

# Mikir Hills District (Forest) Act, 1957

ASSAM

India

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### Act 6 of 1957

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Mikir Hills District (Forest) Act, 1957(Act No. 6 of 1957)Last Updated 12th February, 2020[Passed by the Mikir Hills District Council][Received the assent of the Governor of Assam on the 25th December, 1957]Published in the Assam Gazette, dated the 4th December, 1957.An Act to provide for the management of any forest not being a reserved forest in the Autonomous District of Mikir Hills and for the levy and collection of forest revenuePreamble. - Whereas it is expedient to regulate the management of any forest and being a reserved forest in the Autonomous District of Mikir Hills and also to provide by way of the levy and collection of forest revenue :It is hereby enacted in the Seventh Year of the Republic of India as follows

## Chapter I

### 1. Short title, extent and commencement.

(1)This Act may be called the Mikir Hill District (Forest) Act, 1957.(2)It extends to the whole of the Mikir Hills Autonomous District except the areas constituted into reserved forests under the provisions of the Assam Forest Regulations, 1891 (Regulation 7 of 1891).(3)It shall come into force on such date as may be specified by the District Council in the Assam Gazette.

### 2. Definitions.

- In this Act and in all rules made thereunder, unless there is anything repugnant in the subject or context-(1)"Executive Member in-charge of Forests" means the Executive Member of the Executive Committee of the District Council of the Mikir Hills holding the portfolio of Forests ;(2)"Council Reserved Forest" means any area constituted as such by, or under the order of, the Mikir Hills District Council;(3)"Council Forest Officer" means any person appointed as such by name or as holding an office by or under the orders of the District Council and shall include Forest Guards, Assistant Foresters, Foresters, Forest, Rangers, Chief Forest Officer and any other person appointed to discharge the duties and functions of a Council Forest Officer under this Act, or any rules

thereunder ;(4)"Council forest offence" means any offence punishable under this Act or any rules made thereunder;(5)"Cattle" includes also buffaloes, horses, mares, geldings, ponies, colts, fillies mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids ;(6)"Council Forest Board" means Forest Board constituted by the District Council;(7)"District" means Mikir Hills Autonomous District;(8)"District Council" means Mikir Hills District Council;(9)"District Forest Tribunal" means the District Forest Tribunal appointed by the Executive Committee under the provisions of this Act and for the purpose specified therein ;(10)"Executive Committee" means the Executive Committee of the Mikir Hills District Council;(11)"Forest land at the disposal of the Mikir District Council" means any land at the disposal of the Mikir Hills District Council, in respect of which no person has acquired a permanent heritable and transferable right of use and occupancy under any law for the time being in force and shall include Council Reserved Forests and forest constituted under this Act ;(12-A) "Forest produce" means anything excluding building stones, boulders, shingle, gravel, limestone, kanker used for lime burning, murrum, brick earth, ordinary clay, ordinary sand and road metal and other minerals (including laterite, mineral oils and all products of mines or quarries when found in, or brought from, a forest under the jurisdiction of the District Council and shall include-(a)Trees, leaves and fruits and all other parts and produce of trees ;(b)Plants not being trees, including grass, creepers, seeds, moss, orchids and all parts and produce of such plants ;(12-B) "Forest produce" shall also include the following whether brought from a Council Reserved Forest or found in a Council Reserved Forest or not ; but excluding those brought from a Government Forest Reserve ; timber, charcoal, wood oil, resin, natural varnish, bark, lac, myrabolams.(13)"Magistrate" means a Magistrate of the First or Second Class and includes a Magistrate- of 'the Third Class when he is specially empowered by the competent authority to try forest offences and also includes Judicial Officers of the District and Subordinate Courts of the Mikir Hills District Council.(14)"River" includes also streams, canals, creeks other channel, natural or artificial;(15)"Right" means mere rights of user or of the nature of easement which does not include rights to property;(16)"Tree" means a perennial plant and includes palms, bamboos, stumps, brushwood and canes;(17)"Timber" means any material coming out of a tree ;(18)"Village Forest" means any area constituted as such under this Act or under rules thereunder for the benefit of any village community or village communities.Council Reserved Forest

### **3. Power to constitute reserve forest.**

- The District Council may constitute any forest land at the disposal of the District Council a reserved forest in the manner hereinafter provided.

### **4. Inspection of the area proposed to be constituted a reserved forest by the Executive Member in-charge, Forests and notification of such proposal.**

- Whenever it is proposed to constitute any reserved forest, the area shall be first inspected by the Executive Member in-charge, Forests and when he is satisfied that the constitution of such reserve is justified he shall publish a notification in the Assam Gazette and also in the district in such manner as he may deem appropriate-(a)specifying as nearly as possible, the situation and limits of such land ;(b)declaring that it is proposed to constitute such land a reserved forest;(c)inviting claims of rights and objections.

## **5. Appointment of the Council Forest officer for survey and demarcation of the area proposed to constitute a reserved forest and enquiry into existing rights.**

(1)After the issue of a notification under Section 4, an officer (hereinafter called the Council Forest Settlement Officer) shall be appointed by the Executive Member in-charge, Forests for survey and demarcation of the areas and also for inquiry into any existing right or rights of any person in the said areas.(2)The Council Forest Settlement Officer shall ordinarily be a person other than a Council Forest Officer, but a Council Forest Officer may be appointed to assist the Council Forest Settlement Officer in the discharge of his duty specified in this section.Note. - For the purpose of Sections 5, 6, 7 and 8 the term "right" shall mean the right of user or of the nature of easement but shall be not include the right to property.

## **6. Recommendation by the Council Forest Settlement Officer.**

- The Council Forest Settlement Officer shall, after survey and demarcation of the area and inquiry into any existing right or rights of any person, recommend to the Council Forest Board for issue of necessary notifications, compensation, if any, to be given and also continuance of any right.

## **7. Council Forest Board to dispose of claims and objections.**

(1)All claims of right or rights on the land proposed to be constituted into a reserve and any objection against the proposal for the creation of the reserve shall be preferred to the Council Forest Board within ninety days of the date of publication of the notification under Section 4 of the this Act. The said Board shall be competent to dispose of such claims and objections, subject to appeal against the orders of such disposal to the District Forest Tribunal as provided for in Section 9.(2)For the purpose of sub-section (1), the Council Forest Board shall have power of the Court Council constituted under the provisions of the Mikir Hills Autonomous District (Administration of Justice) Rules, 1954 and its decision shall be binding subject to the revision on appeal to the District Tribunal appointed under Section 9.

## **8. Preliminary notification constituting reserved forest.**

- After the proposal for the constitution of a reserve has been approved by the Council Forest Board on recommendations of the Council Forest Settlement Officer, a preliminary notification shall be published by the Board in the Assam Gazette and also in any other manner that it may deem expedient specifying the limit of the forest which it is intended to be reserved and detailing the extent and nature of rights proposed to be recognised therein.

## **9. Appeal by aggrieved person.**

- Any person aggrieved by an order of the Council Forest Board passed under sub-section (1) of Section 8, relating to the creation of a reserve, continuance or discontinuance of any right therein,

may, within a period of thirty days from the date of such notification, prefer an appeal to the District Forest Tribunal appointed in that behalf by the Executive Committee. Every order in appeal passed by the District Forest Tribunal under this section shall be final.

## **10. Final notification constituting forest reserve.**

(1)After disposal of all appeals by the District Forest Tribunal the District Forest Board may modify the preliminary notification issued under Section 8 incorporating therein necessary changes, if any, ordered by the District Forest Tribunal as a result of such appeals and shall publish a final notification in the Assam Gazette specifying the limits of the forest with the extent and nature of the rights recognised therein and declaring the same to be reserved from the date fixed for by such notification.(2)From the date so fixed such forest shall be deemed to be the Council Reserved Forest.(3)Thereafter no person other than those, if any, referred to under sub-section (1) shall acquire any right over such forest unless specially permitted by the Executive Committee.

## **11. Penalties for trespass or damage in reserved forest.**

- Any person who in a Council Reserved Forest-(a)trespases, of pastures cattle, or permits cattle to trespass, or(b)causes any damage by negligence in felling any tree or cutting or dragging any timber,shall be punished with fine which may extend to fifty rupees, or when the damage resulting from his offence amounts to more than twenty-five rupees to double the amount of such damage.

## **12. Acts prohibited in such forests.**

- Any person who-(a)sets fire to a Council Reserved Forest, or in contravention of any rules made by the Executive Committee, kindles any fire or leaves any fire burning, in such a manner as to endanger such a forest, who in any such forest;(b)kindles, keeps or carries any fire except at such seasons and in such manner as a Forest Officer specially empowered in this behalf may from time to time notify ; or(c)fells, cuts, girdles, marks, lops, taps or injures by fire or otherwise any tree; or(d)quarries stone, bums lime or charcoal, or collects subject to any manufacturing process, or removes any forest produce ; or(e)clears or breaks up any land for cultivation or any other purpose ; or(f)poisons water or in contravention of any rule made by the Executive Committee, fishes or sets traps or snares ;shall be punished with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred rupees or with both.

## **13. Acts excepted from Sections 11 and 12.**

- Nothing in Section 11 or Section 12 shall be deemed to prohibit-(a)any practice of jhum cultivation permitted by law ; or(b)any act done with the permission in writing of a Council Forest Officer specially empowered to grant such permission.

## **14. Penalty for offences committed by persons having rights in reserved forests.**

- Whenever fire is caused wilfully or by gross negligence in a Council Reserved Forest by any person having rights in such forest or permission to practice jhum cultivation therein, or by any person in his employment, the Executive Committee may, notwithstanding the infliction of any punishment under this Act, direct that in such forest, or any specified portion thereof, the exercise of all or any of the rights of pasture or to forest produce shall be extinguished or for such period as it thinks fit be suspended, and with respect to the practice of jhum cultivation, may take such action under the law, if any, relating to the practice jhum as may seem to it to be proper.

## **15. De-reservation of forest.**

- Any area constituted as Council Reserved Forest will be de-reserved only by or under the order of the Executive Committee.

# **Chapter II**

## **16. Constitution of village forests.**

(1)The Executive Committee may, by notification in the Assam Gazette and also in the District in such manner as it may deem appropriate, constitute any land at the disposal of the District Council a village forest for the collective benefit of any village community or group of village communities, and may in like manner vary or cancel any such notification.(2)Every such notification shall specify the limits of such village forests.

## **17. Power to make rules for village forests.**

(1)The Executive Committee may make rules for regulating the management of village forests, prescribing the conditions under which the community or group of communities, for collective benefit of which any such forest is constituted, may be provided with forest produce or with pasture, and their duties in respect of the protection and improvement of such forest.(2)The District Council may, by rules, declare any of the provisions of Chapter I of this Act to be applicable to village forests.

## **18. Inquiry into and settlement of rights.**

- All claims to any rights other than the right of the village community or group of village communities for the collective benefit of which such village forest is constituted shall be enquired into and disposed of in the manner prescribed by Chapter I of this Act.

## Chapter III

### 19. Application of Chapters IV, VI, VII, VIII, IX, X and XI of the Assam Forest Regulations, 1891.

(1) The provisions of the following Chapters of the Assam Forest, Regulations, 1891 (Regulation No. 7 of 1891), namely, Chapters IV, VI, VII, VIII, excluding Section 63, IX, X and XI as may be amended from time to time shall, mutatis mutandis, apply in respect of the management of Council Forests and levy and collection of forest revenues. Provided that notwithstanding anything contained in the foregoing sections the words "fifty rupees" appearing in the last line of sub-section (3) of Section 62 shall be read as "two hundred and fifty rupees." (2) The provisions of all rules made under the Assam Forest Regulations, 1891 (Regulation No. 7 of 1891), having the force of law, and the rules and orders issued thereunder relating to the forests and forms and registers as were in force immediately before the commencement of this Act shall, mutatis mutandis, apply in respect of the management of the Council Forests and such cognate matters : Provided that all references in the Assam Forest Regulation, 1891 (No. 7 of 1891), and in the rules, orders and forms and registers thereunder to the terms "State Government" "Conservator of Forest" or "Deputy Commissioner" "Divisional Forest Officer or Assistant Conservator of forests" and "Forest Officer" shall be deemed to refer to "the District Council" ; those to the "Conservator of Forests and Deputy Commissioner" to the "Executive Member in-charge, Forests" ; those to the "Divisional Forest Officer or Assistant Conservator of Forests" to the "Chief Forest Officer of the District Council"; and those to "other Forest Officers, shall be construed as "Officer" declared by the District Council in this behalf to be discharging the duties of "other Forest Officers" in the Assam Forest Regulation.

### 20. Power to make rules.

- The Executive Committee with the previous approval of the Governor may make rules for carrying out the purposes of the Act.