



The Indian Forest (Himachal Pradesh Amendment) Act, 1968

Act 25 of 1968

Keyword(s):

Reserved Forest, Forest Produce, Seizure

Amendments appended: 15 of 1991, 18 of 1997

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mentioned below to issue permits for such foreigners as mentioned above within their respective territorial limits:—

District Magistrate, Shimla.
 District Magistrate, Kinnaur at Kalpa.
 District Magistrate, Kullu.
 District Magistrate, Chamba.
 Sub-Divisional Magistrates:

- | | |
|------------------------------|---|
| 1. Shimla district | Sub-Divisional Magistrate at Shimla. |
| 2. Kinnaur district | Sub-Divisional Magistrate, Rampur.
Sub-Divisional Magistrate, Nichar.
Sub-Divisional Magistrate, Kalpa.
Sub-Divisional Magistrate, Pooh. |
| 3. Lahaul and Spiti district | Sub-Divisional Magistrate, Kaza.
Sub-Divisional Magistrate, Lahaul at Keylong.
Sub-Divisional Magistrate, Udai-pur. |
| 4. Chamba district | Sub-Divisional Magistrate, Killar.
Sub-Divisional Magistrate, Tissa.
Sub-Divisional Magistrate, Chamba.
Sub-Divisional Magistrate, Bharmaur. |

(R.H.P. dated 11-1-1962, p. 53-54).

**THE INDIAN FOREST (HIMACHAL PRADESH AMENDMENT)
 ACT, 1968**

(ACT No.25 OF 1968)¹

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and extent.
2. Amendment of section 1.
3. Amendment of section 38.
4. Amendment of sections 52, 53 and 55.
5. Substitution of section 82.
6. Insertion of new section 84-A.
7. Repeal and savings.

(Received the assent of the President of India on the 13th December, 1968 and was published in R.H.P.Extra., dt. 17-2-1969; p. 133-35).

An Act to amend the Indian Forest Act, 1927 (Central Act 16 of 1927) in its application to Himachal Pradesh.

1. For Statement of Objects and Reasons, see R.H.P. Extra, dated 13-8-1968, p. 816.

Amended repealed or otherwise effected by—

A.O.1968, published in R.H.P., Extra dt.20-1-1973, p. 191-192.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Forest (Himachal Pradesh Amendment) Act, 1968.

(2) It shall extend to the whole of Himachal Pradesh.

2. Amendment of section 1.—In section 1 of the Indian Forest Act, 1927 (16 of 1927), in its application to the [State] of Himachal Pradesh (hereinafter referred to as the principal Act), after sub-section (2), the following sub-section shall be inserted, namely:—

“(2-A) Notwithstanding anything contained in sub-section (2), it also extends to such territories which, immediately before the 1st November, 1956, were comprised in the State of Patiala and East Punjab States Union, and have since merged with Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966).”

3. Amendment of section 38.—In sub-section (1) of section 38 of the principal Act, for the words ‘the owners of shares therein amounting in the aggregate to at least two thirds thereof’, the words ‘the owners of the majority of shares therein’ shall be substituted.

4. Amendment of sections 52, 53 and 55.—In sections 52, 53 and 55 of the principal Act, for the word ‘carts’ wherever it occurs, the word ‘vehicles’ shall be substituted.

5. Substitution of section 82.—For section 82 of the principal Act, the following section shall be substituted, namely:—

“82. *Recovery of money due to Government.*—(1) All money payable to the State Government under this Act or under any rule made under this Act or on account of the price of timber, or other forest produce, or of expenses incurred in execution of this Act in respect of timber and other forest produce, or under any contract relating to timber or other forest produce including any sum recoverable thereunder for the breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest produce by auction or by invitation of tenders, issued by or under the authority of a Forest Officer and all compensation awarded to the State Government under this Act may, if not paid when due, be recovered under the law for the time being in force, as if it were an arrear of land revenue.

(2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall also apply to all cases of recovery which are either pending at the commencement of the Indian Forest

1. Subs. for “Union Territory” vide A. O. 19/3.

(Himachal Pradesh Amendment) Act, 1968 or are initiated thereafter in respect of contracts entered into prior to such commencement, any judgement, decree or order of any court to the contrary notwithstanding”.

6. **Insertion of new section 84-A.**—After section 84 of the principal Act, the following section shall be inserted, namely :—

“84-A. **Validity of settlements etc. of covenanting State.**—For the removal of doubts, it is hereby declared that every settlement or arrangement made before the 20th August, 1948, under the authority of the Government of any covenanting State forming part of the territories referred to in sub-section (2A) of section 1, with respect to any claims or rights of any persons admitted by the Government of that State to be in existence in any of the forests or waste lands which were the property of that Government or over which that Government had proprietary rights or to the whole or part of the forest produce of which that Government was entitled, shall be deemed to be a settlement of claims and rights made under this Act and all such claims and rights shall be deemed to be claims and rights duly inquired into and admitted for the purposes of this Act and shall be deemed always to have been so inquired and admitted for the purposes of the Patiala Forest Act, 1999 B.K., and it shall not be, and shall be deemed never to have been, necessary to determine the rights of persons in accordance with chapters II and IV, as the case may be, for declaring any forest or waste land to be a reserved or protected forest or a first or a second class forest”.

7. **Repeal and savings.**—(1) The Indian Forest (East Punjab Amendment) Act, 1948 (7 of 1948), the Indian Forest (Punjab Amendment) Act, 1954 (20 of 1954) and the Indian Forest (Punjab Amendment) Act, 1962 (13 of 1962) in so far as these apply to the areas merged in Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), are hereby repealed:

Provided that such repeal shall not affect—

- (a) the previous operation of the Acts so repealed or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Acts so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Acts so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; or
- (e) operation of section 39 of the Patiala Forest Act, 1999 B.K., which is a saving under section 7 of the Indian Forest (Punjab Amendment) Act, 1962 (13 of 1962),

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the provisions of sub-section (1), anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, bye-law or form framed) so far as it is not inconsistent therewith, shall be deemed to have been done or taken under the principal Act as so amended :

Provided that all forests which, immediately before the commencement of the Indian Forest (Punjab Amendment) Act, 1962 (13 of 1962), are deemed to be, first and second class forests under the Acts repealed by sub-section (1) shall, respectively, be deemed to be reserved and protected forests for the purposes of the principal Act as amended by this Act.

THE INDIAN FOREST (HIMACHAL PRADESH SECOND AMENDMENT) ACT, 1991

(Authoritative English Text of the *Bhartya Van (Himachal Pradesh Duitya Shanshodan) Adhiniyam*, 1991

(Act No. 15 of 1991)¹

ARRANGEMENT OF SECTIONS

Sections:

1. Short title.
2. Amendment of section 2.
3. Amendment of sections 26, 33 and 42.
4. Amendment of section 52.
5. Insertion of sections 52-A and 52-B.
6. Amendment of section 53.
7. Amendment of section 58.
8. Amendment of section 59.
9. Insertion of sections 59-A and 59-B.
10. Substitution of section 60.
11. Amendment of section 61.
12. Amendment of section 67.

(Received the assent of the President of India on the 9th July, 1991 and was published in Hindi in R.H.P. Extra., dated 24-7-1991, P. 1649-1653 and in English in R.H.P. Extra., dated 24-7-1991, p.1654-1657 .

An Act further to amend the Indian Forest Act, 1927 (Central Act No. 16 of 1927), in its application to the Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-second Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Indian Forest (Himachal Pradesh Second Amendment) Act, 1991.

2. Amendment of section 2.—In section 2 of the Indian Forest Act, 1927 (16 of 1927) (hereinafter called the principal Act).—

(a) in clause (6) the word “and” occurring at the end shall be omitted.

¹ Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra, dated 14-3-1991, Pages 322 and 327.

(2) Subject to the provisions of sub-section (1), anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, bye-law or form framed) so far as it is not inconsistent therewith, shall be deemed to have been done or taken under the principal Act as so amended :

Provided that all forests which, immediately before the commencement of the Indian Forest (Punjab Amendment) Act, 1962 (13 of 1962), are deemed to be, first and second class forests under the Acts repealed by sub-section (1) shall, respectively, be deemed to be reserved and protected forests for the purposes of the principal Act as amended by this Act.

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(a) in clause (6) the word “and” occurring at the end shall be omitted.

¹ Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra, dated 14-3-1991, Pages 322 and 327.

- (b) in clause (7), for the sign “.”, the sign and word, “and” shall be substituted ; and
- (c) after clause (7) so amended the following clause (8), shall be added, namely:—

“(8) “Vehicle” means wheeled conveyance of any description which is capable of being used for movement on land and includes a cart, trolley vehicle and a trailer but does not include bicycle and cattle”.

3. Amendment of sections 26,33 and 42.—In sections 26, 33 and 42 of the principal Act, for the words “six months” and “five hundred” the words “two years” and “five thousand” shall be substituted respectively.

4. Amendment of section 52—For sub-section (2) of section 52 of the principal Act, the following sub-sections (2) and (3) shall be substituted namely:—

“(2) Any Forest Officer or Police Officer may, if he has reasons to believe that a vehicle has been or is being used for the transport of timber (excluding fuelwood, resin, khair-wood and katha in respect of which a forest offence has been or is being committed) require the driver or other person-in-charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in the possession of such driver or other person-in-charge of the vehicle.

(3) Every Officer seizing any property under this section shall place on such property a mark indicating that the same has been seized and shall, as soon as may be, make a report of such seizure—

(a) where the offence on account of which the seizure has been made, is in respect of timber (excluding fuelwood), resin, khair-wood and katha which is the property of the State Government to the concerned authorised officer under sub-section (1) of section 52-A; and

(b) in other cases, to the Magistrate having jurisdiction to try the offence on account of which the seizure is made”.

5. Insertion of section 52 A and 52 B.—After section 52 of the principal Act, the following sections 52-A and 52-B shall be inserted, namely:—

“52-A. Confiscation by Forest Officers in certain cases.—(1) Notwithstanding anything contained in this Chapter, where a forest offence is believed to have been committed in respect of timber (excluding fuelwood), resin, khair-wood and katha, which is the property of the State Government, the Officer seizing the property under sub-section (1) of section 52 shall without any unreasonable delay produce it, together with all tools, ropes, chains, boats or vehicles used in committing such offence before an officer, authorised by the State Government in this behalf by notification published in the Official Gazette, not below the rank of an Assistant Conservator of Forests (hereinafter referred to as the authorised officer).

- (2) Where an authorised officer seizes under sub-section (1) of section 52 any timber (excluding fuelwood), resin, khair-wood and katha, which is the property of the State Government, or where any such property is produced before an authorised Officer under sub-section (1), once he is satisfied that a forest offence has been committed in respect of such property, such authorised officer may, whether or not a prosecution is instituted for the commission of such offence, order confiscation of the property so seized together with all tools, ropes, chains, boats or vehicles used in committing such offence.
- (3) (a) Where the authorised officer, after passing an order of confiscation under sub-section (2), is of the opinion that it is expedient in the public interest so to do, he may order confiscated property or any part thereof to be sold by public auction.
- (b) Where any confiscated property is sold as aforesaid, the proceeds thereof, after deduction of the expenses of any such auction or other incidental expenses relating thereto, shall where the order of confiscation made under section 52-A is set aside or annulled by an order under section 59 or section 59-A, be paid to the owner thereof or the person from whom it was seized as may be specified in such order.

52-B. Issue of show cause notice before confiscation under section 52-A.—(1) No order confiscating any timber (excluding fuelwood), resin, khair wood and katha, ropes, chains, boats or vehicles shall be made under section 52-A except after notice in writing to the person from whom it is seized and considering his objections, if any:

Provided that no order confiscating a motor vehicle shall be made except, after giving notice in writing to the registered owner thereof, if in the opinion of the authorised officer it is practicable to do so, and considering his objections, if any.

- (2) Without prejudice to the provisions of sub-section (1) no order confiscating any tool, rope, chain, boat or vehicle shall be made under section 52-A if the owner of the tool, rope, chain, boat or vehicle proves to the satisfaction of the authorised officer that it was used in carrying the timber (excluding fuelwood), resin, khair wood and katha without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the tool, rope, chain, boat or vehicle and that each of them had taken all reasonable and necessary precaution against such use.

6. Amendment of section 53.—At the end of section 53 of the principal Act but before the sign “.”, the words, brackets, figures and alphabet “or before the authorised officer under sub-section (1) of section 52-A” shall be inserted.

7. Amendment of section 58.—After the words “The Magistrate” occurring in the beginning of section 58 of the principal Act, the words,

brackets, figures and alphabet or subject to such rules as may be prescribed, the authorised officer under sub-section (1) of section 52-A" shall be inserted.

8. Amendment of section 59.—In section 59 of the principal Act,—

- (a) in the heading after the words "orders under section" but before the figure "55", the figures, alphabet and sign "52-A", shall be inserted;
- (b) the existing section shall be re-numbered as sub-section (1); and
- (c) after sub-section (1) so renumbered, the following sub-section (2) and sub-section (3) shall be added, namely:—

"(2) Any person aggrieved by any order passed under section 52-A or section 59-A may, within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area in which the property to which the order relates has been seized and the Sessions Judge shall, after giving an opportunity to the appellant and the authorised officer or the officer specially empowered under section 59-A, as the case may be, to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

(3) The order of the Sessions Judge under sub-section (2) shall be final and shall not be questioned in any court of law."

9. Insertion of section 59-A and 59-B.—After section 59 of the principal Act, the following sections 59-A and 59-B shall be inserted, namely:—

"**59-A. Revision.**—Any forest officer not below the rank of Conservator of Forests, specially empowered by the State Government in this behalf by notification published in the Official Gazette, may, before the expiry of thirty days from the date of order of the authorised officer under section 52-A, *suo-moto* call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and may pass such orders as he deems fit:

Provided that no order prejudicial to a person shall be passed under this section without giving him an opportunity of being heard.

59-B. Bar of jurisdiction in certain cases.—Whenever any timber (excluding fuelwood), resin, khair wood and katha together with any tool, rope, chain, boat or vehicle used in committing any forest offence is seized under section 52, the authorised officer under sub-section (1) of section 52-A or the officer specially empowered under section 59-A or Sessions Judge hearing an appeal under sub-section (2) of section 59 shall have, and notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in any other law for the time being in force, any other officer, court, tribunal or authority shall not have, jurisdiction to make order with regard to custody, possession, delivery, disposal or distribution of such property."

10. Substitution of section 60.—For section 60 of the principal Act, the following shall be substituted, namely :—

“60. When an order for the confiscation of any property has been passed under section 52-A or section 55 or section 57, as the case may be, or where on revision application made under section 59-A such order for confiscation has not been set aside, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred or when, on such an appeal being preferred, the Appellate Court confirms such orders in respect of the property or a portion of such property, such property or such portion thereof, or if it has been sold under sub-section (3) of section 52-A, the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.”

11. Amendment of section 61.—After the figure “52” but before the sign “.” occurring at the end of section 61 of the principal Act, the signs and words, “which is not the property of the Government, and the withdrawal of any charge made in respect of such property” shall be inserted.

12. Amendment of section 67.—For the words, brackets and figures “the Code of Criminal Procedure, 1898 (5 of 1898)” occurring in section 67 of the principal Act, the words, brackets and figures “the Code of Criminal Procedure, 1973 (2 of 1974)” may be substituted.

NOTIFICATIONS AND RULES

UNDER

THE INDIAN FOREST ACT, 1927

APPOINTMENTS AND DELEGATIONS

FOREST FARMING AND ENVIRONMENTAL CONSERVATION DEPARTMENT

NOTIFICATIONS

Shimla-2, the 24th August, 1978

No. 11-56/75-SF.—In supersession of this department notifications of even number, dated the 9th September, 1975 and 11-11-1975 and, in exercise of the powers conferred by sub-section (2) of section 2 of the Indian Forest Act, 1927 (Act No. 16 of 1927), the Governor, Himachal Pradesh, is pleased to appoint the Managing Director, Director (Marketing), General Managers (Divisional Managers, sub-Divisional Managers/Depot Officers/Assistant Managers] Forest Rangers/Forest Guards /Resin Guards, Timber Chowkidars/ Resin Watchers, Depot Watchers/Depot Chowkidars, Boatmen, Taroos and Drainmen of the Himachal Pradesh State Forest Corporation limited as Forest Officers to do all acts in connecton with the protection of resin and timber and exercise all powers that may be done or exercised by a Forest Officer in this behalf under the Act or rules made thereunder.

(R. H. P., dated 16-9-1978, p. 928).

**THE INDIAN FOREST (HIMACHAL PRADESHI THIRD
AMENDMENT) ACT, 1996.
(ACT NO. 18 OF 1997)¹.**

(Received the assent of the President on 3rd July, 1997 and was published in Hindi and English in R.H.P. Extra, dated 23-7-1997, pages 2744 and 2745).

An Act further to amend the Indian Forest Act, 1927 (Central Act No. 16 of 1927) in its application to the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of the State of Himachal Pradesh in the Forty- seventh Year of the Republic of India, as follows:-

1. Short title.- This Act may be called the Indian Forest (Himachal Pradesh Third Amendment) Act, 1996.

2. Amendment of section 52-B.- In section 52-B of the Indian Forest Act, 1927,-

(a) In sub-section (1)-

(i) after the words "it is seized," the words " and the owner of the vehicle" shall be added ; and

(ii) for the proviso, the following proviso shall be substituted, namely:-

"Provided that no order confiscating a motor vehicle shall be made except after giving notice in writing to the registered owner thereof and considering his objections, if any " ; and

(b) in sub-section (2) for the words and signs "his agent, if person-in-charge, of the tool, rope, chain, boat any, and the or vehicle and that each of them had taken all reasonable and necessary precaution against such use", the words and signs, " or his agent, if any, or the person-in-charge of the tool, rope, chain, boat or vehicle" shall be substituted.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P.Extra., dated 3.12.1996, pages 5442 and 5444.