



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

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असाधारण क्रमांक ७८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Indian Forest (Maharashtra Amendment) Bill, 2013 (L.A. Bill No. XLI of 2013), introduced in the Legislative Assembly on the 13th December 2013, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. XLI OF 2013.

A BILL

further to amend the Indian Forest Act, 1927 in its application to the State of Maharashtra.

WHEREAS it is expedient further to amend the Indian Forest Act, XVI of 1927, in its application to the State of Maharashtra, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Forest (Maharashtra Amendment) Act, 2013. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In section 26 of the Indian Forest Act, 1927, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"),— Amendment of section 26 of Act XVI of 1927.

(a) in sub-section (1),—

(i) for the words "two thousand rupees" the words "five thousand rupees" shall be substituted;

(ii) the following proviso shall be added, namely :—

“Provided that, in cases where the forest-offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted for any forest-offence the punishment may extend to double the punishment mentioned in this sub-section.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1-A) (a) The Forest-officer may evict from a reserved forest or from any land in a reserved forest any person who, in such forest, trespasses or pastures cattle, or permits cattle to trespass, or clears or breaks up such land for cultivation or for any other purpose, and may demolish any building erected or construction made by such person on such land.

(b) Any agricultural or other crops grown, or any building erected or any construction made, by any person on any land in a reserved forest shall be liable to confiscation by an order of the Divisional Forest-officer.

(c) The provisions of this sub-section shall have effect notwithstanding any punishment inflicted under sub-section (1) :

Provided that, nothing in the above sub-section shall adversely affect the forest rights conferred on the forest dwelling Scheduled Tribes and other traditional forest dwellers under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the ownership rights of Gram Sabha over the minor forest-produce under the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.”; 2 of 2007. 40 of 1996.

(c) for sub-section (4), the following sub-sections shall be substituted, namely :—

“(4) Any person who causes resistance or hurt to deter public servants or employees engaged on their behalf from discharging their duties under sub-section (1-A) shall, on conviction, be punished with imprisonment for a term which shall not be less than one year but may extend to six years and also with fine which shall not be less than one thousand rupees.

(5) No civil court shall have any jurisdiction in any matter provided for by sub-section (1-A).”.

Amendment
of section 33
of Act XVI of
1927.

3. In section 33 of the principal Act, in sub-section (1), for the words “two thousand rupees” the words “five thousand rupees” shall be substituted.

Amendment
of section 42
of Act XVI of
1927.

4. In section 42 of the principal Act, in sub-section (1), for the words “two thousand rupees” the words “five thousand rupees” shall be substituted.

Amendment
of section 52
of Act XVI of
1927.

5. In section 52 of the principal Act,—
(a) sub-section (1A) shall be deleted;
(b) in the marginal note, the words “and forfeiture” shall be deleted.

Amendment
of section 55
of Act XVI of
1927.

6. In section 55 of the principal Act,—
(a) in sub-section (1), for the words “shall be liable by order of the convicting court to forfeiture” the words “shall be liable to confiscation” shall be substituted;

(b) in sub-section (2), for the word "forfeiture" the word "confiscation" shall be substituted;

(c) in the marginal note, for the word "forfeiture" the word "confiscation" shall be substituted.

7. In section 56 of the principal Act, for the word "forfeited" the word "confiscated" shall be substituted. Amendment of section 56 of Act XVI of 1927.

8. In section 57 of the principal Act, for the word "forfeited" the word "confiscated" shall be substituted. Amendment of section 57 of Act XVI of 1927.

9. In section 60 of the principal Act, for the word "forfeiture" the word "confiscation" shall be substituted. Amendment of section 60 of Act XVI of 1927.

10. In section 61A of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted :— Amendment of section 61A of Act XVI of 1927.

"(3) Where any timber, sandalwood, firewood, charcoal or any other notified forest-produce, which is the property of the State Government, is seized under sub-section (1) of section 52, or any such forest-produce is produced before any authorised officer under sub-section (1) and he is satisfied that a forest-offence has been committed in respect of such forest-produce, notwithstanding whether or not a prosecution is instituted for the commission of such offence, such authorised officer shall order the forest-produce so seized to be taken charge of by a Forest-officer, and may order confiscation of all tools, boats, vehicles and cattles used in committing such offence.";

(b) in sub-section (4),—

(i) for clause (a), the following clause shall be substituted, namely :—

"(a) where the authorised officer, after passing an order of confiscation under sub-section (3), is of the opinion that it is expedient in the public interest so to do, he may order sale of all confiscated tools, boats, vehicles and cattles.";

(ii) in clause (b),—

(1) the words "property or the" shall be deleted;

(2) for the word "auction" the word "sale" shall be substituted.

11. In section 61B of the principal Act,—

(a) in sub-section (1), the words "any timber, sandalwood, firewood, charcoal or any other notified forest-produce," shall be deleted; Amendment of section 61B of Act XVI of 1927.

(b) after sub-section (2), the following sub-section shall be added, namely :—

"(3) When the offender or the owner of any tool, boat, vehicle or cattle seized under sub-section (1) of section 52 is not known or cannot be found, and the authorised officer is satisfied that the same has been used in committing a forest-offence in respect of

timber, fire-wood, sandalwood, charcoal or any other notified forest-produce which is the property of the State Government, notwithstanding anything contained in the foregoing provisions, the authorised officer may pass order in accordance with the provisions contained in section 61A:

Provided that, no such order shall be made until the expiration of a period of thirty days from the date of seizing such property or without hearing the person claiming any right thereto.”

Substitution of section 61F of Act XVI of 1927. **12.** For section 61F of the principal Act, the following section shall be substituted, namely :—

Property etc. confiscated when to vest in Government. **“61F.** When an order for confiscation of any property has been passed under section 61A or section 61C, and the period of limitation provided by section 61D for filing an appeal against such order has elapsed, and no such appeal has been preferred or when on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, or if it has been sold under section 58 or under clause (a) of sub-section (4) of section 61A, the sale proceeds thereof, as the case may be, shall vest in the State Government free from all encumbrances.”

Amendment of section 61G of Act XVI of 1927. **13.** In section 61G of the principal Act, for the word “offence” the words “forest-offence in respect of such property” shall be substituted.

Amendment of section 62 of Act XVI of 1927. **14.** In section 62 of the principal Act, in sub-section (1), the words “or forfeiture” shall be deleted.

Amendment of section 65A of Act XVI of 1927. **15.** In section 65A of the principal Act, in clause (b), for the words, figures, brackets and letters “Section 26, clauses (a), (b), (f), (g), (h) and (i) of sub-section (1)”, the words, figures, brackets and letters “Section 26, clauses (a), (b), (d), (f), (g), (h) and (i) of sub-section (1), and sub-section (4)” shall be substituted.

Insertion of new section 66A in Act XVI of 1927. **16.** After section 66 of the principal Act, the following section shall be inserted, namely :—

Punishment for abetment. **“66A.** Whoever abets any forest-offence shall, if the offence abetted is committed in consequence of abetment, be punished with the same punishment as is provided for such offence.”

Amendment of section 67 of Act XVI of 1927. **17.** In section 67 of the principal Act, for the words “two thousand rupees” the words “five thousand rupees” shall be substituted.

Amendment of section 68 of Act XVI of 1927. **18.** In section 68 of the principal Act,—

(a) in sub-section (1),—

(1) in clause (a),—

(i) after the words “other than an offence specified in” the words, brackets and figures “sub-section (4) of section 26 or” shall be inserted;

(ii) for the words "payment of a sum of money or, at his discretion, an undertaking in writing to pay a sum of money," the words "payment of a sum of money" shall be substituted.

(2) in clause (b), for the words "on payment of, or at his discretion, on acceptance of an undertaking in writing to pay," the words "on payment of" shall be substituted.

(b) in sub-section (2), for the words "payment of, or on acceptance of an undertaking in writing to pay," the words "payment of," shall be substituted.

(c) in sub-section (3), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted.

19. In section 71 of the principal Act,—

(a) for the words " ten rupees " the words " Two hundred rupees " shall be substituted ;

Amendment
of section 71
of Act XVI of
1927.

(b) for the words " two rupees " the words " Two hundred rupees " shall be substituted ;

(c) for the words " one rupee " the words " Two hundred rupees " shall be substituted ;

(d) for the words " fifty naye paise " the words " One hundred rupees " shall be substituted.

20. In section 82 of the principal Act, the words and figures "or on account of compensation or value of property agreed to be paid under section 68 " shall be deleted.

Amendment
of section 82
of Act XVI of
1927.

STATEMENT OF OBJECTS AND REASONS.

Maharashtra is endowed with rich and diverse forest and wildlife. At present, the issue of global warming and climate change and their consequential threat to the very existence of the earth is a cause of concern to the every country that exists on the planet. Recognizing the importance of forests, the Parliament has enacted the Indian Forest Act, 1927 (XVI of 1927) with the basic objective to consolidate the law relating to forests. With the passage of time, the Act has been suitably amended in its application to the State of Maharashtra to address the conditions at relevant point of time. It is noticed that, in the State during recent past the forest lands and resources have become vulnerable because of unauthorised constructions on forest lands near urban settlements and organised crimes like cross-border smuggling of timber, sandalwood and illicit international trade in body parts of endangered species like Tiger. The network of this nefarious trade is spread across the globe. Several incidents of armed attacks on the forest officials have taken place in the recent past. The situation has become grave due to the fact that the anti-social elements involved in such illegal trades never indulge themselves in committing forest-offence, but succeed in their plans through helpless people. In absence of any provision to prosecute abettors of forest-offences, the masterminds behind the organised crimes scot free. Thus, existing provisions of the Act are not sufficient to effectively deal with emerging problems of today. The National Forest policy also mandates suitable amendments to ensure environmental stability.

2. Some of the important amendments which are proposed to be made in the Indian Forest Act, 1927 in its application to the State of Maharashtra are explained broadly as follows :—

(i) to provide for eviction of trespassers and confiscation and removal of unauthorised constructions in the reserved forest, by the Forest-officer by amending section 26, suitably, with incorporation of specific provisions to safeguard the interests of the right holders in reserve forests, including that of the forest rights holders under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) and to ensure the undisturbed and sustained ownership of the Gram Sabha over minor forest-produce as guaranteed by the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996);

(ii) to provide stringent punishment for the persons who resist or hurt to deter the public servant while discharging his official duty and also to bar the jurisdiction of civil court with an intention to eliminate the forest land grabbing tactics adopted by the organised criminal groups as seen through spate of illegal constructions on forest lands near urban settlements;

(iii) to increase the amount of fine under sections 26, 33, 42, 67 and 71;

(iv) to confiscate the property used in committing forest-offences instead of forfeiture by amending sections 52, 55, 56, 57, 60 and 62;

(v) to empower the authorised officer to confiscate the tools and vehicles etc. used in committing forest-offence and to order the sale of the same by amending sections 61A and 61B;

(vi) to substitute section 61F for vesting of the confiscated property or sale proceeds in Government ;

(vii) to make certain offences non-bailable by amending section 65A ;

(viii) to provide for punishment for abetment of any forest-offence by inserting new section 66A ; and

(ix) to make consequential and other amendments to the Act which are found necessary.

3. The Bill is intended to achieve the above objectives.

Mumbai,
Dated the 4th December, 2013.

Dr. PATANGRAO KADAM,
Minister for Forests.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of a legislative power, namely :—

Clause 1 (2).—This clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.