

THE PRIVATE FORESTS ORDINANCE, 1959

(EAST PAKISTAN ORDINANCE NO.XXXIV OF 1959).

[11th May, 1959]

An Ordinance to provide for the conservation of private forests and for the afforestation in certain cases of waste lands in Bangladesh. 1

WHEREAS it is expedient to provide for conservation of forests and for the afforestation of waste lands in Bangladesh where such forests or lands are not the property of the Government or where the Government have no proprietary right over such forests or lands;

AND in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and having received the previous instructions of the President, the Governor is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance:-

CHAPTER I

PRELIMINARY

Short title, extent and commencement 1. (1) This Ordinance may be called the 2[* * *] Private Forests Ordinance, 1959.

(2) It extends to the whole of Bangladesh.

(3) This section shall come into force at once and the remaining provisions of this Ordinance, in whole or in part, shall come into force in such areas and on such dates as the Government may, by notification, specify and for this purpose different dates may be specified for different provisions of this Ordinance and for different areas.

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(1) "Appellate Committee" means a committee the procedure of which shall be as prescribed, appointed by the Government in respect of a notified area to hear appeal under this Ordinance consisting of three members of whom the Chairman shall be a Revenue Officer not below the rank of a Collector, one member shall be a Forest Officer not below the rank of a Deputy Conservator of Forests and the other member shall be an owner of a private forest who shall be selected in the prescribed manner from amongst the owners of private forests in such notified area;

(2) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;

(3) "conservation" used in reference to any forest land or waste land relates to such measures as are necessary in the opinion of the Regional Forest Officer for the prevention and remedying of deterioration of soil and its vegetative cover caused or likely to be caused through erosion, land-slide,

flood, desiccation, burning, grazing, digging or removal of earth or through any other deteriorating agency and includes measures for improvement through protection, afforestation or any other means;

(4) "Controlled forest" means a private forest, not being vested forest in respect of which sections 2 to 63 of this Ordinance in whole or in part, have come into force;

3[(5) "forest" includes any land recorded as forest in a record-of-rights prepared under Chapter IV of the State Acquisition and Tenancy Act, 1950 (E.B. Act XXVIII of 1951) or such other land containing tree growth as may by notification be declared as forest by the Government;]

(6) "forest-offence" means an offence punishable under this Ordinance or under any rule made thereunder;

(7) "Forest Officer" means any person whom the Government or any officer empowered by the Government in this behalf, may appoint to carry out all or any of the purposes of this Ordinance or to do anything required by this Ordinance or any rule made thereunder to be done by a Forest Officer;

(8) "forest-produce" includes-

(a) the following whether found in, or brought from a forest or not, that is to say,-

(i) timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrabolans, and

(ii) wild animals and skins, tusks, horns, bones, silks, cocoons, honey and wax, and all other parts or produce of animals, and

(b) the following when found in, or brought from a forest, that is to say,-

(i) trees and leaves, flowers and fruits, and all other parts, or produce not hereinbefore mentioned, of trees,

(ii) plants, not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) surface soil and rock (excluding salt rock and mineral rock), and

(iv) fish, tortoise, oysters, shells, sponge, conch, all crustacea and mollusca and all parts of produce of such fauna;

(9) "Forest Settlement Officer" means an officer who shall ordinarily be a Revenue Officer, appointed by the Government to perform the functions of a Forest Settlement Officer under this Ordinance, and includes a Board, the procedure of which shall be as prescribed, appointed by the Government to perform such functions, consisting of not more than three officers of whom at least two shall be Revenue Officers;

(10) "notification" means a notification published in the official Gazette;

(11) "notified area" means an area specified in a notification issued under sub-section (1) of section 3;

(12) "owner" includes any mortgagee in possession, lessee, common manager, receiver appointed by a competent Court and any person holding any property in trust and also includes a Court of Wards in respect of property under the superintendence or charge of such Court;

- (13) "prescribed" means prescribed by rules made under this Ordinance;
- (14) "private forest" means a forest which is not the property of the Government or over which the Government has no proprietary right;
- (15) "Regional Forest Officer" means a Forest Officer appointed as such by a notification for a notified area;
- (16) "river" includes any stream, canal, creek or other channel, natural or artificial;
- (17) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hallowed out for any purpose or not;
- (18) 'tree' includes palms, bamboos, stumps, brushwood, canes, grasses, reeds, shrubs, herbs, etc.;
- (19) "vested forest" means a forest of which the control has been vested in a Regional Forest Officer by a notification under sub-section (2) of section 6 or under section 7 or under section 11 and includes any forest deemed to be or managed as, a vested forest under this Ordinance;
- (20) "waste-land" means any waste-land which is not the property of the Government or over which the Government has no proprietary right;
- (21) "working plan" means a written plan prepared in the prescribed manner for the management and treatment of a forest or waste land; and
- (22) "year" means a financial year.

CHAPTER II

CONSERVATION OF PRIVATE FORESTS AND AFFORESTATION OF WASTE LANDS

Preparation of, and appeal and revision in respect of, working plans for private forest

3. (1) (a) The Government may, by notification, direct that every owner of a private forest which is not a vested forest, but which is situated within such area as may be specified in the notification, shall prepare in the prescribed manner and submit within the period mentioned in the notification to the Regional Forest Officer a working plan for the conservation of such private forest.

(b) If any person fails to submit the statement mentioned in clause (a) of sub-section (1) within the specified time, he shall be punishable with fine which may extend to five hundred taka:

Provided that no prosecution shall be instituted under this sub-section unless the Regional Forest Officer has served in the prescribed manner a notice on such owner specifying his failure to carry out the above provision within 30 days from the date of service of such notice and unless such owner has failed to comply with such notice.

(2) On the expiry of the period mentioned in the notification under sub-section (1), the Regional Forest Officer shall, after considering each working plan submitted to him under that sub-section, and after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, by an order in writing, accept the working plan or modify it in such manner as he may consider necessary or substitute another working plan for it.

4[(3a)] If any owner of such private forest does not submit a working plan within the period specified in the notification issued under sub-section (1), the Regional Forest Officer may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, prepare a working plan in respect of such forest.

5[(3b) The cost of preparing the working plan under sub-section (3a) as estimated by the Regional Forest Officer in consultation with the Conservator of Forests of a circle within which such forest is situated, is recoverable from the owner of the private forest as forest revenue or as an arrear of forest revenue under the Public Demands Recovery Act, 1913.]

(4) When the Regional Forest Officer by an order in writing modifies any working plan under sub-section (2) or substitutes another working plan under that sub-section for the working plan submitted under sub-section (1), he shall cause a copy of such order to be served in the prescribed manner upon the owner of such private forest to which such working plan relates and such owner may, within sixty days of the date of service of such order, appeal against such order to the Appellate Committee and the Appellate Committee may thereupon, after giving such owner an opportunity of being heard, by an order in writing, either accept the working plan with or without modifications or reject it and the decision of the Appellate Committee on every such appeal shall, subject to the provisions of sub-section (5), be final.

(5) The Board of Revenue may, on application by an owner of a private forest for revision of an order of the Appellate Committee passed in appeal under sub-section (4), and if such application is made within thirty days from the date of the order, call for the record of the appeal in which the order was passed and on receipt of such record, after giving such owner an opportunity of being heard, may, if it does not see fit to reject the application, direct the Appellate Committee by an order in writing to make such modifications in the working plan accepted by the said Committee under sub-section (4) as may be specified in such order in writing.

(6) The Board of Revenue shall, as soon as may be after an application for revision is disposed of under sub-section (5), communicate the order passed by it on such application to the Appellate Committee, and on receipt of such order the Appellate Committee shall, where the Board of Revenue has directed any modification to be made in such working plan, modify it accordingly.

Approved working plans

4. (1) When the Appellate Committee accepts any working plan with or without modification under sub-section (4) of section 3, modifies any working plan under sub-section (6) of the said section, or the Regional Forest Officer accepts, modifies or substitutes any working plan under the said section or prepares any working plan under the said section, such Committee or officer shall, by an order in writing, approve such working plan or the working plan as so modified by the Committee or such officer, as the case may be, and every working plan so approved shall be deemed for the purposes of this Ordinance to be an approved working plan:

Provided that the Regional Forest Officer shall not so approve any working plan that he has modified or substituted by an order under sub-section (2) of section 3, if-

(a) an appeal against the order has been made to the Appellate Committee; or

(b) where no such appeal has been made, the time within which such appeal may be made has not expired:

Provided further that the Appellate Committee shall not so approve any working plan accepted by it with or without modification by an order under sub-section (4) of section 3 if,-

(a) where an application for revision of the order has been made to the Board of Revenue, the order of the Board of Revenue on such application has not been received by such Committee; or

(b) where no such application for revision has been made, the time within which such application may be made has not expired.

(2) A copy of every approved working plan shall be sent in the prescribed manner by the Regional Forest Officer to the owner of the private forest to which it relates and the owner shall thereupon manage such forest in accordance with such plan and shall carry out all the terms and conditions thereof.

(3) At any time after five years from the date of approval of a working plan under sub-section (1), or with the previous sanction of the Government at any time within the said period of five years a Regional Forest Officer may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which the forest to which such working plan relates is situated, by an order in writing, modify the approved working plan in such manner as he considers necessary and the provisions of sub-sections (4), (5) and (6) of section 3 and sub-sections (1) and (2) of this section shall apply to every plan so modified:

Provided that nothing in this section shall prevent the owner after the expiry of the said period of five years from applying in writing to the Regional Forest Officer for the modification of the working plan in such manner as may be specified in the application and if the Regional Forest Officer, after giving the owner an opportunity of being heard, does not see fit after such consultation as aforesaid so to modify the working plan, he shall record an order to that effect and the owner may, within thirty days from the date of such order, appeal against such order to the Appellate Committee and an application for revision shall also lie to the Board of Revenue from any order passed by the Appellate Committee on such appeal if presented within thirty days from the date of such order and the decision of the Appellate Committee on such appeal shall, subject to such revision by the Board of Revenue, be final.

Prohibition of leases of terms of existing leases of private forests after issue of notification under section 3(1)

5. After the publication of a notification under sub-section (1) of section 3, no owner of a private forest in the notified area shall enter into any new lease or extend the term of any existing lease in respect of such forest until the working plan in respect of such forest has been approved under sub-section (1) of section 4 except with the previous sanction of the Government and, after such working plan has been so approved, except in accordance with the terms and conditions of such plan and any lease entered into or any extension of the term of any lease granted in contravention of the provisions of this section shall, notwithstanding anything contained in any other law for the time being in force, be void and have no effect.

Penalty for the violation of working plan

6. (1) If after an approved working plan in respect of any private forest has been sent under sub-section (2) of section 4 to the owner of such forest such owner fails or neglects to carry out any of the terms and conditions of such plan, he shall be punishable with fine which may extend to five hundred taka:

Provided that no prosecution shall be instituted under this sub-section unless the Regional Forest Officer has served in the prescribed manner a notice on such owner specifying the terms and conditions of the working plan which such owner has failed or neglected to carry out and requiring such owner to take such steps for carrying them out as are specified in the notice within thirty days from the date of service of such notice and unless such owner has failed to comply with such notice.

(2) If the owner of a private forest is convicted a second time under sub-section (1) for the failure or neglect to carry out any of the terms and conditions of the working plan in respect of such forest the Government may, by a notification, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in such notification:

Provided that no such notification shall be issued until such owner has been called upon by notice in writing by the Regional Forest Officer within sixty days of such conviction to show cause before the Appellate Committee within such time as may be specified in the notice as to why such notification should not be issued and until the Appellate Committee, after considering the cause, if any, shown by him and any evidence which he may produce in support thereof, has recommended to the Government that such notification should be issued.

(3) Nothing in sub-section (1) shall render any owner of any private forest liable to conviction for any deviation from any approved working plan if such deviation has been previously sanctioned by the Regional Forest Officer on application made by such owner in that behalf to such officer or by the Appellate Committee on an appeal from an order of the Regional Forest Officer refusing to sanction such deviation presented by the owner to such Committee within thirty days from the date of such order.

Vesting of forest in a Regional Forest Officer

7. Notwithstanding anything contained in sections 3 and 4 or in sub-section (2) of section 6, if the Government is satisfied that the conservation of any private forest in a notified area should not be left to the owner thereof, the Government may, by a notification specifying the reasons for so doing, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in the notification:

Provided that no such notification shall be issued until-

(a) the Regional Forest Officer has, by notice in writing, called upon the owner of such forest to show cause before the Appellate Committee within such period as may be specified in such notice why the control of such forest should not be so vested, and

(b) the Appellate Committee after considering the cause, if any, shown by the owner and any evidence which the owner may produce in support of the same has recommended that such notification should be issued.

Forest loans

8. (1) Subject to rules made under this Ordinance loans may be granted on the recommendation of the Appellate Committee by such officer as may be empowered in this behalf by the Government to any owner of a controlled forest or a vested forest who, in the opinion of the Appellate Committee, is likely to suffer unduly owing to any temporary reduction of his income resulting from any action taken under section 4 or sub-section (2) of section 6 or section 7 or to any owner of a controlled forest to enable such owner to pay any compensation payable by him under sub-section (6) of section 10 or sub-section (2) of section 35.

(2) An application for such a loan shall be made in the prescribed manner to the Appellate Committee and shall state the following particulars, namely:-

(a) the amount of the loan required,

(b) the reasons for which it is necessary, and

(c) the period for which it is required.

(3) After considering in the prescribed manner the application made under sub-section (2) and any evidence that may be produced in support thereof, the Appellate Committee shall state in writing its opinion as to whether or not a loan should be given, and, if it recommends the grant of a loan, shall forward the application to the officer empowered under sub-section (1) with its opinion, stating the reasons for such recommendation and specifying the following particulars, namely:-

(a) the amount of the loan that should be granted and the rate of the interest that should be charged,

(b) the instalments in which the loan should be advanced, and

(c) the period after which and the instalments in which the loan should be repaid.

(4) Subject to rules made under this Ordinance granted under sub-section (1), all interests, if any, chargeable thereon and costs, if any, incurred in granting such loans shall, when they become due, be recoverable by the Collector as if they were arrears of land revenue due in respect of the controlled forest or the vested forest of which the borrower was the owner at the time the loan was granted:

Provided that no proceeding in respect of any such forest under this sub-section shall affect any interest in that forest which existed before the date of the order granting the loan other than the interest of the borrower and of mortgagees of, or persons having charges on, the interest of the borrower.

Amalgamation of two or more vested forests under one working plan

9. (1) If, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which the forests are situated, a Regional Forest Officer is of the opinion that it is impossible otherwise to secure the conservation of two or more forests, belonging to different owners, of which the control has been vested in him by a notification under sub-section (2) of section 6 or under section 7, he may record an order that such forest shall be managed under one working plan as if they belonged to one owner, and shall cause a copy of such order to be served in the prescribed manner on the owner of each such forest.

(2) The Regional Forest Officer may at any time, after consultation in the manner referred to in sub-section (1), by order in writing, rescind or modify an order passed by him under that sub-section and a copy of every order passed under this sub-section shall be served in the prescribed manner on the owner of each such forest.

(3) Any owner or other person interested in any such forests may, within thirty days from the date on which the copy of any order passed under sub-section (1) or sub-section (2) is served on him, appeal against such order to the Appellate Committee and the decision of the Appellate Committee on such appeal shall, subject to the provisions of sub-section (4), be final.

(4) The Board of Revenue may, on application made within thirty days from the date of any order of the Appellate Committee passed in appeal under sub-section (3), revise such order.

Afforestation of land adjoining a forest

10. (1) The Government may, if it is satisfied on application made by the owner of a controlled forest, or by the Regional Forest Officer in whom the control of a private forest is vested under this Ordinance that any land adjoining such forest has not been cultivated during the three years immediately preceding the year in which such application is made and that such land is suitable for

afforestation, by notification, announce its intention to declare such land to be liable to be made over to the owner of such controlled forest or vested forest, as the case may be.

(2) Every notification issued under sub-section (1) shall specify a period within which objections to the proposed declaration may be submitted by any person interested in such land to the Appellate Committee and a copy of every such notification shall be served in the prescribed manner on the person entitled to cultivate such land.

(3) After the expiry of the period so specified in a notification issued under sub-section (1), the Appellate Committee shall hear the objections, if any, submitted by the person entitled to cultivate such land or any other person interested in such land and any evidence which any such person may produce in support of the same, and forward the objections so submitted and its opinion thereon to the Government.

(4) If, after considering the objections and the opinion of the Appellate Committee forwarded under sub-section (3), the Government is of opinion that such land should be declared to be liable to be made over to the owner of the controlled or vested forest referred to in sub-section (1), the Government shall issue a notification-

(a) declaring such land to be liable to be made over to the owner of such forest to be specified in the notification,

(b) specifying as nearly as possible the situation and limits of such lands, and

(c) appointing a Forest Settlement Officer to determine, subject to any rules made under this Ordinance, by an order in writing,-

(i) what rights in or over such land shall be extinguished, and

(ii) what rent, if any, shall be payable by the owner of such forest to any landlord of such land.

(5) When a notification has been issued under sub-section (4), the amount of the compensation payable under sub-section (6) to every person whose rights as specified by the Forest Settlement Officer under sub-clause (i) of clause (c) of sub-section (4), are to be extinguished shall be determined, subject to any rules made under this Ordinance, in the manner and in accordance with the principles hereinafter set out, that is to say,-

(i) when the amount of compensation can be fixed by the Forest Settlement Officer appointed under clause (c) of sub-section (4) by agreement, it shall be paid in accordance with such agreement;

(ii) where no such agreement can be reached, the Government shall appoint as arbitrator, a person who has exercised the powers of a District Judge in Bangladesh or who possesses such qualifications as are normally required for appointment to the post of District Judge in Bangladesh;

(iii) at the commencement of the proceedings before the arbitrator the owner of the forests or the Regional Forest Officer by whom the compensation is payable, and the person to be compensated shall state what in their respective opinions is a fair amount of compensation;

(iv) the arbitrator in making his award shall have regard to the provisions of 6[sub-section (1) of section 8 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ord. No. II of 1982)] so far as the same can be made applicable;

(v) an appeal shall lie to the 7[High Court Division] against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf;

(vi) save as provided in this sub-section and in any rules made under this Ordinance, nothing in any law for the time being in force shall apply to arbitrations under this sub-section.

(6) The amount of compensation determined under sub-section (5) shall be paid in the prescribed manner in the case where the notification under sub-section (1) was issued on the application of the owner of a controlled forest, by such owner, and in the case where such notification was issued on the application of a Regional Forest Officer, by such officer out of the profits of the vested forest adjoining such land, to the person entitled to such compensation and, on payment of such compensation the land shall be made over by the Forest Settlement Officer appointed under clause (c) of sub-section (4), to the owner of the controlled or vested forest specified in the notification issued under that sub-section and shall thereupon vest in such owner and all rights in or over such land specified by the said officer under sub-clause (i) of the said clause shall with effect from the date on which such land is so made over, be extinguished.

(7) When any land is made over under sub-section (6) to the owner of a forest, it shall, with effect from the date on which it is so made over, be deemed to be a private forest.

(8) When any such land is made over under sub-section (6) to the owner of a vested forest which adjoins such land, the control of such land shall be vested in the Regional Forest Officer in whom the control of such forest is for the time being vested and the land shall, for the purposes of this Ordinance, be deemed to be a vested forest.

(9) When any such land is made over under sub-section (6) to the owner of a controlled forest which adjoins such land, the Regional Forest Officer may, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which such controlled forest is situated, by an order in writing, a copy of which shall be served on such owner in the prescribed manner, either direct that the approved working plan in respect of such controlled forest shall be deemed to be the working plan approved for such land under sub-section (1) of section 4 or require such owner to prepare in the prescribed manner and submit within the period to be mentioned in such order to such officer a working plan in respect of such land.

(10) Where the owner of a controlled forest is required under sub-section (9) to prepare and submit a working plan in respect of the land made over to him under sub-section (6), the provisions of sections 3 and 4 shall apply to such working plan as if such owner has been required to prepare such working plan under sub-section (1) of section 3.

Afforestation of other land

11. (1) If it appears from the report of a Regional Forest Officer that any waste land which is lying uncultivated for not less than three years is suitable for afforestation and that the owner of such land is unwilling or unable to cultivate it by growing therein agricultural crops, or to use it for the purposes of horticulture to the satisfaction of such officer or to afforest it, the Government may, by a notification, direct that the control of such land shall be vested in a Regional Forest Officer to be specified in the notification for the purpose of afforestation for such period as may be stated in the notification:

Provided that the Government shall not issue any notification under this sub-section without considering whether or not such land can more advantageously be used for the purposes of agriculture or horticulture than for the purposes of afforestation:

Provided further that no such notification shall be published until a notice has been issued by such Regional Forest Officer calling upon the owner of such land and any other person interested therein to show cause before the Appellate Committee within such period as may be specified in the notice why the notification should not be published and until the cause, if any, shown and any evidence that may

have been produced in support of the same before the Appellate Committee and the opinion of the Appellate Committee thereon have been considered by the Government.

(2) Any land in respect of which a notification has been published under sub-section (1), shall be deemed to be a vested forest for the purpose of the Ordinance.

(3) When all expenses incurred by the Government for the afforestation of any such land have been recouped, the profits resulting from such afforestation shall, during the period the control of such land remains vested in a Regional Forest Officer, be divided in equal shares between the Government and the owner of the land.

Apportionment of rents of forests held under a lease jointly with other lands and the division of the tenure or holding comprising a forest

12. (1) Notwithstanding anything contained in any other law for the time being in force, where a private forest or any waste land is, at the date of publication of a notification vesting the control thereof in a Regional Forest Officer under sub-section (2) of section 6 or under section 7 or under section 11, as the case may be,-

(a) held under a lease granted by the owner of such forest or land before the date of publication of such notification and such lease comprises not only the areas included in such forest or land but also other areas, or

(b) held by the owner of such forest as part of a tenure or holding jointly with other lands, the Collector of the district may, on application made in this behalf by such Regional Forest Officer,-

(i) in the case referred to in clause (a), by an order in writing, apportion, subject to rules made under this Ordinance, the rent payable under the lease between the areas included within the vested forests and other areas comprised within the lease on the basis of their respective assets, and

(ii) in the case referred to in clause (b), by an order in writing, direct the division of such tenure or holding in such manner that a separate tenure or holding is formed with the land included within the vested forest and also direct such distribution of the rent payable in respect of such tenure or holding between the two separate tenures or holdings so formed as he deems fair and equitable:

Provided that no order shall be passed under this sub-section without giving, in the case of an order passed under clause (i) the lessor and the lessee of such forest or land and in the case of an order passed under clause (ii), the owner of such forest or land and the landlord or landlords, or their common agent, if any, of the tenure or holding, a reasonable opportunity of being heard.

(2) An appeal shall lie from every order passed under sub-section (1) to the Commissioner of the Division if it is presented within thirty days from the date of such order and the decision of the Commissioner on such appeal shall be final and shall not be questioned in any Court.

Explanation.- In this section, "lease", "lessor" and "lessee" have the same meanings as in the Transfer of Property Act, 1882, and "tenure" and "holding" have the same meanings as in the 8[State Acquisition and Tenancy Act, 1950 (East Bengal Act XXVIII of 1951)].

Rent to be a charge on the lease-hold interest in a vested forest

13. Where a private forest or waste land of which the control has been vested in a Regional Forest Officer by a notification under sub-section (2) of section 6 or under section 7 or under section 11 is, at the date of publication of such notification, held either exclusively or jointly with other property under a lease granted by the owner of such forest or land before such date, the rent payable under the lease or under an order of apportionment made under clause (i) of sub-section (1) of section 12 in respect of such forest or land during the period such forest or land remains so vested in the Regional Forest Officer shall, subject to the prior payment of the land-revenue, if any, due to the Government thereupon be a first charge upon the leasehold interest in such forest created by such lease.

Power to order a vested forest to be formed into a separate estate

14. The Government may, if it thinks it expedient, direct the Collector to partition off that part of an estate which comprises a vested forest into a separate estate; and the demand in respect of land-revenue and cess for which the original estate was liable shall on such partition be assessed upon and divided between the two separate estate so formed respectively in such manner as the Government may direct.

Power to exempt an estate of which a vested forest forms part from sale for arrears of revenue

15. The Government may, if it so considers expedient, by a notification, exempt any estate, 9[* * *] of which a vested forest forms part, from sale for arrears of Government revenue accruing during the period the control of such forest remains vested in a Regional Forest Officer under sub-section (2) of section 6 or under section 7 or under section 11 or during such part of such period as may be specified in such notification:

Provided that where any such estate, share or part is so exempted, all such arrears of revenue shall be the first charge upon the sale-proceeds of such estate, share or part which may be sold otherwise than for such arrears of revenue.

Determination of cost of management of vested forest and distribution of net profit

16. (1) The cost of any extra staff required for the management of a vested forest in each year shall be determined in the prescribed manner by the Regional Forest Officer and shall be recovered by him in that year, or in subsequent years, from the sale of the forest-produce of such forest.

(2) The cost of the operations of any Forest Settlement Officer and such part of the cost of a Regional Forest Officer and or his staff as is proportionate to the work done by them in connection with the management of a vested forest shall be included in the cost of management.

(3) Any amount due in respect of a loan made under section 8 to the owner of a vested forest shall be included in the cost of management of such forest.

(4) Any amount paid as compensation by the Regional Forest Officer under sub-section (6) of section 10 out of the profits of a vested forest or paid as compensation by the Regional Forest Officer under sub-section (2) of section 25, and to be recouped under that sub-section from the profits of a vested forest, shall be included in the cost of management of such forest.

(5) Until otherwise determined by a competent Court, the respective shares of the owners of a vested forest shall be determined by a Forest Settlement Officer in the prescribed manner and thereafter the net profits in respect of such forest, which shall be calculated in the prescribed manner, shall be distributed among the various owners thereof in proportion to their respective shares as so determined.

(6) In each year the Regional Forest Officer shall record in a statement the cost of management with which each vested forest shall be charged and any amount which shall be paid in respect of the net profits calculated under sub-section (5) and shall cause a copy of such statement to be served in the prescribed manner on the owner of such forest.

Imposition of cess

17. (1) The Government may impose in the prescribed manner on an acreage basis a cess on all private forests within a notified area with effect from such date, not being before the expiry of three years from the date of publication of a notification under section 3, as the said Government may appoint.

(2) Such cess shall be so calculated as to yield a sum not greater than that which is sufficient to meet the cost of the Regional Forest Officer and his staff, including any expenses incurred in connection with their work to be determined in the prescribed manner.

(3) If the Regional Forest Officer or his staff does any work in connection with a Government forest, a proportionate deduction shall be made from the cost of such Regional Forest Officer and of his staff before the cess is calculated under sub-section (2).

(4) Every cess imposed under sub-section (1) shall be recoverable as a public demand under the 10[* * *] Public Demands Recovery Act, 1913.

(5) The Government may, by general or special order, exempt any private forest in a notified area from the payment of any cess imposed under sub-section (1) or of any portion of any such cess for such period as may be specified in such order.

Release of vested forest to the owner

18. (1) If the owner of a vested forest satisfies the Appellate Committee-

(a) at any time after the expiry of fifteen years from the date of the notification by which the control of such forest has been vested in a Regional Forest Officer, that-

(i) the control of such forest may be restored without undue risk of detriment to its conservation, and

(ii) the cost of its management as determined under the provisions of sub-section (1) of section 16 has been recovered in full, or

(b) at any time after the expiry of thirty years from the date of such notification that the cost of management of such forest as determined under the provisions of that sub-section has been recovered, the Appellate Committee shall by order direct that with effect from a date, to be specified in such order, the control of such forest shall cease to be vested in the Regional Forest Officer:

Provided that no such order shall be made in the case of any forest, whether any working plan in respect of such forest has been previously approved under section 4 or not, until-

(a) the Appellate Committee has by an order called upon the owner of such forest to prepare in the prescribed manner and to submit within such period as may be specified in such order to the Regional Forest Officer a working plan in respect of such forest, and

(b) a working plan has been approved in respect of such forest in accordance with the provisions referred to in sub-section (2):

Provided further that no such order shall be passed regarding a forest in respect of which there subsists an order passed under sub-section (1) of section 9, unless the owners of all the forests, in respect of which the order under the said sub-section was passed, have satisfied the Appellate Committee that there will be no undue risk of detriment to the conservation of any of such forest if the control of the said forests ceases to be vested in the Regional Forest Officer.

(2) When the owner of a forest has been required under the first proviso to sub-section (1) to prepare and submit a working plan in respect of such forest, the provisions of sections 3 and 4 shall apply to such working plan as if such owner has been required to prepare such working plan under sub-section (1) of section 3.

(3) The fact that the control of any forest has ceased to be vested in a Regional Forest Officer shall not operate to revive any right which may have been extinguished or modified by a proclamation under section 28.

CHAPTER III

RIGHTS IN FORESTS

Control and demarcation of vested forest

19. When a notification has been published in respect of any forest under sub-section (2) of section 6 or under section 7 or under section 11, the control of such forest shall be vested in the Regional Forest Officer who shall forthwith proceed to demarcate it.

Appointment of Forest Settlement Officer

20. (1) A Forest Settlement Officer shall be appointed by the Government in respect of every forest of which the control is vested in a Regional Forest Officer by a notification under sub-section (2) of section 6 or under section 7 or under section 11, and may be appointed in respect of any controlled forest on the application made in this behalf to the Government by its owner.

(2) Such appointment shall be made by a notification specifying in such notification as nearly as may be possible, the situation and limits of such forest.

Bar of accrual of rights

21. After the issue of a notification under section 20, no rights shall be acquired in or over the land comprised in such notification, except by succession or under grant or contract in writing made or entered into, with the previous sanction of the Government, by or on behalf of the owner or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose, and cutting, conversion or removal of timber or the collection, manufacture or removal of other forest-produce, shall be made in such land except in accordance with such rules, if any, as may be made by the Government in this behalf.

Proclamation by Forest Settlement Officer

22. (1) The Forest Settlement Officer shall publish in the neighbourhood of the forest in respect of which he has been appointed, a proclamation in Bengali and, if any other language has been prescribed in this behalf for the local area in which such forest is situated, also in such other language-

- (a) specifying, as nearly as possible, the situation and limits of such forest;
- (b) explaining the measure proposed for, and the consequences which will ensue on, the conservation of such forest; and
- (c) requiring every person who claims any right, other than a right of ownership, over such forest or over any forest-produce from such forest, to give to such Forest Settlement Officer, within a period of not less than three months to be stated in the proclamation, particulars, either in writing or by word of mouth, of such right and the amount and nature of the compensation, if any, claimed in respect thereof.

(2) The Forest Settlement Officer shall take down in writing all statements made by word of mouth under clause (c) of sub-section (1).

Inquiry by Forest Settlement Officer

23. (1) The Forest Settlement Officer shall at some convenient place enquire into the existence of any rights which are claimed under clause (c) of sub-section (1) of section 22 or which may be ascertained by him from any other source.

(2) The Forest Settlement Officer shall give a hearing to the Regional Forest Officer or an Officer authorised by such Regional Forest Officer in writing in this behalf, to satisfy himself as to the necessity of modifying or extinguishing any right in the interests of the conservation of the forest.

Powers of Forest Settlement Officer

24. For the purpose of such inquiry, the Forest Settlement Officer may exercise the following powers, that is to say:-

- (a) power to enter, by himself or by any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and
- (b) the powers of Civil Court in the trial of suits.

Specification and modification of rights

25. (1) After completion of the enquiry under section 23, the Forest Settlement Officer shall, by an order in writing,-

- (a) record the nature of the rights existing at the time of the notification under section 20, and
- (b) direct the modification or extinction of any such right, other than a right of ownership, in the interests of the conservation of the forest.

(2) When the Forest Settlement Officer directs under clause (b) of sub-section (1) the modification or extinction of any right, he shall, unless, the person whose rights are affected has come to an agreement as to the amount of compensation payable to him, determine what compensation shall be awarded to such person, and the amount of any compensation payable under this sub-section to any such person shall be paid in the prescribed manner, in the case where the forest to which such right relates is a controlled forest, by the owner of such forest, and in the case where such forest is a vested forest, by the Regional Forest Officer in whom the control of such forest is vested under this Ordinance and every payment so made by the Regional Forest Officer shall be recouped from the profits of the vested forest to which such right relates as part of the cost of management of such forest.

Appeals

26. (1) An appeal may be presented against any order made under section 25 within ninety days from the date of such order to the Commissioner of the Division by an owner of a forest or by a Regional Forest Officer or by a person who has given particulars of his claims under sub-section (1) of section 22.

(2) Every such appeal shall be made by a petition in writing and shall be heard in accordance with the procedure for the time being applicable to the hearing of appeals in the matters relating to land revenue.

(3) The order of the Commissioner on such appeal shall, subject to the provisions of sub-section (4), be final.

(4) An application for revision shall lie to the Board of Revenue from an order of the Commissioner passed in appeal under this section if it is presented within thirty days from the date of such order.

Pleaders

27. The Government, or any person who has made a claim under this Ordinance may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement Officer, or any appellate or revisional authority in the course of any inquiry, appeal or revision under this Ordinance or before any arbitrator appointed to determine any compensation payable under sub-section (5) of section 10.

Extinction of rights

28. (1) When the time within which appeals against orders under section 25 may be made has expired and when any such appeal has been made under section 26, the time within which applications for revision of any order passed in such appeal may be made has also expired and all applications for revision under sub-section (4) of section 26 have been disposed of, the Forest Settlement Officer shall issue another proclamation specifying the rights which may be exercised in respect of the forest regarding which any such order under section 25 has been made and also specifying the date with effect from which all rights in respect of such forest which are not specified in such proclamation shall be extinguished.

(2) A translation of such proclamation in Bengali and, if any other language has been prescribed in this behalf for the local area in which such forest is situated, also in such other language shall be published in the neighbourhood of such forest before the date so specified in such proclamation.

(3) With effect from the date so specified in such proclamation all rights in respect of such forest not specified in such proclamation shall be extinguished.

CHAPTER IV

PENALTIES AND PROCEDURE

Penalties for breach of rules

29. (1) Any person who-

- (a) fells, girdles, lops, taps, or burns any tree in a controlled or vested forest or strips off the bark or leaves from, or otherwise damages, any such tree,
 - (b) Quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce from a controlled or vested forest,
 - (c) breaks up or clears for cultivation or any other purpose any land in a controlled or vested forest,
 - (d) sets fire to a controlled or vested forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest, or
 - (e) permits cattle to damage any tree in a controlled or vested forest, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred taka, or with both.
- (2) Any person contravening any rule made under this Ordinance for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred taka, or with both.

Imposition of collective fine on the inhabitants in certain cases

30. (1) If it is proved to the satisfaction of the District Magistrate that in any vested forest-

- (a) any cattle have been permitted to trespass,
 - (b) any trees have been felled, girdled, lopped, tapped, burnt, or otherwise damaged,
 - (c) any other forest-produce has been burnt or removed, or
 - (d) any land has been broken up for any purpose, otherwise than in the exercise of any right in or over such forest, with intent to cause detriment to the conservation of such forest and if the District Magistrate is satisfied after enquiry that the inhabitants of any local area are concerned in the commission of any such offences or are in any way assisting persons in committing such offences, the District Magistrate may, by order in writing in which shall be specified the reasons for making such order, impose on the inhabitants of such area a collective fine which may extend to five hundred taka or three times the value estimated by him of any forest-produce damaged, whichever is greater, and may, after such further inquiry, as he deems necessary, apportion such fine amongst such inhabitants and such apportionment shall be made according to the respective means of such inhabitants.
- (2) Every order imposing a collective fine under sub-section (1) shall be forthwith published in the local area in such manner as the District Magistrate considers best calculated to bring the order to the notice of the inhabitants of the area concerned.
- (3) The District Magistrate may exempt any person or section of such inhabitants from liability to pay any portion of such fine.
- (4) The portion of such fine payable by any person may be recovered from him as a fine or as a public demand under the 11[* * *] Public Demands Recovery Act, 1913.
- (5) Every apportionment of collective fine made under sub-section (1) shall be subject to revision by the Commissioner of the Division on application made in that behalf to him by any person affected by such apportionment within thirty days from the date on which such apportionment is made and the decision of the Commissioner thereon shall be final.

Nothing in sub-section (1) of section 29 to prohibit acts done in certain cases
31. No act shall be an offence for the purposes of sub-section (1) of section 29 if it is done-

- (a) in the exercise of any right in or over such forest, or
- (b) in respect of a vested forest, with the permission in writing of a Forest Officer, or
- (c) in respect of a controlled forest, with the permission in writing of the owner thereof or of his authorised agent, or
- (d) in accordance with rules made under this Ordinance.

Seizure of property liable to confiscation

32. (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 tools, boats, motor vehicles, carts or cattle used in committing any such offence, may be seized by any Forest Officer or Police Officer.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the offender is unknown, it shall be sufficient if the officer makes as soon as may be a report of the circumstances to his official superior.

Power to release property seized under section 32

33. Any Forest Officer of a rank not inferior to that of a Ranger, or any Police Officer of a rank not inferior to that of a Sub-Inspector, who, or whose subordinate has seized any tools, boats, motor vehicles, carts or cattle under section 32, may release the same on the execution by the owner 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.

Information of the Magistrate and procedure thereupon

34. The Regional Forest Officer may cause information to be given to a Magistrate regarding any forest offence which he has reason to believe to have been committed in respect of any forest-produce; and upon receipt of any such information, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Notice to claimants of seized forest-produce

35. (1) If a Regional Forest Officer has not caused information to be given to a Magistrate under section 34 in respect of any forest-produce seized under sub-section (1) of section 32, he shall, if there is any doubt as to the person who is entitled to such produce, cause a notice to be published in such manner as may be prescribed containing a description of such produce and requiring any person who may claim the same to present a written statement of his claim to him within such period as may be specified in such notice.

(2) If only one such statement of claim is presented in respect of any such forest-produce, the Regional Forest Officer shall, after making such inquiry as he thinks fit and recording his reasons in writing, either reject the claim or deliver the produce to the claimant.

(3) If more than one such statement of claim is presented, the Regional Forest Officer may, after making such inquiry as he thinks fit and after recording his reasons in writing, either deliver the forest-produce to such of the persons as he considers to be entitled thereto or refer the claimants to the Civil Court and retain such produce pending receipt of an order from the Civil Court for its disposal.

(4) Any person whose claim has been rejected under this section may, within three months from the date of rejection of such claim, institute a suit to recover possession of the forest-produce claimed by him, but no person shall be entitled to recover any compensation or costs against the Government, or against any Forest Officer, on account of rejection of such claim or on account of the detention or removal of any forest-produce, or the delivery thereof to any other person under this section.

(5) No such forest-produce shall be subject to any process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been instituted as provided in this section.

Disposal of unclaimed forest-produce

36. If no statement of claim is presented in respect of any such forest-produce after a notice has been published under sub-section (1) of section 35, or if a person whose claim has been rejected under that section omits to institute a suit under sub-section (4) thereof, the ownership of such forest-produce shall vest in the Government free from all encumbrances, or, when such forest-produce has been delivered to any person under sub-section (3) of that section, in such person free from all encumbrances not created by such person.

Disposal of seized property after information has been given under section 34

37. (1) Any forest-produce in respect of which a forest offence has been committed and information has been given to a Magistrate under section 34 shall, on the conclusion of the trial for such offence, be made over to the owner of the forest from which it was derived or to any other person whom the Magistrate deems to be entitled to the same:

Provided that, if it is not known from which forest such produce was derived, such forest-produce and all tools, boats, motor vehicles, carts and cattle used in committing such forest-offence shall be liable to confiscation.

(2) Such confiscation may be in addition to any other punishment which may be awarded under this Ordinance for such offence.

Disposal of confiscated property on conclusion of trial

38. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it has been confiscated, be taken charge of by a Forest Officer.

Procedure when offender cannot be found

39. When the offender cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated

and taken charge of by the Regional Forest Officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiry of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

Procedure as to perishable property seized under section 32

40. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 32 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Appeal from orders under section 37 or section 39

41. The officer who made the seizure under section 32 or any of his official superiors or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed by the Magistrate under section 37 or section 39, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Property when to vest in Government

42. When an order for the confiscation of any property has been passed under section 37 or section 39, as the case may be, and the period limited by section 41 for an appeal from such order has expired 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 portion thereof as the case may be, shall vest in the Government free from all encumbrances.

Saving of power to release property seized

43. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Government from directing at any time the immediate release of any property seized under section 32.

Punishment for wrongful seizure

44. Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Ordinance shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred taka, or with both.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks

45. Whoever, with intent to cause damage or injury to the public or to any person or to cause wrongful gain as defined in the 12[* * *] Penal Code-

(a) knowingly counterfeits upon any timber or standing tree in a controlled or vested forest a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person, or

(b) alters, defaces or obliterates any such marks placed on a tree or on timber in a controlled or vested forest by or under the authority of a Forest Officer, or

(c) alters, moves, destroys or defaces any boundary mark of any forest or wasteland to which the provisions of the Ordinance apply or are applied, shall be punishable with imprisonment for a term which may extend to two years or with fine, or with both.

Power to arrest without warrant

46. (1) Any Forest or Police Officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards under this Ordinance.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Ordinance as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case or to the officer-in-charge of the nearest police-station.

Power to release on a bond a person arrested

47. Any Forest Officer of a rank not inferior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 46, may release such person on his executing a bond to appear if and when so required, before the Magistrate having jurisdiction in the case or before the officer-in-charge of the nearest police-station.

Power to prevent commission of offence

48. Every Forest Officer and Police Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to try offences summarily

49. The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the Government may try summarily, under the Code of Criminal Procedure, 1898, any forest-offence punishable with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred taka, or with both.

Power of Court to order payment or rewards out of fine

50. Whenever a Court imposes a fine under this Ordinance or confirms in appeal under this Ordinance a sentence of fine or a sentence of which fine forms a part, for a forest-offence other than an offence specified in sub-section (1) of section 6 or section 44, the Court may, when passing judgment, order any portion of the fine recovered to be paid to the person whose information led to the detection of the offence.

Power to compound offences

51. (1) The Government may, by notification, empower a Forest Officer-

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in sub-section (1) of section 6, section 44 or section 45, a sum of money, not exceeding fifty taka, by way of compensation for the offence which such person is suspected to have committed; and

(b) when any property of such person has been seized, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged, the property, if any, of such person seized shall be released, and no further proceedings shall be taken against such person or property.

(3) If the forest-offence has been committed in respect of a controlled forest, the amount of any compensation paid to a Forest Officer empowered under sub-section (1) to accept such compensation, or such part of such amount as the Forest Officer deems equitable in the circumstances, may, at the discretion of the Forest Officer, be paid to the owner of the controlled forest; but the amount of any compensation not so paid to the owner of a controlled forest and the amount of any compensation paid to such a Forest Officer if the forest-offence has been committed in respect of a vested forest shall be paid into the revenues of the Province.

(4) A Forest Officer shall not be empowered under this section unless he is a Forest Officer of a rank not inferior to that of a Ranger.

Onus of proof

52. Notwithstanding anything contained in any other Act, when in any area in respect of which the Government has made rules under clause (b) of sub-section (2) of section 41 of the Forest Act, 1927, any person is found to be moving forest-produce without a pass from an officer duly authorised to issue the same, the burden of proof that such person has not committed an offence under this Ordinance in respect of such forest-produce shall lie on him.

CHAPTER V

REGIONAL FOREST OFFICER

Government may invest Regional Forest Officers with certain powers

53. (1) The Government may invest any Regional Forest Officers with all or any of the following powers, that is to say:-

- (a) power to enter upon any land, or to authorise any officer to enter thereon with servants and workmen, and to survey, demarcate and make a map of the same;
- (b) the power of Civil Court to compel the attendance of witnesses and the production of documents and material objects;
- (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898; and
- (d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Power of officers

54. It shall be lawful for any officer authorised either generally or specially in this behalf by the Regional Forest Officer to enter with his subordinates and servants and workmen at any time upon any part of a controlled forest for the purpose of ascertaining whether there has been any violation of an approved working plan and to do any other acts which are in his opinion necessary for carrying out the purposes of this Ordinance.

Forest Officers deemed public servants

55. All Forest Officers shall be deemed to be public servants within the meaning of section 21 of the 13[* * *] Penal Code.

Indemnity for acts done in good faith

56. No suit shall lie against any public servant for anything done by him in good faith under this Ordinance.

CHAPTER VI

RULES

Power to make rules

57. (1) The Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules to provide for all or any of the following matters, namely:-

- (a) the cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest-produce from controlled or vested forests in notified areas;
- (b) the granting of licences to the inhabitants of towns and villages in the vicinity of controlled or vested forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons;
- (c) the granting of licenses to persons for selling or removing trees or timber or other forest-produce from controlled or vested forests for the purposes of trade, and the production and return of such licenses by such persons;
- (d) the payments, if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest-produce;
- (e) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;
- (f) the examination of forest-produce passing out of controlled or vested forests in notified areas;
- (g) the clearing and breaking up of land for cultivation or other purposes in controlled or vested forests in notified areas;
- (h) the protection from fire of timber lying in controlled or vested forests in notified areas;
- (i) the cutting of grass and pasturing of cattle in controlled or vested forests in notified areas;

- (j) hunting, shooting, fishing, poisoning water and setting traps or snares in controlled or vested forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879 is not in force;
- (k) the powers and duties of Forest Officers under this Ordinance;
- (l) the procedure of an Appellate Committee referred to in clause (1) of section 2 and the manner in which an owner of a private forest shall be selected as a member of such Appellate Committee;
- (m) the procedure of Board appointed to perform the functions of a Forest Settlement Officer referred to in clause (9) of section 2;
- (n) the manner in which the working plan referred to in sub-section (1) of section 3 shall be prepared, the consultation referred to in sub-sections (2) and (3a) of that section shall be made and the copy of the order referred to in sub-section (4) of that section shall be served;
- (o) the manner in which the approved working plan shall be sent under sub-section (2) of section 4 and the consultation referred to in sub-section (3) of that section shall be made;
- (p) the grant of loans referred to in sub-section (1) of section 8, the manner of making applications for such loans under sub-section (2) of that section, the manner in which such applications shall be considered and the recovery of such loans and the interest and costs in respect thereof under sub-section (4) of that section;
- (q) the manner in which the consultation referred to in sub-sections (1) and (2) of section 9 shall be made and copies of the orders passed under the said sub-sections shall be served;
- (r) the manner in which the copy of a notification issued under sub-section (1) of section 10 shall be served under sub-section (2) of that section, the determination by the Forest Settlement Officer of the matters specified in clause (c) of sub-section (4) of that section, the determination of compensation referred to in sub-section (5) of that section, the maximum amount of an award against which no appeal shall lie under clause (v) of that sub-section, the manner of payment of compensation under sub-section (6) of that section, and the manner in which the consultation referred to in sub-section (9) of that section shall be made, a copy of the order referred to in that sub-section shall be served and the working plan referred to in that sub-section shall be prepared;
- (s) the apportionment of rent referred to in clause (i) of sub-section (1) of section 12;
- (t) the manner in which the cost of management referred to in sub-section (1) of section 16 and the respective shares of the owners of a vested forest and the net profits in respect of such forest referred to in sub-section (5) of that section shall be determined or calculated and the copy of the statement referred to in sub-section (6) of that section shall be served;
- (u) the manner in which the cess referred to in sub-section (1) of section 17 may be imposed and the costs and expenses referred to in sub-section (2) of that section shall be determined;
- (v) the manner in which the working plan referred to in clause (a) of the first proviso to sub-section (1) of section 18 shall be prepared;
- (w) the clearing of land for cultivation or for any other purpose and the cutting, conversion and the removal of timber and the collection, manufacture and removal of other forest-produce referred to in section 21;

(x) the language other than Bengali referred to in sub-section (1) of section 22 and in sub-section (2) of section 28;

(y) the manner in which the compensation referred to in sub-section (2) of section 25 shall be paid;

(z) the manner in which the notice referred to in sub-section (1) of section 35 shall be published;

(zz) the manner in which the forest-produce referred to in sub-section (3) of section 60 shall be sold; and

(zzz) the manner of service of notices issued under this Ordinance.

(3) In making any rule under this section the Government may provide that a contravention thereof shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred taka or with both.

Application of rules made under sections 41 and 42 of the Forest Act 1927, to transit of forest-produce from private forest

58. All rules made by the Government to regulate the transit of timber and other forest-produce under sections 41 and 42 of the Forest Act, 1927, for the time being in force, shall apply so far as may be to the transit of all timber and other forest-produce from any private forest to which any of the provisions of this Ordinance apply.

CHAPTER VII

MISCELLANEOUS

Conservation of forest or afforestation of land at the request of owners

59. Notwithstanding anything elsewhere contained in this Ordinance, the Government may, on application made in this behalf in writing by the owner of any private forest or of any waste land referred to in sub-section (1) of section 11 or, if there be more than one owner thereof, by the owners of shares therein amounting in the aggregate to at least one-half thereof, to the Collector of the district in which such forest or land is situated, by a notification, apply the provisions of this Ordinance, applicable to vested forests, subject to such restrictions or conditions as may have been determined by an agreement between the said Collector and such person or persons, to such forest or land and thereupon such forest or land shall be managed on behalf of such owner or owners as a vested forest in accordance with such provisions by a Regional Forest Officer specified in this behalf by the Government.

Recovery of money due to Regional Forest Officer and lien on forest-produce for such money

60. (1) All money payable to a Regional Forest Officer under this Ordinance or under any rule made under this Ordinance, other than money payable in respect of the cost of management of a vested forest, and all money payable to such officer on account of the price of any forest-produce or on account of expenses incurred in the execution of this Ordinance, in respect of such produce shall, if not paid when due, be recoverable as a public demand under the 14[* * *] Public Demands Recovery Act, 1913.

(2) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce and such produce may be taken possession of by a Regional Forest Officer until such amount has been paid.

(3) If such amount is not paid when due, the Regional Forest Officer may sell such produce in the prescribed manner, and after payment of the costs of the sale the proceeds thereof shall be applied first in discharging such amount.

(4) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Government.

Land required under this Ordinance to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894

61. Whenever it appears to the Government that any land is required for any of the purposes of this Ordinance, such land shall be deemed to be needed for a public purpose within the meaning of 15[section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ord. No. II of 1982)].

Powers of the Regional Forest Officer and control of the Government

62. Subject to the provisions of this Ordinance, and to any rules made thereunder, every Regional Forest Officer-

(a) may do all such things requisite for the proper management of the forest the control of which has been vested in him under this Ordinance as the owner of such forest might do for its management, and

(b) shall in the exercise of his powers and in the performance of his duties in relation to such forest be guided by such orders and instructions as may, from time to time, be issued in this behalf by the Government.

Repeal and savings

63. (1) Sections 35, 36, 37 and 38 of the Forest Act, 1927 in their application to Bangladesh are hereby repealed.

(2) Such repeal shall not affect anything done or suffered or any obligation or liability accrued or any penalty incurred or any proceedings commenced before the commencement of this Ordinance.

(3) Any private forest or waste land held under the control of a Forest Officer under section 36 of the Forest Act, 1927, immediately before the commencement of this Ordinance, shall, on such commencement, notwithstanding the repeal of the said section, continue to be so held under the control of a Regional Forest Officer under the provisions of this Ordinance, applicable to a vested forest and shall be deemed to be vested forest for the purposes of this Ordinance.

(4) All lands which immediately before the commencement of this Ordinance, were being managed as a reserved or a protected forest under the provisions of section 38 of the Forest Act, 1927, shall, on such commencement, notwithstanding the repeal of the said section, continue to be managed under the provisions of section 59 of this Ordinance as a vested forest subject to such terms as may have been mutually agreed upon between the owner or owners of such lands and the Collector and the application made under sub-section (1) of the said section 38 by the owner or owners of any such land shall be deemed to be an application made under the said section 59.

[Repealed] 64. [Repeal of Bengal Act XI of 1945.- Repealed by Section 3 and the Second Schedule of The East Pakistan Repealing and Amending Ordinance, 1966 (East Pakistan Ordinance No. XIII of 1966).]

1 Throughout this Ordinance, the words “Bangladesh”, “Government” and “taka” were substituted for the words “East Pakistan”, “Provincial Government” and “rupees” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

2 The words “East Pakistan” were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

3 Clause (5) was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

4 Sub-section (3) was re-numbered by section 4 of the East Pakistan Private Forests (Amendment) Ordinance, 1961(East Pakistan Ordinance No. VI of 1961)

5 Sub-section (3b) was added by section 4 of the East Pakistan Private Forests (Amendment) Ordinance, 1961(East Pakistan Ordinance No. VI of 1961)

6 The words, brackets, figures and comma “sub-section (1) of section 8 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ordinance No. II of 1982)” were substituted for the words, brackets, figures and comma “sub-section (1) of section 23 of the Land Acquisition Act, 1894 (I of 1894)” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

7 The words “High Court Division” were substituted for the words “High Court” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

8 The words, comma, figures and brackets “State Acquisition and Tenancy Act, 1950 (E.B. Act XXVIII of 1951)” were substituted for the words, comma, figures and brackets “Bengal Tenancy Act, 1885 (VIII of 1885)” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

9 The words, commas and brackets “and subject to the provisions of section 14 of the Bengal Land Revenue Sales Act, 1859 (XI of 1859), every share or part of an estate for which a separate account has been opened under section 10, or section 11 of the said Act, or under section 70 of the Land Registration Act, 1876 (Ben. Act VII of 1876)” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)

10 The word “Bengal” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

11 The word “Bengal” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

12 The word “Pakistan” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

13 The word “Pakistan” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

14 The word “Bengal” was omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972)

15 The words, figures, comma and brackets “section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ord. No. II of 1982)” were substituted for the words, figures, comma and brackets “section 4 of the Land Acquisition Act, 1894 (I of 1894)” by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)