

ORISSA ACT 9 OF 1983

*THE ORISSA FOREST (AMENDMENT) ACT, 1982

[Received the assent of the President on the 21st March 1983 first published in an extraordinary issue of the Orissa Gazette, dated the 18th April 1983]

AN ACT TO AMEND THE ORISSA FOREST ACT, 1972

BE it enacted by the Legislature of the State of Orissa in the Thirty-third year of the Republic of India, as follows:-

- | | | |
|----------------------------|--|-------------------------|
| Short title. | 1. This Act may be called the Orissa Forest (Amendment) Act, 1982 | |
| Amendment of section 21. | 2. In section 21 of the Orissa Forest Act, 1972 (hereinafter referred to as the principal Act), after sub-section (2), the following new sub-section shall be added, namely:-

“(3) Production of an authenticated copy of a notification published under sub-section (1) shall be conclusive proof that the forest the limits whereof have been specified therein, is a reserved forest.” | Orissa Act, 14 of 1972. |
| Amendment of section 27. | 3. In section 27 of the Principal Act, in each of the sub-section (1) and (3) for the words “or with fine”, the words “and with fine” shall be substituted and the words “or with both” shall be deleted. | |
| Amendment of section 37. | 4. In section 37 of the Principal Act, in sub-section (1), for the words “or with fine which may extend to two thousand rupees or with both”, the words “and with fine which may extend to two thousand rupees” shall be substituted. | |
| Amendment of section 46. | 5. In section 46 of the Principal Act, in sub-section (1), for the words “or with fine which may extend to one thousand rupees or with both”, the words “and with fine which may extend to one thousand rupees” shall be substituted. | |
| Amendment of section 55. | 6. In section 55 of the Principal Act, in sub-section (2), for the words “or with fine which may extend to one thousand rupees or with both”, the words “and with fine which may extend to one thousand rupees” shall be substituted. | |
| Amendment of section 55-A. | 7. In Chapter VIII of the Principal Act, before section 56, the following new section shall be inserted, namely:-

“ 55-A. Unless for sufficient reasons to be recorded in writing, the Court passing an order of conviction for an offence under this Act or the rules made thereunder (other than an offence under sub-section (2) of section 27 or under Section 83) imposes a lesser punishment, the minimum punishment to be imposed on such conviction shall be imprisonment for a period of two months together with a fine of an amount equal to fifty per cent of the maximum fine provided for the offence.” | |

*For the Bill See Orissa Gazette Extraordinary, dated the 21st September, 1982 (1352)

8. In section 56 of the Principal Act,-

(a) in sub-section (2), after the words and comma “to get the offence compounded,”, the following words and brackets shall be inserted, namely:-

“either produce the property seized before an officer not below the rank of an Assistant Conservator of Forest authorized by the State government in this behalf by notification (hereinafter referred to as the ‘authorised officer’) or”;

(b) after sub-section (2), the following new sub-section shall be inserted, namely:-

“(2-a). Where an authorized officer seizes any forest produce under sub-section (1) or where any such forest produce is produced before him under sub-section (2) and he is satisfied that a forest offence has been committed in respect thereof, he may order confiscation of the forest produce so seized or produced together with all tools, ropes, chains, boats vehicles or cattle used in committing such offence.

(2-b). no order confiscating any property shall be made under sub-section (2-a) unless the person from whom the property is seized is given-

- (a) a notice in writing informing him of the grounds on which it is proposed to confiscate such property;
- (b) an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds for confiscation; and
- (c) a reasonable opportunity of being heard in the matter.

(2-c). Without prejudice to the provisions of sub-section (2-b), no order of confiscation under sub-section (2-a) of any tool, rope, chain, boat, vehicle or cattle shall be made if the owner thereof proves to the satisfaction of the authorized officer that it was used without his knowledge or connivance or the knowledge or connivance of his agent, if any, or the person in charge of the tool, rope, chain, boat, vehicle or cattle, in committing the offence and that each of them had taken all reasonable and necessary precautions against such use.

(2-d). Any forest officer not below the rank of a Conservator of Forests empowered by the Government in this behalf by notification, may within thirty days from the date of the order of confiscation by the authorized officer under sub-section (2-a), either *suo motu* or on application, call for and examine the records of the case and may make such inquiry or cause such inquiry to be made and pass such orders as he may think fit.:

Provided that no order prejudicial to any person shall be passed without giving him an opportunity of being heard.

(2-e). Any person aggrieved by an order passed under sub-section (2-a) or sub-section (2-d) may, within thirty days from the date of communication to him of such order, appeal to the District Judge having jurisdiction over the area in which the property has been seized, and the District Judge shall after giving an opportunity to the parties to be heard pass such order as he may think fit and the order of the District Judge so passed shall be final.”.

Amendment of section 57.

9. In section 57 of the Principal Act, after words and figure “under section 56”, the words, figure and brackets” and where a report such seizure has been made to Magistrate under sub-section (2) of that section” shall be inserted.

Amendment of section 59.

10. In section 59 of the Principal Act, in sub-section (1), the words and figure “unless an order of confiscation has already been passed in respect thereof under section 56” shall be added at the end.

Amendment of section 64.

11. Section 64 of the Principal Act, shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following new sub-section shall be added, namely:-

“(2) When an order of confiscation of any property passed under section 56 has been become final under that section in respect of the whole or any portion of the property, such property or the portion thereof, as the case may be, shall vest in the State Government free from all encumbrances.”.

Insertion of new section 64-A.

12. After section 64 of the principal Act, the following new section shall be inserted namely:-

Confiscation to be no bar to imposition of other penalty.

“**64-A.** An order of confiscation made under section 56 shall not act as a bar to the imposition of any other penalty to which the offender is liable under this Act or the rules made thereunder.”.

Amendment of section 66.

13. in section 66 of the Principal Act, for the words “or with fine which may extend to one thousand rupees or with both”, the words “and with fine which may extend to one thousand rupees “shall be substituted.

Amendment of section 72.

14. In section 72 of the Principal Act, in sub-section (1),-

(a) for the words and figures “any forest offence other than an offence under section 66 or section 67”, the words, figures and brackets “any forest offence (other than an offence under section 66 or section 67 or an offence in committing which a vehicle has been used),” shall be substituted;

(b) the following proviso shall be added at the end, namely:-

“Provided that no such offence as is referred to in clause (ii) or clause (iii) shall be compounded if the market value of the forest produce involved exceeds one hundred rupees.”.

Insertion of new section 73-A.

15. After section 73 of the Principal Act, the following new section shall be inserted, namely:-

Presumption as to removal and transportation of forest produce.

“**73-A.** Any person found in possession of any forest produce within the limits of any reserved forest shall, until the contrary is proved, be presumed to be guilty of removing or, as the case may be, transporting such forest produce from the reserved forest without authority.”.