

# **The Indian Forest (Punjab Amendment) Act, 2004**

PUNJAB

India

## **The Indian Forest (Punjab Amendment) Act, 2004**

### **Act 21 of 2004**

- Published on 26 October 2004
- Commenced on 26 October 2004
- [This is the version of this document from 26 October 2004.]
- [Note: The original publication document is not available and this content could not be verified.]

The Indian Forest (Punjab Amendment) Act, 2004 Punjab Act No. 21 of 2004 Statement of Objects and Reasons for the Enactment of the Indian Forests (Punjab Amendment) Bill, 2004 - Indian Forest Act, 1927 was enacted in 1927 to consolidate the law relating to forest produce and the duty leviable on timber and other forest produce. Even since its enactment, only one amendment was made by the Punjab State in 1962 (Punjab Act No. 13 of 1962) to cope up with the changed circumstances at that time. The proposed amendment is aimed at better preservation and management of the existing forests by strictly checking the illicit cutting of trees and other forests offences in the State, the present law was providing to be insufficient as the penalty prescribed under the Act was not deterrent enough to stop forest offences. Also there was no provision of confiscation of the property by the Forest Officers. The proposed amendment is aimed at making the punishment for forest offences in the State more stringent. It also proposes to enhance the amount of compensation and fine that can be realised under the Act. Thus, Amendment also aims at speedy removal of encroachments on Government Forest Lands. It will help in preserving our existing forest cover for better environment of the State. Published by Punjab Government Gazette (Extraordinary), dated March 15, 2004, Page 348. [Dated 26th October, 2004] Department of Legal and Legislative Affairs, Punjab No. 32-Legislative/2004. - The following Act of the Legislature of the State of Punjab received the assent of the President of India on the 25th September, 2004, and is hereby published for general information :- An Act further to amend the Indian Forest Act, 1927, in its application to the State of Punjab. Be it enacted by the Legislature of the State of Punjab in the Fifty-fifth Year of Republic of India as follows :-

### **1. Short title and commencement.**

(1) This Act may be called the Indian Forest (Punjab Amendment) Act, 2004. (2) It shall come into force at once.

## **2. Amendment of Section 26 of Central Act 16 of 1927.**

- In the Indian Forest Act, 1927, in its application to the State of Punjab (hereinafter referred to as the principal Act), in Section 26, in sub-section (1), -(i)in clause (e), for the word "dragging", the words "dragging or removing" shall be substituted;(ii)in clause (f), for the words "the same", the words "the same or any forest produce" shall be substituted; and(iii)for the words "six months, or with fine which may extend to five hundred rupees", the words "two years, or with fine which may extend to five thousand rupees" shall be substituted.

## **3. Amendment of Section 33 of Central Act 16 of 1927.**

- In the principal Act, in Section 33, in sub-section (1), -(i)in clause (f), for the word "drags", the words "drags or removes" shall be substituted; and(ii)for the words "six months, or with fine which may extend to five hundred rupees, or with both", the words "two years, or with fine which may extend to five thousand rupees, or with both." shall be substituted.

## **4. Amendment of Section 42 of Central Act 16 of 1927.**

- In the principal Act, in Section 42, in sub-section (1), for the words and signs "six months, or fine which may extend to five hundred rupees, or both.", the words and signs "two years, or fine which may extend to five thousand rupees, or with both." shall be substituted.

## **5. Amendment of Section 52 of Central Act 16 of 1927.**

- In the principal Act, in Section 52, for sub-section (2), the following sub-sections shall be substituted, namely :-"(2) If a forest officer or police officer, 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 committed or is being committed, require the driver or any other person in- charge of such vehicle to stop the vehicle or cause such vehicle to remain stationary as long as may, reasonably be necessary, for examination of the contents in the vehicle and inspection of the records relating to the forest- produce, in possession of such driver or other person in-charge of the vehicle or any other person in the vehicle.(3)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, either,-(a)produce such property before an officer, not below the rank of the Divisional Forest Officer concerned, authorized by the State Government in this behalf by notification in the Official Gazette (hereinafter referred to as the Authorized Officer); or(b)where due to quantity or bulk of such property or any other genuine difficulty, it is not practicable to produce it before the Authorized Officer, shall make a report of such seizure to the Authorized Officer; or(c)where it is intended to launch criminal proceeding against the offender immediately, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which, the seizure has been made :Provided that it shall not necessary to make a report of such seizure to the Magistrate in the following cases, namely :-(i)when the forest produce with respect to which, such offence is believed to have been committed, is the property of the State Government and

the offender is unknown. In such a situation, it shall be sufficient to make a report of the circumstances to the Authorised Officer;(ii)when the offender agrees in writing to get the offence compounded as provided in Section 68 of this Act; and(iii)when the offence falls under the purview of Section 52-A."

## **6. Insertion of new Sections 52-A, 52-B, 52-C, 52-D, 52-E, 52-F and 52-G in Central Act 16 of 1927.**

- In the principal Act, after Section 52, the following sections shall be inserted, namely :-"52A. Procedure for confiscation. - (1) Where the Authorised Officer upon production before him of the property seized or upon receipt of report about seizure of such property, or where the Authorised Officer himself seized the property under sub-section (1), of Section 52, is satisfied that a forest offence has been committed in respect thereof, may, by order in writing for reason to be recorded in writing, confiscate the forest produce so seized together with any tool, vehicle, boat, rope, chain or any other article used in committing such offence.(2)A copy of the order of confiscation, shall be forwarded without any delay to the Conservator of Forests of the forest circle in which the forest produce has been seized.(3)No order of confiscating any property, shall be made under sub-section (1), unless the Authorised Officer -(a)issues a notice in writing to the person from whom the property is seized and to any other person, who shall claim before the Authorised Officer any interest in such property;(b)affords an opportunity to the person referred to in clause (a) of making a representation within such time, as may be specified in the notice referred to in that clause; and(c)gives the officer effecting the seizure and the person to whom notice has been issued under clause (a), a hearing on such date, as may be fixed in this regard.(4)No order of confiscation under sub-section (1) with regard to any tool, vehicle, boat, rope, chain or any other article (other than timber or forest- produce seized), shall be made, if the person referred to in clause (a) of sub-section (3), proves to the satisfaction of the Authorised Officer that any such tool, article, boat, rope, chain or other article was used without his knowledge or connivance or his servant or agent and that all reasonable and necessary precautions had been taken against the use of aforesaid objects for the commission of the forest offence.(5)No order of confiscating a vehicle shall be made except after giving a notice in writing to the registered owner of the vehicle and his financier, if any, if, in the opinion of the Authorised Officer, it is practicable to do so and considering his objections, if any.

**52B. Appeal against the order of confiscation. - (1) Any person aggrieved by an order of confiscation made under sub-section (1) of Section 52-A, may within a period of thirty days from the date of receipt of such order, prefer an appeal on payment of such fee, as may be prescribed alongwith the certified copy of order of confiscation to the Conservator of Forests (hereinafter referred to as the Appellate Authority) having jurisdiction.**

(2)The Appellate Authority may pass such order of interim nature for custody, preservation or disposal (if necessary) about the subject-matter of confiscation, as may appear to be just or proper in the circumstances of the case.(3)Notwithstanding anything contained in sub-section (1), if no appeal has been preferred before the Appellate Authority, but the Appellate Authority deems it

appropriate in public interest to proceed against the order passed under sub-section (1) of Section 52-A, it may suo moto take cognizance even after the expiry of the stipulated period of thirty days, but before the expiry of a period of sixty days from the date of receipt of the said order and pass such order, as it may deem appropriate :Provided that before passing any order, the Appellate Authority shall give an opportunity of being heard to the concerned parties.(4)The Appellate Authority, having regard to the nature of the case or the complexities involved, may permit parties to the appeal to be represented by legal practitioners.

**52C. Revision. - (1) Any party aggrieved by an order of the Appellate Authority, may within a period of thirty days from the date of receipt of order of the Appellate Authority, file revision petition to the Court of Sessions.**

(2)The order passed by the Court of Sessions shall be final and shall not be further called in question before any other Court.

**52D. Disposal of confiscated property. - When the order of confiscation of property passed under sub-section (1) of Section 52-A, attains finality and the Authorised Officer is of the opinion that it is expedient in public interest so to do, he may order such property or any part thereof to be sold by public auction.**

**52E. Penalty for forcibly opposing seizure. - Whoever forcibly opposes the seizure of any forest produce, tool, rope, chain, boat, vehicle or cattle, liable to be seized under this Act, or receives the same after seizure, shall be punishable with imprisonment for a term, which may extend to one year or with fine which may extend to one thousand rupees, or with both.**

**52F. Order of confiscation not to prevent any other punishment. - No order of confiscation passed under Section 52-A, 52-B or 52-C shall prevent the infliction of any punishment to which the person affected thereby, may be liable under this Act.**

**52G. Bar of jurisdiction. - Save as otherwise expressly provided in this Act, no officer, authority, civil court or tribunal shall have any jurisdiction to entertain any suit or proceeding or any other matter which is governed under the provisions of this Act."**

## **7. Substitution of Section 60 of Central Act 60 of 1927.**

- In the principal Act, for Section 60, the following section shall be substituted, namely :-"60. Property when to vest in Government. - When an order for confiscation for any property has been passed under Section 52-A or Section 52-B or Section 52-C, as the case may be, and such order has become final in respect of the whole or any portion of such property, such property or portion thereof, if it has been sold under Section 52-D, the sale proceeds thereof shall vest in the State Government free from all encumbrances."

## **8. Amendment of Section 62 of Central Act 16 of 1927.**

- In the principal Act, in Section 62, for the words "six months, or with fine which may extent to five hundred rupees, or with both.", the words "two years, or with fine which may extend to five thousand rupees, or with both." shall be substituted.

## **9. Insertion of new Sections 66-A and 66-B in Central Act 16 of 1927.**

- In the principal Act, after Section 66, the following sections shall be interested, namely :-"66A. Eviction of encroachment from State Government forest lands. - Any Forest Officer, not below the rank of the Divisional Forest Officer, if he has reason to believe that encroachment of the State Government forest land has been made, may evict the encroachment and may use all the powers conferred on an Executive Magistrate under the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (Punjab Act No. 31 of 1973).

**66B. Punishment for abetment. - (1) Whoever abets any offence punishable under this Act, shall, if the offence abetted is committed in consequence of such abetment, be punished with the same punishment as is provided under this Act for the commission of such offence.**

(2)Whoever abets any offence punishable under this Act, shall, if the offence abetted is not committed in consequence of such abetment, be punished with half of the punishment provided for the commission of such offence under this Act."

## **10. Substitution of Section 67 of Central Act 16 of 1927.**

- In the principal Act, for Section 67, the following section shall be substituted, namely :-"67. Power to try offences summarily. - The Chief Judicial Magistrate or any other Judicial Magistrate of the First Class, specially empowered in this behalf by the High Court, may try summarily, under the Code of Criminal Procedure, 1973, any forest offence punishable with imprisonment for a term, not exceeding two years or with fine, not exceeding five thousand rupees or with both and the provisions of Sections 262 to 265 of the said Code shall apply to such trial; but notwithstanding anything contained in the said Code, in the case of conviction for any offence in summary trial under this section, the Magistrate may pass sentence of imprisonment for any term for which such offence is

punishable under this Act."

### **11. Amendment of Section 68 of Central Act 16 of 1927.**

- In the principal Act, in Section 68, for sub-section (3), the following sub-section shall be substituted, namely :-(3) A Forest Officer, not below the rank of the Divisional Forest Officer, shall be empowered under this section. The sum of money accepted as compensation under clause (a) of sub-section (1), shall, in no case, exceed the sum of five thousand rupees. Explanation. - For the purpose of compounding an offence under this section, it is clarified that illicitly felling of every tree shall be treated as a separate offence."

### **12. Amendment of Section 71 of Central Act 16 of 1927.**

- In the principal Act, in Section 71, for the words "ten rupees", "two rupees", "one rupee" and "eight annas", the words "two hundred and fifty rupees", "twenty five rupees", "ten rupees" and "five rupees" shall, respectively, be substituted.

### **13. Amendment of Section 72 of Central Act 16 of 1927.**

- In the principal Act, in Section 72, in sub-section (1), for clause (a), the following clause shall be substituted, namely :-(a) power to enter upon, alongwith the persons assisting such forest officer in the performance of his duties, any land and to survey, demarcate and make a map of such land."

### **14. Substitution of Section 74 of Central Act 16 of 1927.**

- In the principal Act, for Section 74, the following section shall be substituted, namely :-"74. Indemnity for acts done in goods faith. - (1) No suit or prosecution or any other legal proceedings, shall lie against any public servant for anything done by him in good faith under this Act.(2)No court shall take cognizance of any offence alleged to have been committed by a forest officer while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the State Government."

### **15. Amendment of Section 77 of Central Act 16 of 1927.**

- In the principal Act, in Section 77, for the words "one month, or fine which may extend to five hundred rupees, or both", the words "six months, or fine which may extend to two thousand rupees, or with both" shall be substituted.

### **16. Amendment of Section 79 of Central Act 16 of 1927.**

- In the principal Act, in Section 79, in sub-section (2), for the words "one month, or with fine which may extend to two hundred rupees, or with both", the words "six months, or with fine which may extend to two thousand rupees, or with both" shall be substituted.