under these Rules;(iv)Form means a form appended to these rules.(2)All other words and expressions used but not defined in those rules shall have the same meanings, respectively assigned to them in the Act.

3. Maintenance of the Case Records.

(1)When a forest offence is detected and booked, it shall be dealt with in the manner hereinafter provided.(2)The Forest Officer who detects any forest offence under any of the provisions of the Act, shall draw a report in Form No. I which shall form a part of the case record.(3)A list in duplicate of articles seized shall be prepared by the officer detecting the offence, in Form No. II and a copy of the seizure list shall be made over to the accused person, where the accused is known and his signature shall be obtained in the duplicate copy of the said seizure list. The duplicate copy of the seizure list shall form a part of the case record.(4)The report of seizure required to be made to the Magistrate under Sub-section (2) of Section 5 of the Act shall be in Form No. III, and a copy of the report shall be retained in the case record when the report is so made.

4. Enquiry.

(1)When a forest offence is detected, a preliminary enquiry may be held by a Forester in charge of the section who shall forward his enquiry report along with the report in Form No.1 to the Range Officer concerned, soon after his preliminary enquiry is completed:Provided that no enquiry may be held by any such Officer if the accused who has committed a forest offence other than an offence under Section 66 or Section 67 of the Act agrees, and files a petition to that effect in Form No. IV to get the offence compounded under Section 72 of the Act and to pay compensation therefor. Such application in Form No. IV shall also form a part of the case record.(2)An enquiry into the forest offence shall thereafter be held by an officer not below the rank of a Range Officer.(3)The enquiry report together with the case record shall be submitted to the Divisional Forest Officer by the Range Officer in all cases in which the Divisional Forest Officer is not competent to compound under Rule 7 and where the accused persons do not opt to compound the offence.

5. Compounding the Offence.

- Every accused who agrees under Rule 4 to get the offence compounded shall immediately deposit in advance an amount as determined by the Forest Officer not below the rank of a Forester, towards the probable compensation within the meaning of Section 72 of the Act. On receipt of such amount the Forest Officer concerned shall issue a receipt in Form No. V duly signed by him :Provided that the acceptance of any amount as aforesaid by the Forest Officer shall be without prejudice, decision that may be taken by the Forest Officer specially empowered under Section 72 of the Act having regard to the quantum of compensation in conformity with the Clauses (i) to (iii) of Sub-section (1) of the said section.

6. Release of Seized Property.

- Any forest produce seized from an accused shall not immediately be released on receipt of the amount of advance towards probable compensation under Rule 5 but shall be retained with the Forest Officer concerned until an order in this behalf is issued by the competent authority under Section 72 of the Act.

7. Compounding Order.

- Where the accused files the petition under Rule 4, the Forest Officer specially empowered under Section 72 of the Act may compound the case by passing an order in this behalf in Form No. VI. The order shall, in all such cases, be communicated to the accused immediately by or through the Range Officer, as the case may be.

8. Cases not Compounded.

- When the Officer empowered under Section 72 refuses to compound an offence, the amount that was received as advance towards probable compensation from the accused under Rule 5 shall be refunded to him by Range Officer on receipt of the order in that behalf from such Forest Officer.

9. Appeal Barred.

- The compounding order once passed shall be final and no appeal shall lie against such order.

10. Time-limit for Payment.

(1) In the event where the amount of compensation ordered under Rule 7 becomes higher than the amount deposited under Rule 5, the differential amount shall be paid by the accused to the concerned Range Officer within thirty days from the date of issue of the compounding order : Provided that on an application filed in this behalf by the accused, the authority who passed the order may extend the period of thirty days by such further period not exceeding thirty days. (2) In case of default in such payment under Sub-rule (1) the, Divisional Forest Officer shall take action to recover the balance amount as provided under Section 87 of the Act.

11. Prosecution.

- Where the accused does not opt to compound the offence or the Forest Officer empowered refuses to compound the offence and for all cases under Sections 66 and 67 of the Act, the Divisional Forest Officer may forward the offence report in Form No. VII alongwith the report in Form No. I to the Magistrate having jurisdiction, for prosecution of the offender.

12. Repeal and Savings.

- All rules corresponding to these rules and in force prior to the commencement of these rules are hereby repealed: Provided that orders made, notices issued, compensation levied, imposed or assessed, proceeding instituted and sent for prosecution and all actions taken and things done under any of the provisions of the rules so repealed shall be deemed to have been respectively made, issued, levied, imposed or assessed, instituted, taken or done under these Rules. Form I Forest Department, Orissa [Vide Sub-rule (2) of Rule 3]..... Division Note - This report is to be submitted within twenty-four hours of the detection.

Offence Report No..... Dated.....

1. Place of occurrence

2. Date and hour of detection

3. Name(s), parentage and residence of offenders

4. Property seized, if any

5. Custody of seized property

6. Name of parentage and residence of witness (etc.), if any

7. Nature of offence and facts of the case

Form II[Vide Sub-rule (3) of Rule 3]Seizure List

1. Date and time of seizure

2. Place of seizure

3. Particulars of the property seized

4. Name and address of the accused person(s)

5. Signature of the accused person(s)

6. Name and address of the witness(es)

7. Signature of the witness(es)

8. Seizure mark

9. Signature of the officer effecting the seizure

Form III[Vide Sub-rule (4) of Rule 3]ToMagistrate

Sir Dated.....

I have the honour to report that on.....(the date of occurrence I(Name of the Forest Officer) seized the following property of for an offence committed in a Reserve Forest Protected Forest punishable under Section of the Orissa Forest Act, 1972,(1)(2)(3)and I have

reported the matter to the Divisional Forest Officer.

2. The offender agrees to compound the offence, and I am awaiting orders from the Divisional Forest Officer as to the same money he shall pay as compensation.

Yours faithfully Station Range Ranger or Forester of Copy submitted to the Divisional Forest Officer with the report No dated 20... Ranger or Forester Form IV [Vide Rule 4] Compounding Petition To The Divisional Forest Officer..... Division (Through the Range Officer (Range) I..... son of..... resident of..... P.O..... Dist..... having committed the Forest Offence(s) hereby undertake of my own free will to pay compensation under Section 73 of the Orissa Forest Act, 1972, as may be assessed by the competent authority.

2. Should I fail to pay the amount of compensation imposed the same may be recovered, as if it were an arrear of land revenue as provided under Section 87 of the Orissa Forest Act, 1972.

3. I also clearly understand that compounding of the offence by the competent authority under the rules is discretionary and my willingness to pay compensation or payment made under Rule 5, in anticipation of compounding order, does not prevent the competent authority to decide a different course of action.

Particulars

1. Name of the accused -

2. Father's Name -

3. Permanent address -

4. Temporary address -

5. Particulars of offence -

6. Situation of the immovable property and list of such property -

7. Signature of the accused -

Signature of witness (1)..... Address..... date

(2).....Address....date

Name, designation and signature of the Forest Officer receiving the petition Form V [Vide Rule 5] No..... Forest Department..... Division..... Depot Received from the sum of Rupees towards the probable compensation for compounding the offence under Section 72 of the Orissa Forest Act, 1972 without prejudice to any decision that may be taken by the Forest Officer empowered under Section 72 of the said Act. Particulars of the property seized... Place of seizure Dated..... The... 20.... Forester-in-charge of the Depot N.B. - When required, this Form may be in triplicate as Form No. VII. This Form may be utilised for simple receipts. Form VI [Vide Rule 7] Compounding Order Forest Offence File No..... In view of the compounding petition filed by the accused Shri..... I hereby order in exercise of the powers conferred under Section 72 of the Orissa Forest Act, 1972 that a sum of Rs..... (in words and figures)..... be paid towards compensation by the accused for the forest offence committed by him under Section of the said Act.

2. On payment of the compensation amount in full, the seizures, detailed hereunder shall be released the seized forest produce detailed hereunder shall be forfeited to the State.

Details of Seizure

1.

2.

3.

4.

etc.

3. If the compensation is not paid in full within thirty days from the date of issue of this order, action to recover the same, if necessary, shall be taken as per provisions of Section 87 of the aforesaid Act.

Authorised Forest

Officer Designation Place..... Dated..... To Shri..... Copy to the Range Officer Range..... He is requested to take further actions as per rules. A spare copy of the order enclosed, may be handed over to the accused and the due acknowledgement obtained. Note - Sentences/words not applicable, be struck off. Form VII [Vide Rule 1] Forest Department, Orissa..... Division..... Offence Report No..... dated..... Range..... Date and hour of detection..... Place of occurrence..... By whom detected..... Reference to Sections of the Orissa Forest Act and Indian Penal Code [To be filled in by the Divisional Forest

Officer]Name of Accused

Name Father's name Place of Residence

Village Thana District

Names of WitnessesFull Report of all the Facts in DetailForest Department,

Orissa.....DivisionOffence report No..... dated.....Revenue Station

RangeMemo No.....Dated.....Forwarded to the Magistrate with a request for issue of process
against the accused and taking further action according to law.Divisional Forest

Officer-in-charge.....DivisionMemo No.....Dated.....Forwarded to the Conservator
of Forests Circle, with a copy of the Seizure Report for information.Divisional Forest

Officer-in-charge.....Division