

The U.P. Forest Corporation Surcharge Rules, 1992

UTTAR PRADESH

India

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Rule

THE-U-P-FOREST-CORPORATION-SURCHARGE-RULES-1992 of 1992

- Published on 22 April 1992
- Commenced on 22 April 1992
- [This is the version of this document from 22 April 1992.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Forest Corporation Surcharge Rules, 1992Published vide Notification No. 4497/14-4-92-1 (16), dated 22nd April, 1992, published in U.P. Gazette, Part 1 (Ka), dated 30th May, 1992In pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of Notification No. 4497/XIV-4-92-1(16)-80, dated April 22, 1992 :In exercise of the powers under Section 33 read with Section 24 of the Uttar Pradesh Forest Corporation Act, 1974 (U.P. Act No. 4 of 1975), the Governor is pleased to make the following rules :

1. Short title.

- These rules may be called the Uttar Pradesh Forest Corporation Surcharge Rules, 1992.

2. Definitions.

- In these rules-(a)"Act" means the Uttar Pradesh Forest Corporation Act, 1974 (U.P. Act No. 4 of 1975);(b)"Chairman", "Managing Director", "Member" and "Employees" shall mean respectively the Chairman, the Managing Director, the Member and the Employees of the Corporation;(c)"Corporation" means the Uttar Pradesh Forest Corporation, established under Section 3 of the Act;(d)"Examiner" means the Director, Local Fund Audit Department;(e)"Government" means the Government of Uttar Pradesh;(f)"Secretary" means the Secretary to the Government in the Forest Department.(g)"Chief Secretary" means the Chief Secretary to the Government of U.P.

3. Power of the Government to call for explanation.

(1) In any case where the Government considers that there has been a loss, waste or misuse of money or other property belonging to the corporation as a direct consequence of the negligence or misconduct of the Chairman, Managing Director, Member or an employee the Government may call upon such Chairman, Managing Director, Member or employee to explain in writing why he should not be required to pay the amount misused or the amount which represents the loss or waste caused to the Corporation or to its property and such explanation shall be furnished within a period of two months from the date the order is communicated to the person concerned : Provided that an explanation from the Chairman or Managing Director shall be called for through the Secretary and in case the Secretary himself happens to be the ex officio Chairman, through the Chief Secretary and from a Member or an employee through the Managing Director : Provided also that no explanation shall be called for from any member who has been recorded in the minutes of the Corporation as having been absent from the meeting in which the expenditure objected to was sanctioned or who voted against such expenditure. (2) Without prejudice to the generality of the provisions contained in sub-rule (1), the Government may call for the explanation in the following cases : (a) Where expenditure has been incurred in contravention of the provisions of the Act or the rules or regulations made thereunder; (b) where loss has been caused to the Corporation by acceptance of a higher tender without recording sufficient reasons; (c) where any sum due to the Corporation has been remitted in contravention of the provisions of the Act or the rules or regulations made thereunder; (d) where the loss has been caused to the Corporation by neglect in realising its dues; (e) where loss has been caused to the funds or other property of the Corporation on account of want of reasonable care for the custody of such money or property; (f) where loss has been caused as a consequence of an appointment having been made in contravention of the provisions of the Act and the rules, regulations or orders made thereunder. (3) The Government may request the Examiner to conduct a special audit in case of losses under clauses (a) to (f) of sub-rule (2) of Rule 3. The Examiner shall submit his report to the Government. (4) On the written request of the Chairman, Managing Director, Member or employees from whom an explanation has been called for, the corporation shall give him necessary facilities for the inspection of the records connected with the requisition for surcharge. The Government may on an application from the person who has been required to show cause allow a reasonable extension of time for submission of his explanations if it is satisfied that the person charged has been unable for reasons beyond his control to consult the record for the purpose of furnishing his explanation.

4. Procedure after submission of the explanation.

(1) After the expiry of the period prescribed in sub-rule (1) or (3) of Rule 3, as the case may be, and after examining the explanation, if any received within time, the Government shall send the papers along with its recommendations to the concerned authority mentioned in the first proviso to sub-rule (1) of Rule 3. (2) The Chief Secretary/Secretary/Managing Director after examining the explanation, if any shall, require the Chairman, Managing Director, Member or employees, as the case may be to pay the whole or part of the sum to which such Chairman, Managing Director, Member or employees may be found liable : Provided firstly that no Chairman, Managing Director, Member or employees would be required to make good the loss, if from his explanation the Chief

Secretary/Secretary or the Managing Director as the case may be, is satisfied that the loss was caused by an act to such person in the bona fide discharge of his duties :Provided secondly, that in the case of loss, waste or misuse occurring as a result of a resolution of the Corporation the amount of loss to be recovered shall be divided equally among all the members including Chairman who are reported in the minutes of the Corporation as having voted for or who remained neutral in respect of such resolution :Provided thirdly, that no Chairman, Managing Director, Member or employee shall be liable for any loss, waste or misuse after the expiry of four years from the occurrence of such loss, waste or misuse or after the expiry of three years from the date of his ceasing to be the Chairman, Managing Director, Member or employee, whichever is later.

5.

(1)A member or any employee aggrieved with an order of surcharge passed by the Managing Director may appeal to the Secretary within thirty days from the date on which such order is communicated to him and the Secretary may confirm, rescind or vary the order passed by the Managing Director and may pass such order as he thinks fit.(2)The Chairman and the Managing Director aggrieved by an order of surcharge passed under sub-rule (2) of Rule 4 may prefer an appeal within thirty days from the date of communication of such order to the Chief Secretary and the Secretary, respectively who may confirm, rescind or vary the order passed by the Secretary or the Chairman, as the case may be.

6. Recovery of Surcharge or Stay in proceeding.

(1)The Chairman, Managing Director, Member or employee who has been surcharged, shall pay the amount of surcharge within three months from the date of communication to the order of surcharge :Provided that when an appeal has been preferred against the order of surcharge all proceedings for recovery of the surcharge from the person who has preferred the appeal shall be stayed until the appeal has been finally decided.(2)If the amount of surcharge is not paid within the period specified in sub-rule (1) it shall be recovered as arrears of land revenue.(3)Without prejudice to the provisions of sub-rule (2) the recovery may be made in the manner laid down in sub-section (5) of Section 24 of the Act.

7. Corporation to pay costs.

- Where a suit is instituted to question an order of surcharge and the Government or the Chief Secretary or Forest Secretary as the case may be, is a defendant in such a suit, all costs incurred in defending the suit shall be paid by the Corporation and it shall be the duty of the Corporation to make such payment without any delay.