

**REVISED
COMMUNITY FOREST RULES, 1993**

Preamble

In response to the commands of His Majesty the King dated 1979 and 1984 to the RGOB, and in exercise of the power conferred by Section 16 of the Forest and Nature Conservation Act of 1993, the Ministry of Agriculture has framed the following rules:

[The draft Act provides for the Ministry to issue rules, while the earlier draft of these rules said they were made by the RGOB.]

1. **SHORT TITLE AND COMMENCEMENT**

1.1 These rules may be called the Community Forest Rules, 1993.

1.2 These rules shall come into force immediately.

[The Bhutan Forest Act 1969 and the new draft Act both state that they extend to the whole of Bhutan, although I do not know that is necessary. Even if it is usual to mention national application, it should not be done in this case since these rules can only be applied gradually.]

2. **DEFINITIONS**

Unless the subject or context otherwise requires, in these rules:

(a) "Act" means the Forest and Nature Conservation Act, 1993.

(b) [definition of "Community Forest": delete]

[It is better to put the requirements or at least the desirable qualities of the community forest in the body of the rules and not in the definitions. In a sense, the whole Rules are a definition of community forest. If a specific definition is necessary, I would suggest putting it in Section 2 of the draft Act as follows:

"Community Forest" means a community forest established under rules made under section 16.]

(c) "Users' Group" means the group of households constituted in accordance with Rule 4.1 for the management of a community forest established under these rules.

[You can say either "users group" or "users' group", but not "user's group" in this context. The definition will be more useful if it relates the group to a

particular community forest.]

(d) ["Agreed Plan" means a forest management plan approved by the Department of Forests.] [delete - not used]

3. DESIGNATION OF COMMUNITY FOREST AREAS

[Any Government forest (degraded, production, protection) seems to be eligible for community forestry, depending on the needs and capabilities of the community. Now that there is a single category of community forest applicable to all areas, it would be clearer to put the rules in those terms. It does not seem appropriate to call an area "community forest" until a users' group has come forward, so I suggest renaming the preliminary designation "community forest area".]

3.1 Any area of Government Reserved Forest that is suited to management by a local community may be designated as a community forest area.

3.2 Suitability for community management may be indicated by one or more of the following factors:

- potential to supply forest produce for local consumption and sale;
- role in protecting local soil and water resources;
- suitability for community-managed regeneration;
- traditional use and management by members of the community;
- willingness and ability of members of the community to manage the forest in accordance with these rules.

4. PROCEDURES FOR THE ESTABLISHMENT OF COMMUNITY FORESTS

4.1 Households willing to establish, protect and manage a community forest area as a community forest under this rule shall form a users' group. As far as possible all households traditionally using a particular forest land unit should constitute such users' group. The group should elect the representative of one household as

the chairman of the group. It should apply for the establishment of the community forest by submitting the form in Schedule 1 through the Gup of the gewog to the Divisional Forest Officer.

[One copy of the form should be sufficient. The form could be on self carbon paper or the DFO could help the group by making more copies if he needs them.]

- 4.2 After reviewing the application submitted by the users' group, the Divisional Forest Officer will ask the responsible forest extension agent to evaluate the area applied for and the qualifications of the group to manage it. After field checking and necessary review, if the extension agent finds the application to be consistent with Rule 3, he shall recommend its acceptance to the Divisional Forest Officer.

[The extension agent needs to do something much more complicated than verify the legal status of the area. He has to evaluate the area and the group (to make sure it properly represents at least present users, that it is not a cover for a land-grab, that it is not requesting an area that more properly should go to another group) in terms of suitability for community forestry.]

- 4.3 If the Divisional Forest Officer accepts the application, he shall demarcate the community forest and hand it over to the users' group for its management and utilization subject to a contract in the form set out in Schedule 2. The Divisional Forest Officer will forward one copy of the contract to the Ministry through the Department and another copy to the Dzongda.

[Unless the DFO is just a rubber stamp, the Rules must provide for him to decide to turn the forest over to the group, so rule 4.3 should operate only if he does so decide. It must be decided if the "community forest area" should become a "community forest" at this stage or only after the management plan is approved. Ministry and Department are defined in the draft Act, so they should be referred to in as Ministry and Department in the rules. I am not clear on the terminology: is the Dzongda the same as the Dzongkhag or the Dzongdag? All three are used for what seems to be the same purpose.]

5. PREPARATION OF THE MANAGEMENT PLAN

[Preparation of the management plan is quite a different subject from the management responsibilities of the users' group. The two should be placed in separate sections.]

- 5.1 The users' group shall prepare a management plan for the community forest before the certificate of ownership of the forest may be granted to the group. The concerned forest extension agent will assist the users' group to prepare the management plan. The forest extension agent shall ensure the participation of the Gup in the preparation of the management plan.

[There are no guidelines in Schedule 1, so it is suggested that the reference to the

schedule be deleted from rule 5.1.]

5.2 The plan shall be reviewed by the Divisional Forest Officer, who shall approve it if satisfactory or, if it is not, return it to the users' group for resubmission with the necessary amendments.

5.2A If the users' group fails to submit a satisfactory management plan within such time as may be specified in the contract under Rule 4.3, the Divisional Forest Officer may cancel the contract and resume the community forest without payment of compensation.

[There seem to be too many steps here. It is risky to declare an area community forest, hand it over to a group and then be forced to take it back again because the plan is not satisfactory. From the workshop I cannot tell whether it would be equally acceptable to require the plan before the forest is "handed over".]

6. CERTIFICATE OF COMMUNITY FORESTS

Upon approval of a satisfactory management plan for a community forest to a particular users' group, the Divisional Forest Officer shall issue a certificate of ownership to the forest in the form set out in Schedule 3.

[I have trouble discovering what category of land this area might be under the Land Act; it is not clear whether the land, the forest or the forest produce are being transferred to the users' group's ownership. The draft Act is ambiguous on this point also and needs to be corrected. Section 16(b) provides for the transfer of ownership of "forest resources" to user groups, whereas section 16(c) refers to the transfer of "community forests". Section 16(h) should read as follows:

(b) The rules for community forests may provide for the transfer of ownership of a community forest to appropriate groups of inhabitants of communities adjoining the forest.]

6A. MANAGEMENT RESPONSIBILITY OF THE USERS' GROUP [former rule 5.3]

Under the overall supervision of the Divisional Forest Officer, the users' group shall be responsible for the protection and management of the community forests handed over to them. The responsibility among other things shall include:

- carrying out rehabilitation plantation in barren areas;
- protecting and tending the young seedlings;
- saving the forest against fire;
- protecting the trees against uncontrolled lopping, felling, resin tapping, debarking, or any other act that damages them;
- implementing the prescription of the management plan prepared for the area;

- prohibiting the mining of sand, stones and soil;

[The purpose of the reference to "designated community protected forest areas" is not clear, nor who would designate such areas.]

- authorizing utilization of the forest in accordance with Rule 10;

[The power to authorize use is the counterpart of the power to prohibit it and should be mentioned.]

- any other activities required for proper management.

7. ASSISTANCE TO BE PROVIDED BY THE DEPARTMENT TO IMPLEMENT THE MANAGEMENT PLAN

The Department shall provide necessary seeds and seedlings free of cost to the users' group to enrich the community forest handed over to them. Technical assistance shall be provided as and when necessary to implement the management prescriptions.

8. RECORD KEEPING OF COMMUNITY FORESTS

The users' group shall maintain records of the community forest, including records and financial accounts of planting, silviculture, harvesting and sales. The group shall designate a member as secretary for this function. Copies of such records should be made available to the Divisional Forest Officer and the Dzongkhag.

[The users' group itself must be responsible for keeping its own records, otherwise it cannot really exercise the responsibilities of management. The Gup would only act as record-keeper if he were the head of the group, and the workshop has already recommended that he not be. Copies of the records should be available to others, but the group should not have the duty of preparing duplicate sets of everything. Rule 11 mentions appointment of a secretary. That would be equally relevant here.]

9. **PROHIBITED ACTIVITIES OF GROUP MEMBERS**

[This rule should only apply to the users' group, since they have both special rights and a special responsibility in the community forest. Non-members of the group would be covered by section 17 of the Draft Act as far as forest produce is concerned. If that is not sufficient, section 12.2 of the Land Act seems to cover unauthorized use of land.]

No member of the users' group shall perform or permit the performance of any of the following activities inside a community forest:

- using the land in any manner other than as prescribed in the management plan;
- selling, mortgaging, or otherwise alienating the forest;

[This could be ambiguous, since forest produce can clearly be alienated under rule 10. See the comment on Rule 6]

- mining, hunting, and unauthorized recreational activities;
- building houses or huts for purposes other than the protection of the community forest;
- using the land as gardens or orchards or for growing permanent crops or as shifting cultivation.

10. **ROYALTY AND BENEFIT SHARING FROM COMMUNITY FORESTS**

10.1 Forest produce inside the community forests will be the shared property of the members of the users' group. The users' group can use these resources on sustained yield basis as per the prescription of the management plan. The Department will not levy any royalty on forest produce so harvested.

10.2 The users' group may without payment of royalty sell the produce of the community forest for local use to inhabitants of the village who are not members of the group.

[Much of this sub-rule may not be necessary and the rest needs to be clarified. The matter of charging or not charging for technical assistance belongs in rule 7, although it may be left unspecified as at present. Use by members of the group is already provided for in sub-rule 10.1. Supply to non-members needs to be stated more clearly; is it subject to royalty? Is it subject to permits as sales to outsiders is? In both cases I would suggest the answer is no, as incorporated in the revised subsection above.]

10.3 The users' group may sell forest produce in excess of local requirements for use outside the village [without payment of royalty - this needs to be decided]. Such sales should be subject to the introduction of an appropriate permit system, maintenance of sales records, opening of a joint bank account to establish a revolving fund.

- 10.4 The users' group shall fix the price of different kinds of forest produce from the community forest. It may seek advice from the Divisional Forest Office to determine appropriate prices. It shall also forward particulars of such prices to the concerned Divisional Forest Office.
- 10.5 The proceeds from the sale or supply of forest products from the community forest shall be credited to a revolving fund account of the users' group.
- 10.6 The concerned users' group can use the fund mobilised from the proceeds of the sale for implementation of the management plan and protection of the community forest. It may use any excess amount for any community purpose.

[I do not see why the users' group should be limited to the community activities listed. It is important that it be required to maintain the forest, and this should be more clearly stated. After that, however, it should be able to use the profits for any purpose it wishes. In deference to the original draft, I have retained the mention of "community" purpose, but I am not sure that this is a wise limitation.]

- 10.7 If the production from the community forest far exceeds the local demand, the users' group can export the forest products outside the country. However, export can be done only through Department. The Department will levy 25 percent of the net sale income from the users' group. The procedures for the export of such forest products shall be guided by the prevailing rules and regulation of the Act.

[This is a very high tax if "net sale income" means what I think it does. There was, however, considerable confusion when I was in Bhutan over whether it meant the proceeds of sale received by the group, with or without logging and transport costs, or whether it meant profit (sale price less all costs including forest management costs). This must be clarified and the subsection redrafted accordingly.]

11. PERMITS

[The purpose of this rule is not very clear in part because Schedule 3 to which it refers does not deal with forest produce. In accordance with comments above, the "permit" should not be required for local sale and supply. Sale outside the village could be made the object of a permit and this section could be limited to that. Record-keeping is already dealt with by Rule 8; if more needs to be said it should be said there. I suspect that sub-

rule 11.3 is intended to give law-enforcement authority to the group and the Gup, but I doubt that it is authorized by the draft Act. Sub-section 11.4 is not necessary since the rules that must be complied are themselves sufficient to make the users' group responsible for compliance.]

11.1 All sales of forest product from a community forest for use outside the village shall be subject to a permit issued by the group. The group shall prepare four copies of the permit in the form indicated in Schedule []. One copy shall be issued to the buyer, the second copy will be forwarded to the concerned Divisional Forest Officer, the third copy will be issued to the Dzongkhag Administration and the last copy shall be retained by the users' group.

[The users' group, not the Gup, should be responsible for keeping a copy of the permit. A new Schedule 4 is recommended to include a form for the permit. Do you have one that is already in use?]

12. REPORTING AND MONITORING

12.1 Every users' group shall prepare an annual report on the status of the community forest [as outlined in the Schedule: delete - there is no Schedule] and submit it to Divisional Forest Officer with a copy to Dzongdag within one month from the date of expiration of each fiscal year.

12.2 The Divisional Forest Officer shall direct the concerned forestry extension agent in the dzongkhag to conduct necessary enquiries in respect to the problems and issues facing smooth implementation of the community forestry programme in the dzongkhag.

12.3 The Divisional Forest Officer has the right to inspect the community forests as and when needed. He shall submit inspection reports to the Department and to Dzongkhag at least once in every two years.

SCHEDULE 1
(Pertaining to rule 4.1)

**APPLICATION FORM EXPRESSING INTEREST TO ESTABLISH
COMMUNITY FOREST**

Dzongda,
_____ Dzongkhag.

Dasho,

In accordance with the notification promulgated by the Department of Forestry on _____, being desirous of establishing a community forest for the purpose of developing forests through protection and afforestation in the proposed area described below on behalf of the users' group of _____ village consisting of _____ households, I am forwarding this application for your consideration to allocate following area as per attached sketch map adjacent to our community to establish community forest.

- a) Gewog: _____
- b) Village: _____
- c) Description of the national forests or community land identified for the establishment of the community forest:

1. Name and location: _____

2. Boundary description: N _____
 S _____
 E _____
 W _____

3. Area: _____

4. Number of standing trees, their size and species:
(List of trees attached).

[It is not reasonable to ask a users' group to list the trees in a forest.]

- d) Is the proposed site inside the forest demarcation? _____
- e) Has the community paid land tax of any kind? _____
- f) Has there been cultivation inside the proposed area during the last three years? _____
- g) Is the users' group willing to follow the prescriptions of the management plan to be prepared with the assistance of the Department and agreeable to comply with the Community Forest Rules? _____

[The management (not revegetation) plan is prepared by the group, not by the Department.]

Name of the Chairman of the Group: _____

Signature: _____

Date: _____

Name and signature of the representative of the households involved in the users' group:

Sl. No.	Name	Signature
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

SCHEDULE 2
(Pertaining to sub-rule 4.4)

CONTRACT BETWEEN THE USERS' GROUP AND
THE DEPARTMENT OF FORESTRY TO PROTECT AND MAINTAIN
A COMMUNITY FOREST

[The term "handing over" does not have a very precise legal meaning, so it is better to avoid it where possible.]

We the undersigned of _____ village _____ Gewog of the _____ Dzongkhag have formed a users' group and agree to protect and manage the community forest in _____ acres of land as per our application dated _____. We are aware of the contents of the Community Forest Rules published by the Department of Forestry and agree to follow all the obligations as a member of the users' group.

Sl. No.	Name	Signature
1		
2		
3		
4		
5		
6		
7		
8		
9		

On behalf of the Department of Forestry, I am handing over the community forest mentioned above to the signatories of this contract for the protection and management until such time as I have approved a management plan for the Forest in accordance with Rule 5.2. If a satisfactory management plan is not submitted by _____ the area community forest shall revert to the Department.

Name of the DFO: _____
Forest Division: _____
Signature: _____
Date: _____

SCHEDULE 3
(Pertaining to sub-rule 8.1)

ROYAL GOVERNMENT OF BHUTAN
DEPARTMENT OF FORESTS

_____ FOREST DIVISION

CERTIFICATE OF OWNERSHIP OF THE COMMUNITY FOREST PRODUCE

[If the produce is owned and not the forest, as indicated below, the title should be modified. If it is otherwise, the certificate should be modified.]

Mr./ Mrs. _____
Gup, _____ Gewog
_____ Dzongkhag

In accordance with the Community Forest Rules, I am pleased to award this certificate of joint ownership of the community forest as per attached sketch map and other information as mentioned below:

- (a) Name and location of the community forest: _____
- (b) Description of the boundary: _____
- (c) Area: _____
- (d) Name and address of the member(s) of the users' group:

Name	Address
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Official awarding certificate:

Name: _____
Designation: _____
Signature: _____
Date: _____

Discussion Points