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PART-IV

GOVERNMENT OF MEGHALAYA

LAW (B) DEPARTMENT

NOTIFICATION

The 23rd September, 2021.

No.LL(B).74/2012/36.—The Meghalaya Forest Regulation (Amendment) Act, 2021 (Act No. 12 of 2021) is hereby published for general information.

MEGHALAYA ACT NO. 12 OF 2021.

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 22nd September, 2021.

Published in the Gazette of Meghalaya Extra-Ordinary issue dated 23rd September, 2021.

THE MEGHALAYA FOREST REGULATION (AMENDMENT) ACT, 2021

An

Act

further to amend the Meghalaya Forest Regulation (Assam Regulation No. 7 of 1891 as adapted and amended by State of Meghalaya).

Be it enacted by the Meghalaya Legislative Assembly in the Sixty-ninth Year of the Republic of India as follows:-

1. Short title, extent and commencement

(1) This Act may be called the Meghalaya Forest Regulation (Amendment) Act 2021.

(2) It shall extend to the whole of Meghalaya.

(3) It shall come into force on such date as the State Government may, by notification, appoint on this behalf.

2. Amendment of Section 3

1. In Section 3 of the Meghalaya Forest Regulation, 1973, (hereinafter referred to as the principal Regulation),

(i) In sub-section (1), between the words *"to be"* and words *"a Conservator"* the words *"Principal Chief Conservator of forest and Head of Forest Force, Principal Chief Conservator of Forest, Additional Principal Chief Conservator of Forest and Chief Conservator of Forest",* shall be inserted.

(ii) In clause (a) of sub-section 4 in between the words *"timber"* and *"charcoal" the* following words *"sawdust and other saw mill wastage",* shall be inserted.

3. Amendment of Section 24

In Section 24 of the principal Regulation, after sub-section (b) for the words *"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"* the words *"shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to five thousand rupees and on the second and every subsequent conviction for the same offence, with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees. Provided that in all cases a minimum imprisonment of fifteen days shall be imposed"* shall be substituted.

4. Amendment of Section 25

In Section 25 of the principal Regulation, after sub-section (g) for the words *"shall be punished with imprisonment for a term which may extend to six months (or with fine which in cases where a rhinoceros has been killed, may extend to one thousand rupees) and in other cases to five hundred rupees, or with both"* the words *"shall be punished with imprisonment for a term which may extend to one year and with fine which may extend to ten thousand rupees and on the second and every subsequent conviction for the same offence, with imprisonment for a term which may extend to three years and with fine which may extend to twenty five thousand rupees. Provided that in all cases a minimum imprisonment of two months shall be imposed for offences under all clauses except clause (c)"* shall be substituted.

5. Amendment of Section 35

In Section 35 of the principal Regulation, in sub-section (1) for the words *"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"* the words "*shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to five thousand rupees.*

Provided that in all cases a minimum imprisonment of fifteen days shall be imposed for every offence under this Section." shall be substituted.

6. Amendment of Section 41

In Section 41 of the principal Regulation, in sub-section (1) for the words *"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"* the words *"shall be punished with imprisonment for a term which may extend to one year and with fine which may extend to five thousand rupees and on the second and every subsequent conviction for the same offence, with imprisonment for a term which may extend to three years and with fine which may extend to twenty five thousand rupees.*

Provided that in all cases a minimum imprisonment of one month shall be imposed for every offence under this Section" shall be substituted.

7. Amendment of Section 49

For Section 49 of the principal Regulation, the following sections shall be substituted, namely,-

"49.Seizure of property liable to confiscation -

Seizure of property liable to confiscation

(1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all weapons, tools, boats, motor vehicles, cattle, and other articles used in the commission of such alleged offence may be seized by any Forest Officer or Police Officer not below the rank of a Sub-Inspector and the officer seizing such property shall place on such property, or the receptacle, if any, in which it is contained a mark indicating that the same has been so seized.

(2) *Penalty for opposition to seizure.- Whoever* forcibly opposes the seizure of forest produce, weapons, tools, boats, motor vehicles, carts and cattle, and other articles liable to be seized under this Act, or receives the same without lawful authority after seizure shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to five thousand rupees.

(3) Every Officer seizing any property under this Section shall, on seizure of such property, as soon as may be, either produce the property seized before an Officer not below the rank of Divisional Forest Officer authorized by the State Government on this behalf by notification, hereinafter referred to as the authorized officer, or where having regard to quantity or bulk or other genuine difficulty it is not practicable to produce the property seized before the authorized officer, shall make a report about the seizure to the authorized officer;

Provided that where it is intended to initiate criminal proceedings against the offender immediately, the officer making such seizure shall make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

Explanation - Mere placing a report of seizure before the competent Magistrate shall not prevent initiation of confiscation proceedings in respect of such seizure if the authorized officer deems fit to initiate such proceedings.

Provided further, that when the forest produce with respect to which the offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the Officer, as soon as may be, furnishes a report of the circumstances to an Officer who is his official superior, who shall in any case be not less than the rank of Divisional Forest Officer.

Provided further, that any Forest Officer of a rank not inferior to that of a Forest Ranger who or whose subordinate has seized any forest produce, weapons, tools, boats, motor vehicles, carts and cattle, and other articles liable to be seized under this Act under Section 49, may release the same on the execution by the owner or the person in charge thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made to proceed with the offence on account of which the seizure has been made; or for production before any authorized officer whenever required for the purpose as mentioned under Section 49.

(4) Subject to sub-section (5), where the authorized officer upon production before him of property seized or upon receipt of a report about seizure, as the case may be, is satisfied that a forest offence has been committed in respect thereof, may by an order in writing and for reasons to be recorded for the purpose, confiscate forest produce so seized together with all weapons, tools, boats, motor vehicles, carts and cattle, and other articles used in the commission of such offence. A copy of the order of confiscation shall be forwarded forthwith without any unnecessary delay, which shall in any case not exceed two working days, to the Conservator of Forests of the Forest Circle in which the timber or the forest produce has been seized.

Provided that even, order passed under this sub-section shall be communicated forthwith to the person from whom such seizure has been done, and has been afforded a hearing under sub-section (5).

(5) No order confiscating any property shall be made under sub-section (4) unless the authorized officer:

a) Sends an intimation about initiation of proceedings for confiscation of property to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

b) Issues a notice within one week of such intimation to the Magistrate under sub-section (a) to the person and to any other person who may appear to the authorized officer to have some interest in such property from whom the property is seized informing him or them as the case may be of the grounds on which it is proposed to confiscate such property;

c) Affords an opportunity to the persons specified in clause (b) of making a representation in writing within such reasonable period neither less than 10 days nor exceeding one month as may be specified in the notice against the proposed confiscation;

d) Provides to the Officer effecting the seizure and the person or persons to whom notice has been issued under clause (b), a hearing on a specific date to be fixed for such purpose, in any case not later than one month from the date of receipt of representation under clause (c).

(6) Without prejudice to the contents of sub-section (5) no order of confiscation under subsection (4) of all weapons, tools, boats, motor vehicles, carts and cattle and other articles used in the commission of such offence (other than timber or forest produce seized) shall be made if person referred to in clause (b) of sub-section (5) proves to the satisfaction of authorized officer that any such weapons, tools, boats, motor vehicles, carts and cattle, and other articles were used without his knowledge or connivance or as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against use of objects aforesaid for commission of forest offence:

Provided that any complaint preferred by the person referred to in clause (b) of sub-section (5) alleging theft of such weapons, tools, boats, motor vehicles, carts and cattle, and other articles or any FIR registered thereupon shall not be treated as evidence of non-connivance or lack of knowledge of use of such weapons, tools, boats, motor vehicles, carts and cattle, and other articles by such person or his servant or agent or that all reasonable and necessary precautions had been taken against use of objects aforesaid for commission of forest offence.

(7) Where the authorized officer passing an order under sub-section (4) is of the opinion that the property is subject to speedy and natural decay he may, for reasons to be recorded in writing, order the property or any part thereof to be sold in public auction and may deal with the proceeds as he would have dealt with such property had it not been sold, and shall report every such sale to his official superior."

8. Amendment of Section 49 Insertion of new Section 49-A, 49-B, 49-C, 49-D and 49-E

Section 49 of the principal Regulation, the following shall be inserted, namely,-

Revision against order of confiscation

"49A. Revision against order of confiscation:- Any person aggrieved by an order of confiscation may, within thirty days of the order prefer a revision in writing to the Conservator of Forest of the Forest Circle in which the forest produce has been seized (hereinafter referred to as the Revision Authority) in the manner as is usually done in respect of a revision petition under Section 397 of the Criminal Procedure Code, 1973, accompanied by such fee and payable in such form as may be prescribed enclosing a certified copy of the order of confiscation.

Explanation - The time required for obtaining certified copy of order of confiscation shall be excluded while computing period of thirty days referred to in this sub-section.

(1) The Revision Authority, where no revision has been preferred before him, may *suo-motu,* within thirty days of date of receipt of copy of order of confiscation by him; and compulsorily in every case a memorandum of revision is presented to him under sub-section (1) issue a notice for hearing of revision to the authorized officer and any other person, who in the opinion of the Revision Authority, is likely to be adversely affected by the order of confiscation.

Provided that in every case a notice is issued under this sub-section the Revision Authority shall call for the records of confiscation proceedings and examine the same.

(2) The Revision Authority shall be competent to pass such interim order which is just and proper in the circumstances of the case for custody,

preservation or disposal of the items of confiscation.

(3) The Revision Authority having regard to the nature of the case or the complexities involved, may permit parties to the revision to be represented by their respective legal practitioners.

(4) On the date fixed for hearing of the revision which shall not in any case exceed thirty days from the date of presentation of memorandum of revision or date of issue of notice of *suo-motu* action under sub-section (2), the Revision Authority shall peruse the records and hear the parties to the revision and thereafter proceed to pass an order of confirmation, reversal or modification of order of confiscation which shall in any case be within fifteen days of date of hearing of revision under this sub-section:

Provided that before passing any final order the revision authority, if he considers necessary for proper decision may make further enquiry himself or cause it to be made by any other officer appointed on that behalf, which in all cases shall be completed within ten days of date of decision for instituting such enquiry, and further may allow parties to file affidavits for asserting or refuting any fact that may arise for consideration and may allow proof of facts by affidavits. In every case of false affidavit filed under this sub-section the Revision Authority may take all such steps as he deems necessary to initiate prosecution of the party tendering such false affidavit, for the offence of perjury under Section 193 of Indian Penal Code, 1860 following the procedure for laying complaint as provided under Section 195(1) of the CrPC.

(5) The Revision Authority shall also be competent to pass such other orders consequential in nature as he may deem fit in the circumstances of the case.

(6) All orders under this Section shall be communicated to all parties to the dispute for compliance.

49(B) Appeal before Court of Sessions against order of Revision Authority:-

Appeal against order of Revision

(1) Any party to the revision aggrieved by final order or by order of consequential in nature passed by the Revision Authority may within thirty days of the order sought to be impugned, submit a petition for appeal to the Court of Sessions where the headquarters of the Revision Authority are situate.

Explanation - In computing the period of thirty days under this sub-section, the time required for obtaining certified copy of the order of Revision Authority shall be excluded.

(2) The Court of Sessions may confirm, reverse or modify any final order or an order of consequential nature passed by the Revision Authority only after providing a reasonable opportunity of hearing to the parties affected by the order. The date of hearing in every such case shall not exceed thirty days from the date of issuance of notice under this sub-section.

(3) For entertaining, hearing and deciding an appeal under this Section the Court of Sessions shall, as far as may be possible, exercise the same powers and follow the same procedure as it exercises and follows while entertaining, hearing and deciding an appeal under the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) subject to the restrictions imposed under sub-section (2).

(4) Notwithstanding anything contained in any other law for the time being the order of the Court of Sessions passed under this Section shall be final and shall not be called in question before any Court of law except under the procedure prescribed under Article 226 read with Article 227 or under Article 136 of the Constitution respectively.

49(C) Bar to exercise of jurisdiction of Court etc. under certain circumstances:-

Bar to exercise of jurisdiction of Court etc. in certain cases

On receipt of intimation under subsection(5)(a) of Section 49 about initiation of proceedings for confiscation of property by the Magistrate having jurisdiction to try the offence on account of which the seizure of property, which is the subject matter of confiscation, has been made, notwithstanding anything contained in any other law for the time being no Court, Tribunal or Authority (other than the authorized officer, Appellate Authority and Court of Session) shall have jurisdiction to make orders with regard to possession, delivery, disposal or distribution of the property in which regard proceedings for confiscation have been initiated under Section 49.

49(D) Award of confiscation not to interfere with other punishments:

Confiscation not to interfere with other punishments

The award of any confiscation under Section 49; Section 49A or Section 49B shall not prevent infliction of any punishment to which the person affected thereby is liable under this Act.

49(E) Property confiscated when to vest in Government:-

Confiscated property to vest with Government

When an order for confiscation of any property has been passed under Section 49 or Section 49A or 49B having regard to the fact that such order has become final in respect of the whole or any portion of such property, such property or portion thereof,as the case may be, shall vest in the State Government free from all encumbrances."

9. Amendment of Section 50

In Section 50 of the principal Regulation, the full stop mark occurring at the last part shall be substituted by a colon mark and a proviso thereto as under shall be inserted, namely:-

"Provided that before passing any order for disposal of property, the Magistrate trying the offence shall satisfy himself that no intimation under clause (a) of sub section (5) of Section 49 has been received by his Court or by any other Court having jurisdiction to try the offence on account of which the seizure of the property has been made."

(ii) After the-existing section a new section 50A shall be inserted, namely:-

Provision for summary trial of certain petty offences

"50A. Power to try offences summarily:- Any Magistrate of the first class may try summarily as provided in Chapter XXI of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), any forest offence punishable with imprisonment for a term not exceeding six months or with fine not exceeding five hundred rupees, or with both."

10. Amendment of Section 59

In Section 59 of the principal Regulation, after sub-clause (d) for the words *"shall be punished with imprisonment for a term which may extend to two years or with fine, or with both",* the words "*shall be punished with imprisonment which shall not be less than three years, and may extend to seven years and with fine which shall not be less than five thousand rupees"* shall be substituted.

11. Amendment of Section 60

In Section 60 of the principal Regulation,-

(i) in sub-section (1), the following proviso shall be inserted, namely,-

Forest Officer empowered to arrest under certain circumstances

"Provided that it shall be lawful for every Forest Officer or Police officer to arrest any person reasonably suspected of having committed a forest offence punishable with imprisonment for a term of one year and upwards where the person so suspected has committed a second or subsequent forest offence; or the accused has committed a forest offence which is punishable with maximum imprisonment of three years or above; or for reasons to be recorded in writing that the custody of the accused person is absolutely necessary to unravel a conspiracy to commit such offence provided the forest offence is punishable with imprisonment for a term of one year and upwards. In all these cases the accused shall be produced by the arresting Officer before a Magistrate having jurisdiction in the case within twenty four hours as provided under sub-section (4).

Provided further, that in every such case or in case of a bailable offence when the accused is unable to furnish the required surety for securing attendance of the accused, the arresting officer shall follow the procedure of arrest as provided under Section 41B, of the Criminal Procedure Code, 1973, subject him to medical examination by a registered medical practitioner as provided under sub-sections (2) to (5) of Section 53 A of the Criminal Procedure Code, 1973.

Explanation.- In matters pertaining to arrest, the provisions of the Criminal Procedure Code, 1973 shall apply in case of the arresting Forest Officer.

Provided further, that every Forest Officer making any inquiry into a forest offence shall have the powers of inquiry, search and seizure provided in favour of a Police Officer under the Criminal Procedure Code, 1973.

(ii) After sub-section (4), a new sub-section 5 shall be inserted, namely,-

Certain offences to be non-bailable

"(5) Certain offences to be non-bailable- Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 any offence punishable with imprisonment for a maximum period less than one year under this Act shall be regarded as bailable within the meaning of Section 2(a) of Criminal Procedure Code, 1973, and the arresting officer shall release any person accused of a forest offence on personal bond and upon furnishing such number of sureties for such sum of money that shall be fixed by the arresting officer as per provisions of Section 436 of Criminal Procedure Code, 1973. Provided that any person accused of a forest offence punishable with imprisonment for a period of one year or above the procedure detailed under proviso to sub-section (1) shall apply in every such case and such offence shall be regarded as non-bailable subject to the exceptions contained therein.

Explanation- In every case a person is sought to be proceeded for forest offence punishable under any other Act, the provisions of such other Act in relation to the offence being bailable or non-bailable shall apply, and the accused person shall be dealt with accordingly as per Chapter V of Criminal Procedure Code, 1973 to the extent it is not in conflict with the provisions of such other Act.

12. Insertion of new Section 60A

After Section 60 of the principal Regulation, the following Section shall be inserted, namely,-

Operation of other laws not barred

"60A.Operation of other laws not barred:- Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for an act or omission which constitutes a forest offence or from being liable under such other higher punishment or penalty than that provided by this Act or the Rules made thereunder subject to a further provision that no person shall be prosecuted and punished twice for the same offence."

13. Amendment of Section 61

Amendment of Section 61:- For Section 61 of the principal Regulation the following sections shall be substituted, namely,-

"61. Power to prevent commission of offence:-

Duty of Police Officer to assist Forest Officer for *bonafide* discharge of duty

(1) It shall be the duty of every Forest Officer and Police Officer to prevent the commission of any forest offence, and any such officer may take such steps as deemed fit by him for the purpose of preventing the commission of any forest offence. Provided that it shall be the duty of every Police Officer to assist a Forest Officer when so intimated by him for prevention or detection of a forest offence. Every such request shall be intimated in writing to the Station House Officer if the Forest Officer is of the rank of a Range Officer or below, and to the Superintendent of Police, if such request stems from a Forest Officer of the rank of Assistant Conservator of Forests and above, whereupon the requested Police Officer shall attend to the requested assistance forthwith.

Provided further, that it shall be sufficient if the Superintendent of Police were to depute a subordinate Police Officer if he is of the opinion that the matter may be suitably dealt by him.

Obligation to provide security to Forest Officer under threat

(2) Every request for security cover by any Forest Officer under reasonable threat to safety for *bonafide* discharge of duty shall be treated as request for prevention of forest offence within the meaning of sub-section (1).

(3) Every request for security cover under sub-section (2) by a subordinate Forest Officer shall be processed through the respective Divisional Forest Officer or by a Forest Officer superior in rank to the DFO directly to the Superintendent of Police of the respective District, whereupon, within two to seven days from the date of receipt of request depending upon the severity and urgency of threat, the Superintendent of Police shall provide such security cover as he deems fit commensurate with the degree of threat perception except in exceptional circumstances which shall be recorded in writing and communicated to the Divisional Forest Officer or such other superior Forest Officer who had initially requested such security cover.

Provision to appeal against decision of Superintentendent of Police

(4) It shall be lawful to appeal against the decision of the Superintendent of Police to the Director General of Police who after affording a personal hearing within ten days of receipt of appeal, shall pass an order within three days thereafter.

Provided that in every case where the appeal of the Divisional Forest Officer is declined the Director General of Police shall pass a reasoned order.

Averment of DFO and superior officers to be regarded as sufficient proof of threat

Explanation- In all cases of application for security cover the request of the Divisional Forest Officer or those Officers superior to him shall be sufficient proof of threat perception except in cases where the Superintendent of Police has admissible evidence of facts which are contrary to the averment of the Divisional Forest Officer or any other superior Officer.

14. Amendment of Section 62

In Section 62 of the principal Regulation,

(i) In sub-section (i), after clause (b), the following new clause (c) shall be substituted, namely,-

"(c) When any person is accused of an offence rendered non-bailable within the meaning of sub-section (5) of Section 60 no Forest Officer or Police Officer shall be competent to compound such offence under sub-clause (a).

Non-bailable offences to be non-compoundable

(ii) for sub-section (3), the following shall be substituted, namely:

"(3) No Forest Officer shall be empowered under this section unless he is of the rank of an Assistant Conservator of Forest or above. The officer so empowered shall be designated as Compounding Officer.

Rank of Officer authorized to compound offences is specified

Provided that it shall be lawful for the Compounding Officer of the rank specified below to decide on compounding the offence and accepting the specified sum of compensation:

(i) Assistant Conservator of Forest when the sum of compensation is upto Rupees Fifty Thousand only;

(ii) Divisional Forest Officer Forest when the sum of compensation is above Rupees Fifty Thousand upto Rupees Two Lakhs;

(iii) Conservator of Forest when the sum of compensation is above Rupees Two Lakhs upto Rupees Five Lakhs.

Further provided that the sum receivable as compensation shall be determined by the Assistant Conservator of Forest taking into consideration Net Present Value (NPV) rates, and other Government notified schedule of rates.

15. Amendment of Section 64

In Section 64 of the principal Regulation, for sub-section (1), the following shall be substituted, namely:-

(1) "When any person is convicted of felling, cutting, girdling, marking, lopping or tapping trees or injuring them by fire or otherwise in contravention of this Regulation or any rule thereunder, the convicting Court, may, in addition to any other punishment it may award, order that person to pay to the Government such compensation, not less than one thousand rupees for each tree with respect to which the offence was committed, as it may deem fit."

16. Insertion of new Section 68A

In the principal Regulation, after Section 68, the following new Section 68 A shall be inserted namely:-

"68A It shall be lawful for any Forest Officer of rank not lower than a Forester to lay any information of offence or otherwise before a Magistrate and to apply for summons, warrant, search warrant, or such other legal process or instrument as may by law issue against any person, committing any offence, and to conduct prosecution of such person till the final disposal of the case either in person or through a pleader engaged for the purpose."

Only specified Officers are invested with powers provided under CrPC and this Act

17. Amendment of Section 70

In the principal Regulation for Section 70, the following sections shall be substituted, namely:

"70. Indemnity for acts done in good faith -

(1) No suit or criminal prosecution or other legal proceeding shall lie against any public servant for anything done in good faith or omitted to be done likewise under this Regulation or the rules or orders thereunder.

Indemnity for acts done in good faith

(2) No court shall take cognizance of any offence under this Act or Rules thereunder or of any other offence under any other Act, including registration of a First Information Report thereof under Section 154 of the Criminal Procedure Code, 1973 by a Police Officer, while acting or purporting to act under the provisions of this Regulation (Meghalaya Forest Regulation, 1973) in which a Forest Officer is an accused person; without the previous sanction of the Principal Chief Conservator of Forests in case of a non-gazetted employee and the State Government in case of a gazetted officer."

Necessity of sanction for proceeding against Forest Officer while acting under this Act

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