

Meghalaya Act, 12 of 1981

THE MEGHALAYA FOREST (REMOVAL OF TIMBER) (REGULATION) ACT, 1981

(As passed by the Assembly)

[Received the assent of the President on the 29th May, 1981]

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An

Act

to regulate and control removal of timber outside the State for the preservation of forests and to prevent their indiscriminate destruction and for matters connected therewith and incidental thereto.

Be it enacted by the Legislature of Meghalaya in the Thirty-second Year of the Republic of India as follows:-

Short title,
extent and
commencement

1. (1) This Act may be called the Meghalaya Forest (Removal of Timber) (Regulation) Act, 1981.
- (2) It shall extend to the whole State of Meghalaya.
- (3) It shall come into force at once.

Definitions

2. In this Act, unless the context otherwise requires;
 - (a) "competent authority" means such authority as the State Government may, by notification appoint for the purpose of exercising the powers and functions of a competent authority under this act and the rules made thereunder for the whole or any part of the State;
 - (b) "prescribed" means prescribed by Rules made under this Act;
 - (c) "State" means the State of Meghalaya;
 - (d) "State Government" means the Government of Meghalaya;
 - (e) "Schedule" means a Schedule to this Act;
 - (f) "Trading Depot" means any place or premises used for keeping, storing or stocking timber for the purpose of trade or otherwise of the timber outside the State.

(2) Word and expressions used, but defined in this Act and defined in the Meghalaya Forest Regulation 7 of 1891 as applied in Meghalaya) shall have the meanings respectively assigned to them in that Regulation.

Removal of timber outside the State.

3. (1) No person shall remove or cause to be removed for the purpose of trade or otherwise, any timber outside the State, and no Trading Depot shall be set up or established at any place without a license from the competent authority:

Provided that no such license shall be granted by the competent authority:-

- (a) in respect of timber the size of which is below the minimum size prescribed for such timber; and
- (b) in respect of timber of such categories or species of trees or groups thereof specified in the Schedule to his Act.

(2) The State Government may, by notification, add, modify, amend or cancel any item in the Schedule to this Act.

(3) Every notification issued under the foregoing sub-section shall have effect on the date of its first publication in the official Gazette and shall be laid as soon as may be after its publication before the House of the Legislative Assembly of the State.

Application for License and its disposal.

4. (1) Every application for grant of license under this Act shall be made to the competent authority through the District Council concerned in such form and on payment of such fee as may be prescribed.

(2) In granting or refusing license under this Act the competent authority shall take into account all or any of the following matters according to the circumstances of each case, namely:-

- (a) Whether the application is recommended by the District Council or not;
- (b) Whether the applicant holds any trading license from the District Council;
- (c) Whether the applicant holds any other license under this Act;
- (d) Whether the applicant is a registered dealer and possesses certificate of registration under any tax Law of the State;

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(Act 12 of 1981)

ARRANGEMENT OF SECTIONS

Sections

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- (e) Whether the applicant is a resident of the State;
- (f) Whether the timber for which application for licenses is made is for the personnel use of the applicant;
- (g) Whether the grant of license to the applicant would promote the interest of tribals resident in the State, economically or otherwise;

Provided that a license shall be refused if the applicant-

- (a) is not a citizen of India, or-
- (b) has been convicted by a competent Court of an offence involving moral turpitude unless a period of five years, or such less period as the Government may allow in any particular case, has elapsed since his release, or
- (c) has violated any provision of any Act, Regulation or Rule made by the State or any District Council, or is a defaulter in the payment of any tax or revenue of the State or any District Council, or
- (d) has been debarred from taking up any business transaction or contract work by any Government, or any Company or Corporation, owned controlled or managed by any Government.

(3) Every other granting or refusing a license under this Act shall be in writing, and in case of refusal shall contain reasons therefor.

(4) Every application for license under this act shall be disposed of by the competent authority as early as possible and not later than six months from the date of receipt of the application by the competent authority unless the competent authority for reasons to be recorded in writing extends the period by such further period or periods as it may consider necessary and if no order is passed within the period or periods so extended it shall be deemed that license has been granted.

License fee and period of its validity.

5. (1) The fee payable for a license granted under this Act, the condition of the license, the route or routes the timber are to be transported outside the State, and the period of validity of the license shall be such as may be prescribed which shall also be specified in the license;

Provided that the license fee, the conditions of the license and the period of this validity may vary for different categories of timber:

Provided further that such period shall not exceed twelve, months and the amount of fee shall not exceed one thousand rupees.

(2) The license fee shall be paid in such manner as may be prescribed.

(3) Every license granted under this act may be renewed on the expiry of the period of its validity by the competent authority in such manner and on payment of such fees as may be prescribed.

(4) The provision of Section 4 shall apply in case of application for renewal under this Section.

Appeal

6. Any person aggrieved by any order passed by the competent authority under Sections 3 and 4 may , within a period of sixty days from the date the order is communicated and on payment of such fee, not exceeding fifty rupees, prefer an appeal to such authority as the State Government may, by notification, appoint in his behalf and its order shall be final:

Provided that the appellate authority may entertain as appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Penalty

7. Any person who contravenes any of the provisions of Section 3 , shall, on conviction, be punished with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both and the Court trying the offence may further order that the timber in respect of which the offence was committed and the vessel, vehicle or animal with which the offence was committed shall be confiscated to the State Government.

Power to direct submission of report or return.

8. The competent authority may direct any person holding any license under this Act to submit such report or return and in such form and manner as may be prescribed.

Power to enter, search, arrest and detain

9. (1) Any Forest Officer not below the rank of Forest Ranger and Police Officer not below the rank of Sub-Inspector of Police who from his personal knowledge or from information received and after such enquiry as he may consider necessary, has reason to believe that any person has committed an offence under this Act, may-

(a) enter and search at all reasonable time any premises, land, vehicle or vessel in the occupation of such person;

(b) require such person to produce for his inspection the license or any other documents granted by the competent authority or any books of account or other documents that may have any bearing on such offence;

(c) seize any timber in respect of which the offence was committed and any books of account or other documents relating such timber and may also detain and seize any animal, vessel or vehicle with which the offence was committed;

(2) It shall be lawful for any of the officers referred to in subsection (1), to stop and detain any person committing an offence under this Act or abetting in the commission of such offence and such officer may arrest without warrant any such person:

Provided that the Officer making such arrest may release such person on his furnishing his name and address and otherwise satisfies such Officer that he will duly answer any summon or other proceedings which may be taken against him.

Searches and arrest how to be made.

10. All searches and arrests under this Act shall be conducted and made, as far as may be in accordance with the procedure laid down in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

Prediction of persons arrested and things seized.

11. Every person detained or arrested under any of the provisions of this Act shall be taken or produced before the nearest Magistrate having jurisdiction with a report containing full particulars of the person arrested or articles seized and the circumstances under which the arrest or seizure was affected, within 24 hours of such arrest or seizure, exclusive of the time necessary for the actual journey from the place of arrest to the Court of the Magistrate.

Report of arrest and seizure.

12. Any Forest or Police Officer making an arrest or seizure under this act shall forthwith make a full report of all the particulars of such arrest or seizure to his immediate superior Officer.

Erection of check-posts.

13. (1) The State Government may, by notification, set up and erect, in such manner as may be prescribed, check-posts and barriers at any place in the State with a view to prevent any unlawful removal or transportation of timber outside the State.

(2) Every person transporting timber shall, at any check post or barrier referred to in sub-section (1) and before crossing such check-post or barrier produce before the Officer in-charge of the check-post or barrier such document as may be prescribed.

(3) The Officer-in-Charge of the check-post or barrier may, for the purpose of satisfying himself that the provisions of this Act and the Rules made therein are not being contravened, intercept, detain and search any animal, vehicle or vessel.

Penalty for refusal of produce things or furnish information

14. Whoever-

(i) Wilfully refuses or is unable to produce license or document or wilfully refuses or fails to give such information which under the provisions of this Act or the Rules made thereunder he is required to produce or to give, or otherwise furnishes in format on which he knows or believes to be false or does not believe to be true, or

(ii) Forcibly resists arrest or attempts to evade arrest or obstructs any Forest or Police Officer to enter or search or to affect arrest or seizure under the powers conferred by this Act or the Rules made thereunder,

shall be guilty of an offence against this Act, and he shall, on conviction, be punished with fine which may extend to on thousand rupees or with imprisonment for a term which may extend to six months or with both.

Power to compound offence.

15. (1) An Offence duly authorised by the State Government in this behalf may accept from any person, against whom a reasonable suspicion exists that he has committed any offence punishable under this Act, such sum of money as may be prescribed, by way of composition of the offence which such person is suspected to have committed.

(2) On payment of such sum of money to the Officer mentioned in sub-section (1) the suspected person, if in custody, shall be discharged and no other proceeding shall be taken against him in respect of the offence compounded.

(3) The provisions of this section shall apply also where a prosecution or an appeal against conviction of offence under this act is pending and in such a case the composition of such offence under this section shall have the effect of the acquittal of the accused with whom an offence has been compounded.

Hen Court to take cognizance of offence.

16. No Court shall take cognizance of any offence under this Act,-

- 1) except on the complaint made by an officer authorised by the State Government in this behalf; and
- 2) unless the prosecution is instituted within three month from the date on which the offence is alleged to have been committed.

Bar of suit in Civil Courts.

17. No suit shall be brought in any civil court to set aside or modify any order made under this Act.

Suit, etc., against authority, Officers or persons acting in good faith.

18. No suits, prosecution or legal proceeding shall lie against any authority, officer or person for anything which is in good faith done or intended to be done under this Act.

Officer and person to be public servants.

19. Every person or officer, appointed under, or exercising any power conferred by an under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Effect of other laws.

20. The provisions of this Act, shall be in addition, and not in derogation, of the provisions of the Meghalaya Forest Regulation (Assam Regulation 7 of 1891 as applied in Meghalaya) or the Rules made thereunder.

Exemption.

21. The provision of this Act, shall not apply to removal of timber outside the State by or on behalf of the State Government under the provisions of the Meghalaya Forest Regulation.

Power to make rules.

22. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

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

- a. to prescribe the minimum size of timber under Section 3;

- b. the form and conditions of license under Sections 3 and 5 and the fees payable therefor;
- c. the form and manner in which application for license under Section 4 may be made and the fees payable therefor;
- d. the fees payable for appeal under Section 6;
- e. the form of register, report or return to be maintained and submitted by the licensee;
- f. the conditions for storing, stocking and manner or making or marking the timber to be removed outside the State;
- g. the manner in which the inspection of timber and of document maintained by licensee shall be carried out;
- h. the routes by which the timber shall be transported outside the State;
- i. the terms and conditions for setting up or establishment of trading depot;
- j. the manner in which the right of access to document and the right to entry conferred by Section 9 may be exercised;
- k. the manner in which check-post and barrier may be set up and erected and the form of document under Section 13;
- l. the procedure and manner for payment of fees under the Act and of composition money under Section 15 and the amount of composition payable for composition of offences under Section 15;
- m. any other matter which is to be or may be prescribed.

(3) The power to make rules under this Section shall be subject to the condition of previous publication.

SCHEDULE

[See Section 3 (1) (b)]

Serial No.	Local (Common) Name	Commercial Name	Scientific Name.
1	Dieng Soh Risang	Indian Horn	Carpinus Vaminea.
2	Tek, Tegun	Teak	Tectona Grandis.
3	Dieng Laphiang, Bo! gippok, Gamari.	Gamari	Gmelina Arborea.
4	Dieng Rai, Tita Sopa ...	Champ	Michelia Champaca.
5	Bola, Dieng Ngai	Bola	Morus ferrea.
6	Nahar Dieng Ngai ...	Mesua	Mesua ferrea.
7	Sal, Dieng blei, Bol Sal ...	Sal	Shorea Robusta
8	Mundhani ...	Mundani	Acrocarpus fraxinifalius.
9	Amari, La li ...	Amari	Amoora Willichii.
10	Cham, Sam ...	Chaplash	Artocarpus Chaplasha.
11	Birch, Dieng Lieng ...	Birch	Betula alnoides.
12	Bogipoma, Diengbti. Tyrneng, Bol Derek.	Chiekrassy	Chikrassia tabularis.
13	Khokam, Dieng Bai ...	Lampati Khokam.	Duabanga grandiflora.
14	Karal ...	Karal	Kayea floribunda.
15	Badam ...	Badam	Mansonai Dipikai.
16	Holok, Diengmaras Rakseng.	Hollocck	Terminalia Myriocarpa
17	Poma, Dieng Bti.	Toon	Toona Ciliata.
18	Kadam ...	Kadam	Anthocephalus Dadamba.
19	Pine, Khasi Pine, Dieng Kseh.	Pine	Pinus Kosiya.
20	Gogra, Dieng Ngan	Gogra/Chilauni	Schima Khasiana/Schima Wallichii.