



The West Bengal Private Forests Act, 1948

Act 14 of 1948

Keyword(s):

Appellate Committee, Cattle, Conservation, Controlled Forest, Forest, Forest Offence, Forest Officer, Forest-produce, Forest Settlement-officer, Owner, Private Forest, Regional Forest Officer, River, Timber, Tree, Vested Forest, Waste-land, Working Plan

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West Bengal Act XIV of 1948
THE WEST BENGAL PRIVATE FORESTS
ACT, 1948.

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West Bengal Act XIV of 1948¹
THE WEST BENGAL PRIVATE FORESTS
ACT, 1948².

AMENDED .. [West Ben. Act XX of 1954.
West Ben. Act XVII of 1955.

ADAPTED .. The Adaptation of Laws Order, 1950.
[23rd April, 1948.]

An Act to provide for the conservation of private forests and for the afforestation in certain cases of waste-lands in West Bengal.

WHEREAS it is expedient to provide for the conservation of forests and for the afforestation of waste-lands in West Bengal where such forests or lands are not the property of the Crown or where the Crown has no proprietary right over such forests or lands;

It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the West Bengal Private Forests Act, 1948.

(2) It extends to the whole of West Bengal.

³(3) This section shall come into force at once and the remaining provisions of this Act, in whole or in part, shall come into force in such areas and on such dates as the ⁴[State] Government may, by notification, specify and for this purpose different dates may be specified for different provisions of this Act and for different areas.

⁵*Explanation.*—In this section, West Bengal shall, as from the date of the commencement of the Constitution of India, be deemed to include the areas in West Bengal which were partially excluded areas within the meaning of section 91 of the Government of India Act, 1935, as in force immediately before such commencement.

26 Geo. V.
C. 2.

¹In terms of the provisions of sub-section (3) of section 3 read with Schedule III of the West Bengal Transferred Territories (Assimilation of Laws) Act, 1958 (West Ben. Act XIX of 1958), this Act, shall not extend to, or come into force in, the territories, transferred from the State of Bihar to the State of West Bengal by s. 3 of the Bihar and West Bengal (Transfer of Territories) Act, 1956 (XL of 1956).

²For the Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 15th January, 1948, and for proceedings of the Assembly, see the West Bengal Legislative Assembly Proceedings, Vol. II, No. 1, pages 197-210.

³Sections 2 to 64 of the Act were brought into force in the district of Midnapore except the Garbata police-station in the Sadar subdivision of the said district and also in the district of Bankura, on the 22nd April, 1948, vide Notification No. 2524 For., dated the 22nd April, 1948, published at page 412 of the *Calcutta Gazette, Extraordinary*, of the 23rd April, 1948.

⁴This word within square brackets was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

⁵This *Explanation* was added by s. 2 of the West Bengal Private Forests (Amendment) Act, 1955 (West Ben. Act XVII of 1955).

(Chapter I.—Preliminary.—Section 2.)

Definitions.

2. In this Act, 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 ¹[State] Government in respect of a notified area to hear appeals under this Act 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 member of the Indian Forest Service or the West Bengal Forest Service 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 a forest, includes such measures as are necessary in the opinion of the Regional Forest-officer for the prevention or remedying of the erosion of the soil or any flood or landslide;
- (4) "Controlled forest" means a forest in respect of which a working plan has been approved under sub-section (1) of section 4;
- (5) "forest" includes and land recorded as forest in a record of rights prepared under Chapter X of the Bengal Tenancy Act, 1885;
- (6) "forest-offence" means an offence punishable under this Act or under any rules made thereunder;
- (7) "Forest-officer" means any person whom the ¹[State] Government or any officer empowered by the ¹[State] Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act 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, woodoil, resin, natural varnish, bark, lac, *mahua* flowers, *mahua* seeds, *kuth* and myrabolams, and
 - (ii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

VIII of 1885.

¹See foot-note 4 on page 37, ante.

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(Chapter I.—Preliminary.—Section 2.)

- (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, and
 - (iii) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);
- (9) "Forest Settlement-officer" means an officer, who shall ordinarily be a Revenue Officer, appointed by the ¹[State] Government to perform the functions of a Forest Settlement-officer under this Act and includes a Board, the procedure of which shall be as prescribed, appointed by the ¹[State] 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 Act;
- (14) "private forest" means a forest which is not the property of the ²[Government] or over which the ²[Government] has no proprietary right;
- (15) "Regional Forest-officer" means a Forest-officer appointed by the ¹[State] Government as such by a notification for a notified area;
- (16) "river" includes any stream, canal, creek or other channel, natural or artificial;

¹See foot-note 4 on page 37, *ante*.

²This word within the square brackets was substituted for the word "Crown" by para. 4(1) of the Adaptation of Laws Order, 1950.

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 3)

- (17) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not;
- (18) "tree" includes palms, bamboos, stumps, brushwood and canes;
- (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 Act;
- (20) "waste-land" means any waste-land which is not the property of the ¹[Government] or over which the ¹[Government] has no proprietary right;
- (21) "working plan" means a written scheme for the management and treatment of a forest; and
- (22) "year" means a year beginning on the 1st day of April.

CHAPTER II.

Conservation of Private Forests and Afforestation of Waste-lands.

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

3. (1) The ²[State] 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.

(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.

(3) 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.

¹See foot-note 2 on page 39, *ante*.

²See foot-note 4 on page 37, *ante*.

XIV of 1948.]

(Chapter II.—Conservation of Private Forests and Afforestation of West-lands.—Section 4.)

(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.

4. (1) When the Appellate Committee accepts any working plan with or without modification under sub-section (4) of section 3, or 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 Act to be an approved working plan:

Approved
working
plans.

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

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 4.)

- (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 '[State] 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.

¹See foot-note 4 on page 37, *ante*.

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(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Sections 5-6.)

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 ¹[State] 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.

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

²5A. (1) After the publication of a notification under sub-section (1) of section 3, no owner of a private forest in the notified area or other person shall fell or cause to be felled or remove or cause to be removed from such forest any tree or trees until the working plan in respect of such forest has been approved under sub-section (1) of section 4 except after obtaining in writing, and in accordance with, the previous permission of the Regional Forest Officer in this behalf.

Prohibition of felling or removal of trees of private forests after issue of notification under section 3(1).

(2) Any person contravening the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

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, ³[or fells or causes to be felled or removes or causes to be removed from such forest any tree or trees in contravention of any of such terms and conditions,] he shall be punishable ⁴[with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both]:

Penalty for the violation of working plan.

Provided that ⁵[, except where the owner has felled or caused to be felled or removed or caused to be removed from such forest any tree or trees in contravention of any of the terms and conditions of

¹See foot-note 4 on page 37, *ante*.

²This section was inserted by s. 2 of the West Bengal Private Forests (Amendment) Act, 1954 (West Ben. Act XX of 1954).

³These words within the square brackets were inserted by s. 3(1)(a), *ibid*.

⁴These words within the square brackets were substituted for the words "with fine which may extend to five hundred rupees" by s. 3(1)(b), *ibid*.

⁵These words within the square brackets were inserted by s. 3(1)(c), *ibid*.

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 7.)

the approved working plan.] 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 or subsequent 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 ¹[or for felling or causing to be felled or removing or causing to be removed from such forest any tree or trees in contravention of any of such terms and conditions], the ²[State] 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 ²[State] 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.

7. Notwithstanding anything contained in sections 3 and 4 or in sub-section (2) of section 6, if the ²[State] Government is satisfied that the conservation of any private forest in a notified area should not be left to the owner thereof, the ²[State] Government may, by a notification

Vesting of forest in a Regional Forest-officer.

¹These words were inserted by s. 3(2) of the West Bengal Private Forests (Amendment) Act, 1954 (West Ben. Act XX of 1954).

²See foot-note 4 on page 37. *ante*.

XIV of 1948.]

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 8.)

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.

8. (1) Subject to rules made under this Act, loans may be granted on the recommendation of the Appellate Committee by such officer as may be empowered in this behalf by the ¹[State] Government to any owner of a controlled forest or of 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 25.

Forest loans.

(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.

¹See foot-note 4 on page 37. ante.

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Sections 9, 10.)

(4) Subject to rules made under this Act all loans 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 effect 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.

Amalgama-
tion 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 forests 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 ¹[State] 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 Act, that any land adjoining such forest has not been cultivated during

¹See foot-note 4 on page 37. *ante*.

XIV of 1948.]

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 10.)

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 ¹[State] Government.

(4) If, after considering the objections and the opinion of the Appellate Committee forwarded under sub-section (3), the ¹[State] 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 ¹[State] 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 land, and
- (c) appointing a Forest Settlement-officer to determine, subject to any rules made under this Act, 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

¹See foot-note 4 on page 37. *ante*.

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 10.)

be determined, subject to any rules made under this Act, 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 ¹[State] Government shall appoint as arbitrator a person who has exercised the powers of a District Judge in West Bengal or who possesses such qualifications as are normally required for appointment to the post of District Judge in West Bengal;
- (iii) at the commencement of the proceedings before the arbitrator the owner of the forest, 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 sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable; 1 of 1894.
- (v) an appeal shall lie to the High Court 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 Act, 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.

¹See foot-note 4 on page 37, ante.

XIV of 1948.]

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 11.)

(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 Act, 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.

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 ¹[State] 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:

Afforestation
of other land.

Provided that the ¹[State] 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 purpose of afforestation:

¹ See foot-note d on page 37 ante

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Section 12.)

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 ¹[State] 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 purposes of this Act.

(3) When all expenses incurred by the ¹[State] 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 ¹[State] 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 or land 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 Act, the rent payable under the lease between the areas included within the vested forest 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 lands

¹See foot-note 4 on page 37, *ante*.

XIV of 1948.]

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Sections 13, 14.)

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 Bengal Tenancy Act, 1885.

IV of 1882.
VIII of
1885.

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 appointment 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.

Rent to be a charge on the leasehold interest in a vested forest.

14. The ¹[State] 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 estates so formed respectively in such manner as the ¹[State] Government may direct.

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

¹See foot-note 4 on page 37. ante.

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Sections 15, 16.)

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

15. The ¹[State] Government may, if it so considers expedient, by a notification, exempt any estate, any subject to the provisions of section 14 of the Bengal Land-revenue Sales Act, 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, 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:

XI of 1859.

Ben. Act VII of 1876.

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 of 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.

¹See foot-note 4 on page 37, *ante*.

XIV of 1948.]

(Chapter II.—Conservation of Private Forests and Afforestation of Waste-lands.—Sections 17, 18.)

(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.

17. (1) The [State] 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 ten years from the date of publication of a notification under section 3, as the said Government may appoint.

Imposition of cess.

(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 of 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 Bengal Public Demands Recovery Act, 1913.

Ben. Act III of 1913.

(5) The [State] 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 such cess for such period as may be specified in such order.

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

Release of vested forest to the owner.

(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 to him 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:

¹See foot-note 4 on page 37, *ante*.

(Chapter III.—Rights in Forests.—Sections 19, 20.)

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 forests if the control of the said forest 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 ¹[State] 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 ¹[State] Government by its owner.

¹See foot-note 4 on page 37, *ante*.

XIV of 1948.]

(Chapter III.—Rights in Forests.—Sections 21-23.)

(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.

21. After the issue of a notification under section 20, no right 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 ¹[State] Government, by or on behalf of the owner or some person in whom such right was vested when the notification was issued; and so 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 ¹[State] Government in this behalf.

Bar of
accrual of
rights.

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—

Proclamation
by Forest
Settlement-
officer.

- (a) specifying, as nearly as possible, the situation and limits of such forest;
- (b) explaining the measures 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).

23. (1) The Forest Settlement-officer shall at some convenient place inquire 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.

Inquiry by
Forest
Settlement-
officer.

(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.

¹See foot-note 4 on page 37. *ante*.

(Chapter III.—Rights in Forests.—Sections 24-26.)

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 a Civil Court in the trial of suits.

Specification
and modifi-
cation of
rights.

25. (1) After completion of the inquiry 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 Act 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 any 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 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.

XIV of 1948.]

(Chapter III.—Rights in Forests.—Sections 27, 28.—
Chapter IV.—Penalties and Procedure.—Section 29.)

27. The ¹[State] Government, or any person who has made a claim under this Act, 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 Act or before any arbitrator appointed to determine any compensation payable under sub-section (5) of section 10.

Pleaders.

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.

Extinction of rights.

(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.

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,

Penalties for breach of rules.

¹See foot-note 4 on page 37, ante.

(Chapter IV.—Penalties and Procedure.—Section 30.)

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) Any person contravening any rule made under this Act, 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 rupees, 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 rupees or three times the value estimated by him of any forest-produce damaged, whichever is greater, and may, after such further enquiry, 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 class 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 Bengal Public Demands Recovery Act, 1913.

Ben. Act III
of 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.

XIV of 1948.]

(Chapter IV.—Penalties and Procedure.—Sections 31-34.)

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 Act.

Nothing in sub-section (1) of section 29 to prohibit acts done in certain cases.

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.

Seizure of property liable to confiscation.

(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.

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.

Power to release property seized under section 32.

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.

Information to the Magistrate and procedure thereupon.

(Chapter IV.—Penalties and Procedure.—Sections 35, 36.)

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 ¹[State] 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 ¹[State] 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.

¹See foot-note 4 on page 37, *ante*.

XIV of 1948.]

(Chapter IV.—Penalties and Procedure.—Sections 37-42.)

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:

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

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 Act for such offence.

38. When the trial of any forest-officer 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.

Disposal of confiscated property on conclusion of trial.

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:

Procedure when offender cannot be found.

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.

40. The Magistrate may, notwithstanding anything hereinafter 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.

Procedure as to perishable property seized under section 32.

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.

Appeal from orders under section 37 or section 39.

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 property, such property or such portion thereof, as the case may be, shall vest in the [State] Government free from all encumbrances.

Property when to vest in Government.

¹ See footnote 1 on page 37 ante.

(Chapter IV.—Penalties and Procedure.—Sections 43-47.)

Saving of power to release property seized.

43. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the [State] 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 Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, 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 Indian Penal Code—

Act XLV of 1860.

- (a) knowingly counterfeits upon any timber or standing tree in a controlled or vest 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 mark 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 waste-land to which the provisions of this Act 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-officer 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 Act.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act 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.

XIV of 1948.]

(Chapter IV.—Penalties and Procedure.—Sections 48-51.)

Act V of 1898.

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 prevent commission of offence.

49. The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the ¹[State] 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 rupees, or with both.

Power to try offence summarily.

50. Whenever a Court imposes a fine under this Act or confirms in appeal under this Act 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 judgement, order any portion of the fine recovered to be paid to the person whose information led to the detection of the offence.

Power of Court to order payment of rewards out of fine.

51. (1) The ¹[State] Government may, by notification empower a Forest-officer—

Power to compound offences.

- (a) to accept from any person against whom a reasonable suspicion exist 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 rupees, 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.

(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 ²[State].

(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.

¹See foot-note 4 on page 37, *ante*.

²This word was substituted for the word "Province" by para. 4(1) of the Adaptation of Laws Order, 1950.

(Chapter IV.—Penalties and Procedure.—Section 52.—Chapter V.—
Regional Forest-officers.—Sections 53-56.)

Onus of
proof.

52. Notwithstanding anything contained in any other Act, when in any area in respect of which the [State] Government has made rules under clause (b) of sub-section (2) of section 41 of the Indian 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 Act in respect of such forest-produce shall lie on him.

XVI of
1927.

CHAPTER V.

Regional Forest-officers.

State
Government
may invest
Regional
Forest-
officers with
certain
powers.

53. (1) The [State] Government may invest any Regional Forest-officer 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 powers of a 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 enquiry into forest-offences, and, in the course of such enquiry, to receive and record evidence.

Act V of
1898.

(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 Act.

Forest-
officers
deemed
public
servants.

55. All Forest-officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Act XLV of
1860.

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 Act.

¹See foot-note 4 on page 37. *ante*.

XIV of 1948.]

(Chapter VI.—Rules.—Section 57.)

CHAPTER VI.

Rules.

57. (1) The ¹[State] Government may make rules² for carrying out the purposes of this Act.

Power to
make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the ¹[State] 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 licenses 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 licenses 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;

VI of 1879.

¹See foot-note 4 on page 37, *ante*.

²For the West Bengal Private Forests Rules, made under section 57, see notification No. 4204 For., dated 7.6.51, published in the *Calcutta Gazette* of 1951, Part I, pages 1351-1375, as subsequently amended from time to time.

(Chapter VI.—Rules.—Section 57.)

- (k) the powers and duties of Forest-officers under this Act;
- (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 a 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 (3) 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;

XIV of 1948.]

(Chapter VI.—Rules.—Section 58.)

- (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 Act.

(3) In making any rule under this section the [State] 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 rupees, or with both.

58. All rules made by the [State] Government to regulate the transit of timber and other forest-produce under sections 41 and 42 of the Indian 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 Act apply.

XVI of 1927.

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

¹See foot-note 4 on page 37, ante.

(Chapter VII.—Miscellaneous.—Sections 59-61.)

CHAPTER VII.

Miscellaneous.

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

59. Notwithstanding anything elsewhere contained in this Act, the ¹[State] 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 Act 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 ¹[State] 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 Act or under any rule made under this Act, 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 Act in respect of such produce shall, if not paid when due, be recoverable as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act III of 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 one year from the date of the sale by the person entitled thereto, shall be forfeited to the ²[Government].

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

61. Whenever it appears to the ¹[State] Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894.

1 of 1894.

¹See foot-note 4 on page 37, ante.

²See foot-note 2 on page 39, ante.

XIV of 1948.]

(Chapter VII.—Miscellaneous.—Sections 62-64.)

62. Subject to the provisions of this Act and to any rules made thereunder, every Regional Forest-officer—

Powers of the Regional Forest-officer and control of the State Government.

- (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 Act 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 ¹[State] Government.

XVI of 1927.

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

Repeal and savings.

(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 Act.

(3) Any private forest or waste-land held under the control of a Forest-officer under section 36 of the Indian Forest Act, 1927, immediately before the commencement of this Act 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 Act applicable to a vested forest and shall be deemed to be a vested forest for the purposes of this Act.

(4) All lands which immediately before the commencement of this Act were being managed as a reserved or a protected forest under the provisions of section 38 of the Indian 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 Act 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.

Ben. Act XI of 1945.

64. The Bengal Private Forests Act, 1945, is hereby repealed.

Repeal of Ben. Act XI of 1945.

¹See foot-note 4 on page 37. ante.