# GUIDELINES / RULES FOR FELLING OF TREES FROM NON-FOREST AREAS ISSUED IN COMPLIANCE WITH THE SUPREME COURT ORDER DATED 12TH MAY 2001 IN WRIT PETITION (C) NO. 202 /1995

In pursuance of directions contained in Para 3 of the order dated 12th May, 2000 of the Hon'ble Supreme Court of India in Writ Petition WP(C) 202/1995, and with the prior approval of the Ministry of Environment and Forests, Government of India, as contained in their F. No 8-180/NEC/2001-Pt.1 dated 8.6.2006, the Governor of Meghalaya is pleased to notify the rules for felling of trees from Non-Forest Areas as below:-

## 1. SHORT TITLE, EXTENT AND COMMENCEMENT:

1.1 These rules shall be called "The Meghalaya Tree Felling (Non-forest areas) Rules, 2006.

1.2 These shall extend to the whole of the State in respect of felling of trees from non-forest areas including tree plantations on such areas.

1.3 These shall come into effect from the date of their notification in the official gazette.

## 2. DEFINITION:

In these guidelines, unless there is anything repugnant in the subject or context

a. "Government" means Government of Meghalaya

b. "Forest" means (i) reserved forest or protected forest or any other area legally constituted as forest and (ii) any area recorded as "forest" in Government records maintained by Forest Department or other Government Departments and (iii) deemed forest area identified as per Supreme Court order dated 12.12.1996 in Writ Petition (C) No. 202/1995.

c. "Non-forest land": Notwithstanding anything contained in any law under operation in the State of Meghalaya for the time being "non-forest land" for the purpose of these Rules means land which is not 'forest' as per sub-section b above. Provided further that section 2 (f) of the United Khasi-Jaintia Hills Autonomous District (Management and Control of Forests) Act, 1958 shall have no application for the purpose of interpretation of these rules.

d. "Plantation" means a sizable stand of trees bearing uniformity in age, type or growth pattern and distinct enough from a natural stand.

e. "Felling" includes an act of burning, cutting, damaging, uprooting, tapping, girdling and lopping a tree to cause substantial damage or destruction thereto.

3. **REGISTRATION OF TREE PLANTATIONS:**

(1) Tree plantations raised in private and community holdings of non-forest areas without financial assistance from the Government or a Government agency shall be registered with the Chief Forest Officer of the concerned Autonomous District Council in the manner as may be prescribed in this behalf. However, tree plantations raised in Government owned or controlled areas or raised with full or partial financial assistance from the Government or a Government agency, even if it is raised on a private or community holding shall be registered with the Divisional Forest Officer (Territorial) having jurisdiction over the district on payment of registration fees of Rs. 100/- (Rupees One Hundred) only.

(2) For registering plantations with the Divisional Forest Officer (Territorial) the land owner or the authorized representative shall submit an application to the Divisional Forest Officer (Territorial) concerned through the Divisional Forest Officer Social Forestry Division or the district level officer of the Government Department or its agency along with an endorsement as to the actual ownership by the agency which funded the plantation work accompanied by such fees as may be prescribed by the Government on this behalf. The Divisional Forest Officer shall register such plantation on the basis of a certificate issued by the concerned village level body stating the ownership and rights on the land duly endorsed by the concerned Autonomous District Council.

(3) While registering a plantation with the Chief Forest Officer of the Autonomous District Council concerned it shall inter alia be ensured that the applicant is the legal title holder, and it is a non-forest land.

(4) The Divisional Forest Officer (Territorial) or the Chief Forest Officer as the case may be shall prepare and make available a certificate of such registration to the applicant with copies to the village level body, the Deputy Commissioner and the Conservator of Forests i/c Territorial.

(5) The Divisional Forest Officer or the Chief Forest Officer of the Autonomous District Council concerned shall normally issue the registration certificate within sixty days of receipt of complete application.

(6) The Divisional Forest Officers (Territorial) and the Chief Forest Officers of the Autonomous District Councils would keep a proper record in a prescribed format of all the registered plantations.

4. **PROCEDURE FOR PERMISSION FOR FELLING OF TREES FROM REGISTERED SOCIAL FORESTRY PLANTATIONS OR PLANTATIONS RAISED BY OTHER GOVERNMENT DEPARTMENTS:**

Notwithstanding anything contained in any law operational in the State for the time being permission for felling of trees from Social Forestry plantation or plantation raised by other Government Departments or Government agencies shall be regulated in the following manner.

(1) Application for felling permission shall be made to the Divisional Forest Officer (Territorial) concerned through the concerned Divisional Forest Officer, Social Forestry Division or the district level officer of the Government Department which funded the creation of the plantation.

(2) The application shall indicate the species, and the number of trees desired to be felled and shall be accompanied by a copy of the registration certificate of the plantation. It shall also include an undertaking by the authorised person to deposit in the Forest Development Agency of the district such sum of money as first charge on the sale proceeds as would be required to afforest or regenerate the blanks created by the felling.

(3) The Divisional Forest Officer of the Social Forestry Division concerned or the district level officer of the concerned Government Department shall scrutinize the application, verify the details specified and forward the application to the Divisional Forest Officer (Territorial) with his recommendation.

(4) The Divisional Forest Officer (Territorial) on receipt of an application complete in all respects, shall cause inspection of the area by an officer usually in the rank of an Assistant Conservator of Forests and then forward the application along with his report and recommendation to the Conservator of Forests i/c Territorial within a period not exceeding thirty working days from the date of receipt of the application. The report of the Divisional Forest Officer shall also include an estimate of cost to satisfactorily afforest or regenerate, including maintenance cost, the blanks left by the harvesting of the trees. The Conservator of Forests shall dispose of the application if the trees to be felled are less than one hundred in number. If the number of trees to be felled is one hundred or more the Conservator of Forests shall forward the application to the Chief Conservator of Forests i/c (Territorial) for disposal. The application should be finally disposed of or forwarded to the Chief Conservator of Forests for such action by the Conservator of Forests i/c Territorial within fifteen working days, i.e, within forty five working days of receipt of the complete application by the Divisional Forest Officer, i/c (Territorial). In the event, the application is to be finally disposed of by the Chief Conservator of Forests, a further time of fifteen day may be taken. All permissions granted would be subject to payment of afforestation or regeneration costs as estimated by the Divisional Forest Officer. If the

Conservator of Forests Territorial or the Chief Conservator of Forests Territorial refuses permission for felling he shall record reasons for the same.

(5) In case the Conservator of Forests i/c Territorial or the Chief Conservator of Forests, i/c Territorial decides to deny permission for felling, the applicant can file an appeal to the next higher authority within thirty days of communication of the refusal.

(6) In case permission for felling of trees is fully or partially granted the Conservator of Forests i/c Territorial or the Chief Conservator of Forests, i/c Territorial shall mark a copy of such permission to the Divisional Forest Officer (Territorial) who shall proceed with marking of trees.

**5. MARKING REGULATIONS FOR TREES FROM REGISTERED SOCIAL FORESTRY PLANTATIONS OR PLANTATIONS RAISED BY OTHER GOVERNMENT DEPARTMENTS:**

(1) A minimum of one third volumes should be retained for each species of trees after removal of the trees applied for.

(2) Only selection marking would be done.

(3) The minimum girth at breast height of trees to be marked should be 90 cm.

(4) The marking of the trees should be carried out only by a trained forest officer not below the rank of a forest ranger.

**6. PERMISSION FOR FELLING OF ISOLATED TREES IN NON-FOREST AREAS LIKE HOMESTEAD /FARM ETC.:**

(1) Permission for felling of trees from non-forest areas or in homesteads and farms may be sought under the provisions of the Meghalaya Tree Preservation Act, where applicable, and in areas outside the purview of the said Act, the application shall be made by the authorized person for such felling to the Divisional Forest Officer (Territorial), or the Chief Forest Officer of the Autonomous District Council concerned on such grounds as may be applicable, who on satisfying himself that the removal of the trees is justified, will grant such permission as necessary within thirty working days from the date of receipt of application complete in all respects. In the event that the number of trees requested for such removal exceeds twenty on one holding in a year, the Divisional Forest Officer or the Chief Forest Officer shall forward the application with his recommendation to the Conservator of Forests i/c Territorial who shall accord or refuse permission for such removal within fifteen working days from the date of receipt of such application by him. In the event of refusal of permission in part or in full for felling of trees the applicant may file an appeal to the next higher authority viz

Conservator of Forests i/c Territorial or Chief Conservator of Forests i/c Territorial within thirty days of the communication of such refusal.

(2) Marking of the trees allowed to be felled will thereafter be carried out by the Divisional Forest Officer (Territorial) or the Chief Forest Officer of the Autonomous District Council concerned.

However, no permission will be required for felling trees from homesteads and farms for bonafide domestic use or for farming activities. The timber obtained from these trees, will however not be allowed to be disposed of by sale or by any form of trade.

**7. PROCEDURE FOR PERMISSION FOR FELLING OF TREES FROM REGISTERED PRIVATE PLANTATIONS RAISED WITHOUT GOVERNMENT FUNDING:**

(1) Application for felling of trees from non-forest area in respect of registered private plantations shall be made by the authorized person to the Chief Forest Officer of the Autonomous District Council concerned or the Divisional Forest Officer (Territorial) depending upon the jurisdiction.

(2) The application shall be submitted along with a list containing number, species approximate girth of the trees to be felled, location and map of the non forest area from which the trees are proposed to be felled, a copy of the registration certificate issued by the competent authority and other details as prescribed.

(3) The Chief Forest Officer of the Autonomous District Council concerned or the Divisional Forest Officer (Territorial) as the case may be, after verifying the ownership of the land, details of the trees to be felled and after physical verification of the area shall forward the application to the Conservator of Forests, i/c Territorial along with his recommendations about the trees that may be allowed to be felled and other relevant details. While recommending the application, he shall also certify that the land is "non-forest land" as specified in Rule 2 above and that physical verification of the areas and the trees proposed to be felled has been done by an officer not below the rank of a forest ranger, or Deputy Chief Forest Officer as the case may be. The Conservator of Forests, i/c Territorial may cause such enquiry as he deems fit to satisfy himself.

(4) The Conservator of Forests, i/c Territorial may, after satisfying himself dispose the matter under intimation to the Chief Conservator of Forests, i/c Territorial. In case the trees to be felled are more than one hundred in number, he shall forward the application to the Chief Conservator of Forests, i/c Territorial who shall dispose the matter with intimation to the Principal Chief Conservator of Forests. If the Conservator of Forests, i/c Territorial or the Chief Conservator of Forests, i/c Territorial would refuse permission for felling in full or in part, he shall record his reasons to do so. In the event of refusal of permission in part or full for

felling of trees, the applicant may file an appeal to the next higher authority viz, the Chief Conservator of Forests, i/c Territorial or the Principal Chief Conservator of Forests within thirty days of communication of such refusal.

(5) Marking of the trees allowed to be felled will thereafter be carried out by the Divisional Forest Officer (Territorial) or the Chief Forest Officer of the Autonomous District Council concerned.

**8. TREE SPECIES NOT REQUIRING FELLING PERMISSION:**

(1) Horticultural tree species *viz mango, guava, jackfruit, carambola, plum, peach, pear, coconut, arecanut, litchi, cashew, Citrus spp,* and all species of bamboo, culms of which have attained three years age or more shall not require permission for felling either in respect of an individual tree or plantation on non-forest land.

(2) The State Government shall be competent to add or delete species in the sub-rule (1) above.

**9. RESTRICTION OF PERMISSION:**

No permission for felling shall be granted in respect of unregistered plantations.

**10. TRANSIT:**

The transit of timber from the non-forest land shall be under transit passes and as per provisions of relevant acts and rules and established procedure for transport of timber or timber products.

**11. SEIZURE AND CONFISCATION OF TREES FELLED IN VIOLATION OF THESE RULES:**

(1) Timber obtained from trees felled in violation of these rules, may be deemed to have been confiscated to the State Government /Autonomous District Councils depending on the jurisdiction. However, the Divisional Forest Officer /Chief Forest Officer shall be at liberty to release the timber obtained from such trees, to the legal title holder, after recovery of an amount equal to fifty percent of the royalty payable for the timber. This would be in addition to any usual royalty, fee and cess etc payment to the State Government or the Autonomous District Council. After such payment only it would be eligible to be purchased for use by any wood based industry, timber user or for export outside the state.

(2) The confiscation of timber under sub-rule (1) above is without prejudice to any other action or penalty which may be levied under the relevant acts or rules.

**12. REVISION:**

The State Government may at any time either on its own volition or on an application, call for and examine the records relating to any orders passed or proceedings taken under these Rules including the powers exercised by the Autonomous District Councils for the purpose of satisfying themselves as to the legality or correctness of such orders or proceedings and may pass such order as they may deem fit, and such order shall have the effect of super session of the impugned order or proceeding.

**13. BAR AGAINST PROCEEDINGS:**

No suit or proceedings shall lie against the State Government or the Autonomous District Council or any person empowered to exercise powers or to perform duties or discharge functions under these Rules, or for any actions taken under these Rules, in compliance with various directions of the Supreme Court in Writ Petition (Civil) No 202/95 and other related cases.

**14. EXEMPTIONS:**

Notwithstanding anything contained in these Rules, no permission shall be required for:

(a) Lopping of branches or pruning any tree as required by ordinary agricultural or horticultural or silvicultural practices;

(b) Felling of any tree in pursuance of any order or direction made or issued by any authority under the provisions of any law for the time being in force, provided these are not repugnant to these Rules.

**15. THE PROVISIONS TO BE IN ADDITION TO OTHERS:**

The provisions of these Rules shall be in addition to the provisions of any other law for the time being in force prohibiting or regulating the felling of trees.

**16. SAVINGS:**

Any proceeding initiated before the commencement of these Rules for a similar offence under any other statute shall continue under those statutes.

**Form for Application for Registration of Tree Plantations Raised in Privately Owned or Controlled Areas Raised With Full or Partial Financial Assistance from a Government Department or a Government Agency**

(see sub-rule (1) of Rule 3 of The Meghalaya Tree Felling (Non forest areas) Rules, 2006)

**To,**

**The Divisional Forest Officer,**
..... Hills Territorial Division .....

**Through:** The ..... (designation of concerned district head of the Government department/ agency who has provided full or partial financial assistance for raising of tree plantations proposed to be registered)

**Sub.:** Registration of tree plantation/s raised in privately owned/ controlled land / with full/ partial financial assistance from a Government department/ agency *(strike out whichever is not applicable)*

Sir,

A tree plantation as per details furnished herein-below has been raised in privately owned/ controlled land / with full/ partial financial assistance from ..... (name and full address of the Government department/ agency who has provided full or partial financial assistance for raising of tree plantations proposed to be registered):

1. Name of village, revenue sub-division and district, elaka, syiemship, A'king etc, in which plantation is located: .....
2. Area of plantation in ha : .....
3. Schedule of boundary:

   North: .....

   South: .....

   East: .....
   West: .....
4. Year of creation : .....
5. Main tree species planted:
6. Ownership status of land (private/ community/ any other *(specify))* .....
7. Name of the applicant (in block capitals): .....
8. Present address of the applicant: .....
   .....
   .....
   .....

9. Permanent address of the applicant:
   .....
   .....
   .....
   .....

10. Status of applicant (Individual owner/ authorized representative of owner(s) / representative of village authority/ any other (*specify*)):
    .....

11. In case the applicant is not the sole proprietor of the land and/ or tree plantation raised thereon, the authority under which he is authorized to submit application for registration) : .....

7. Copy of the authority indicated in para 9 hereinabove- enclosed/ not enclosed:

The tree plantations described herein above may kindly be registered for the purpose of the Meghalaya Tree Felling (Non-forest areas) Rules, 2006.

Encl.:

1. Attested copy of the certificate issued by the concerned village level body stating the ownership and rights on the land duly endorsed by the concerned Autonomous District Council.
2. Map of the tree plantation area( with reference to permanent ground features.)
3. Copy of authority under which the applicant is authorized to submit application (*strike out if not applicable*).

Yours faithfully,

Date: .....

(Signature of applicant)

*(For use in the office of the concerned district head of the Government Department/ Agency who has provided full or partial financial assistance for raising of tree plantations proposed to be registered)*

1. Sl. No. of the application: .....
2. Date of receipt: .....
3. Comments of the concerned district head: On perusal of the records available in this office supplemented by field visits (*strike out if no field visit has been undertaken*) contents of application hereinabove have bee found correct/ partially correct / incorrect.

4. The partially correct/ in correct contents of the application are as below (strike out if not applicable): .....

(i)

(ii)

(iii)

(iv)

(v)

The undersigned therefore recommends/ does not recommend (strike out appropriately) for registration of the tree plantation.

The map of the tree plantation submitted by the applicant has been duly countersigned by the undersigned.

Date: .....

Place: .....

Signature and official seal of the concerned district head of the Government department/ agency who has provided full or partial financial assistance for raising of tree plantations proposed to be registered)