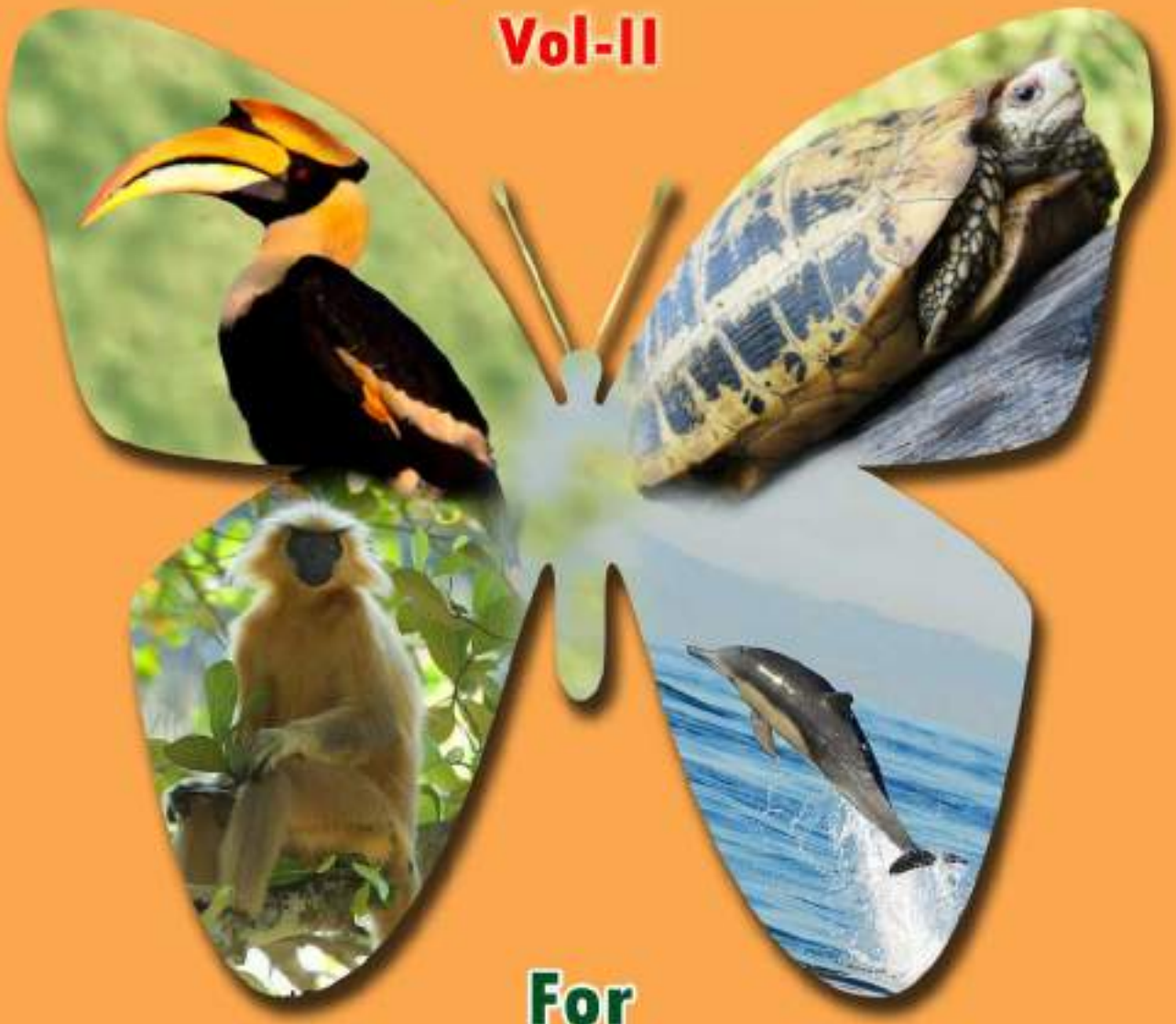
A HAND BOOK OF

Notifications, Acts & Amendments

Vol-II



For
Assam Forest Department

Compiled by

Dr. C Ramesh IFS, DCF

under the guidance of

D. Mathur IFS, PCCF & HoFF

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OF

* Notifications

* Acts

* Amendments

(Volume –II)

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(2016)

Compiled by

Dr. C. Ramesh IFS,
Deputy Conservator of Forests

Under the guidance of

D. Mathur IFS,
Principal Chief Conservator of Forests &
Head of Forest Force, Assam

A HAND BOOK of Notifications, Acts, Amendments (Volume-II) **for Assam Forest Department** complied by Dr. C. Ramesh IFS, Deputy Conservator of Forests under the guidance of D. Mathur IFS, Principal Chief Conservator of Forests and Head of Forest Force, Assam

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P R E F A C E

The hallmark of a democratic nation lies in adopting and following the principles of 'Rule of Law'. The Parliament and the State Legislatures enact Acts and subsequently, keeping in view of the changes required, amend such Acts, if the need so arises. In a similar manner, under the provisions of Delegated or Subordinate Legislation, Ministries and Departments issue Rules, Notifications, Guidelines and Circulars from time to time. These are framed and issued in order to ensure better governance so that Government officials and the common people alike may derive maximum benefit.

Most of the time, however, such enactments do not come to the notice of all, as their circulation remains limited owing to official constraints. This has, at times, led to confusion and at times, even miscarriage of justice. In order to aim at increasing the work efficiency in the Environment and Forest Department, a compilation of the Rules, Notifications, Guidelines and Circulars relating to the Environment & Forest in the form of a handbook was accomplished by Shri. D.Mathur IFS, PCCF & HoFF. His compilation, with a couple of editions, is a ready reference and guide for all readers for more than a decade.

On the path laid by him, a humble attempt to compile recent Acts, Rules, Amendments, Notification, Guidelines and Circulars relating to the Environment, Forest and Climate Change was made. It gives me an immense pleasure to present before the esteemed readers the second volume of the handbook. The primary aim of this book is to help acquaint the officials serving in the Forest Department with the latest updates. At the same time, this compilation will also be helpful to Civil Servants, Politicians, Lawyers, Academicians, Students of Law, Officials of User Agencies and Businessmen trading in forest produce.

Despite the utmost care and effort, there is nevertheless the possibility of errors or omissions that may have crept in either inadvertently or through sheer ignorance. I shall deem it an honour, if the esteemed readers bring to light such errors and omissions. This will help in rectifying the same in the forthcoming editions. I do not claim that the information reproduced in this book is exhaustive. Depending upon suggestions from the readers, the improvement will be incorporated in the future editions.

I offer my sincere gratitude and appreciation to Shri. D. Mathur, IFS, the Principal Chief Conservator of Forests and Head of Forest Force, Assam for initiating this endeavor, offering valuable guidance and bestowing with practical suggestions, which have gone a long way in converting his dream into a reality through me. I thank him wholeheartedly for his belief in me to hand over the baton of his exemplary legacy of compiling handbook for Forest Department. I owe a great debt of gratitude to Mrs. Ranjana Gupta IFS, Additional Principal Chief Conservator of Forests for judicious inputs in arranging the topics in relevant order. I also extend my earnest thanks to Ms. K. M. Abharna IFS, Assistant Conservator of Forests, for her timely help in proof reading the compilation at a short notice. I extend my sincere thanks to Shri. Partho P. Mazumdar ACS, Joint Secretary, DEE for his kind help.

Shri. Saurav Sarkel, Account Assistant of Haltugaon Division deserves special mention for his sincere and timely efforts in layout, page setting and for cover design. I offer my thanks to Sri Debananda Saikia of Geetakhi Printers & Publishers for printing and publishing the book.

Dr. C. Ramesh, IFS

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NATIONAL FOREST POLICY, 1988

No. 3-1/86-FP
Ministry of Environment and Forests
(Department of Environment, Forests & Wildlife)

Paryavaran Bhavan, CGO Complex,
Lodi Road, New Delhi - 110003.

Dated the 7th December, 1988

RESOLUTION
National Forest Policy, 1988

1. PREAMBLE

1.1. In Resolution No.13/52/F, dated the 12th May, 1952, the Government of India in the erstwhile Ministry of Food and Agriculture enunciated a Forest Policy to be followed in the management of State Forests in the country. However, over the years,* forests in the country have suffered serious depletion. This is attributable to relentless pressures arising from ever-increasing demand for fuel-wood, fodder and timber; inadequacy of protection measures; diversion of forest lands to non-forest uses without ensuring compensatory afforestation and essential environmental safeguards; and the tendency to look upon forests as revenue earning resource. The need to review the situation and to evolve, for the future, a new strategy of forest conservation has become imperative. Conservation includes preservation, maintenance, sustainable utilisation, restoration, and enhancement of the natural environment. It has thus become necessary to review and revise the National Forest Policy.

2. BASIC OBJECTIVES

2.1 The basic objectives that should govern the National Forest Policy are the following:

- Maintenance of environmental stability through preservation and, where necessary, restoration of the ecological balance that has been adversely disturbed by serious depletion of the forests of the country.
- Conserving the natural heritage of the country by preserving the remaining natural forests with the vast variety of flora and fauna, which represent the remarkable biological diversity and genetic resources of the country.

- Checking soil erosion and denudation in the catchment areas of rivers, lakes, reservoirs in the interest of soil and water conservation, for mitigating floods and droughts and for the retardation of siltation of reservoirs.
- Checking the extension of sand-dunes in the desert areas of Rajasthan and along the coastal tracts.
- Increasing substantially the forest/tree cover in the country through massive afforestation and social forestry programmes, especially on all denuded, degraded and unproductive lands.
- Meeting the requirements of fuel-wood, fodder, minor forest produce and small timber of the rural and tribal populations.
- Increasing the productivity of forests to meet essential national needs.
- Encouraging efficient utilisation of forest produce and maximising substitution of wood.
- Creating a massive people's movement with the involvement of women, for achieving these objectives and to minimise pressure on existing forests.

2.2 The principal aim of Forest Policy must be to ensure environmental stability and maintenance of ecological balance including atmospheric equilibrium which is vital for sustenance of all lifeforms, human, animal and plant. The derivation of direct economic benefit must be subordinated to this principal aim.

3. ESSENTIALS OF FOREST MANAGEMENT

3.1 Existing forests and forest lands should be fully protected and their productivity improved. Forest and vegetal cover should be increased rapidly on hill slopes, in catchment areas of rivers, lakes and reservoirs and ocean shores and, on semi-arid, and desert tracts.

3.2 Diversion of good and productive agricultural lands to forestry should be discouraged in view of the need for increased food production.

3.3 For the conservation of total biological diversity, the network of national parks, sanctuaries, biosphere reserves and other protected areas should be strengthened and extended adequately.

3.4 Provision of sufficient fodder, fuel and pasture, especially in areas adjoining forest, is necessary in order to prevent depletion of forests beyond the sustainable limit. Since fuelwood continues to be the predominant source of energy in rural areas, the programme of afforestation should be intensified with special emphasis on augmenting fuelwood production to meet the requirement of the rural people.

3.5 Minor forest produce provides sustenance to tribal population and to other communities residing in and around the forests. Such produce should be protected,

improved and their production enhanced with due regard to generation of employment and income.

4. STRATEGY

4.1 Area under Forests

The national goal should be to have a minimum of one-third of the total land area of the country under forest or tree cover. In the hills and in mountainous regions, the aim should be to maintain two-third of the area under such cover in order to prevent erosion and land degradation and to ensure the stability of the fragile eco-system.

4.2 Afforestation, Social Forestry & Farm Forestry

4.2.1 A massive need-based and time bound programme of afforestation and tree planting, with particular emphasis on fuelwood and fodder development, on all degraded and denuded lands in the country, whether forest or non-forest land, is a national imperative.

4.2.2 It is necessary to encourage the planting of trees alongside of roads, railway lines, rivers and streams and canals, an d on other unutilised lands under State/ corporate, institutional or private ownership. Green belts should be raised in urban/industrial areas as well as in arid tracts. Such a programme will help to check erosion and desertification as well as improve the microclimate.

4.2.3 Village and community lands, including those on foreshores and environs of tanks, not required for other productive uses, should be taken up for the development of tree crops and fodder resources. Technical assistance and other inputs necessary for initiating such programmes should be provided by the Government. The revenues generated through such programmes should belong to the panchayats where the lands are vested in them; in all other cases, such revenues should be shared with the local communities in order to provide an incentive to them. The vesting, in individuals, particularly from the weaker sections (such as landless labour, small and marginal farmers, scheduled castes, tribals, women) of certain ownership rights over trees, could be considered, subject to appropriate regulations; beneficiaries would be entitled to usufruct and would in turn be responsible for their security and maintenance.

4.2.4 Land laws should be so modified wherever necessary so as to facilitate and motivate individuals and institutions to undertake tree-farming and grow fodder plants, grasses and legumes on their own land. Wherever degraded lands should be made available for this purpose either on lease or on the basis of a tree-patta scheme such leasing of the land should be subject to the land grant rules and

land ceiling laws. Steps necessary to encourage them to do so must be taken. Appropriate regulations should govern the felling of trees on private holding.

4.3 Management of State Forests

4.3.1 Schemes and projects which interfere with forests that clothe steep slopes, catchments of rivers, lakes, and reservoirs, geologically unstable terrain and such other ecologically sensitive areas should be severely restricted. Tropical rain/moist forests, particularly in areas like Arunachal Pradesh, Kerala, Andaman & Nicobar Islands, should be totally safeguarded.

4.3.2 No forest should be permitted to be worked without the Government having approved the management plan, which should be in a prescribed format and in keeping with the National Forest Policy. The Central Government should issue necessary guidelines to the State Governments in this regard and monitor compliance.

4.3.3 In order to meet the growing needs for essential goods and services which the forests provide, it is necessary to enhance forest cover and productivity of the forests through the application of scientific and technical inputs. Production forestry programmes, while aiming at enhancing the forest cover in the country, and meeting national needs, should also be oriented to narrowing, by the turn of the century, the increasing gap between demand and supply of fuelwood. No such programme, however, should entail clear-felling of adequately stocked natural forests. Nor should exotic species be introduced, through public or private sources, unless long-term scientific trials undertaken by specialists in ecology, forestry and agriculture have established that they are suitable and have no adverse impact on native vegetation and environment.

4.3.4 Rights and Concessions

4.3.4.1 The rights and concessions, including grazing, should always remain related to the carrying capacity of forests. The capacity itself should be optimised by increased investment, silvicultural research and development of the area. Stall-feeding of cattle should be encouraged. The requirements of the community, which cannot be met by the rights and concessions so determined, should be met by development of social forestry outside the reserved forests.

4.3.4.2 The holders of customary rights and concessions in forest areas should be motivated to identify themselves with the protection and development of forests from which they derive benefits. The rights and concessions from forests should primarily be for the bonafide use of the communities living within and around forest areas, specially the tribals.

4.3.4.3 The life of tribals and other poor living within and near forests revolves around forests. The rights and concessions enjoyed by them should be fully protected. Their domestic requirements of fuelwood, fodder, minor forest produce and construction timber should be the first charge on forest produce. These and substitute materials should be made available through conveniently located depots at reasonable prices.

4.3.4.4 Similar consideration should be given to scheduled castes and other poor living near forests. However, the area, which such consideration should cover, would be determined by the carrying capacity of the forests.

4.3.5 Wood is in short supply

The long-term solution for meeting the existing gap lies in increasing the productivity of forests, but to relieve the existing pressure on forests for the demands of railway sleepers, construction industry (particularly in the public sector), furniture and panelling, mine-pit props, paper and paper board etc. substitution of wood needs to be taken recourse to. Similarly, on the front of domestic energy, fuelwood needs to be substituted as far as practicable with alternate sources like bio-gas, LPG and solar energy. Fuel-efficient "*Chulhas*" as a measure of conservation of fuelwood need to be popularised in rural areas.

4.4 Diversion of Forest Lands for Non-forest purposes

4.4.1 Forest land or land with tree cover should not be treated merely as a resource readily available to be utilised for various projects and programmes, but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits. Construction of dams and reservoirs, mining and industrial development and expansion of agriculture should be consistent with the needs for conservation of trees and forests. Projects which involve such diversion should at least provide in their investment budget, funds for regeneration/compensatory afforestation.

4.4.2 Beneficiaries who are allowed mining and quarrying in forest land and in land covered by trees should be required to repair and re-vegetate the area in accordance with established forestry practices. No mining lease should be granted to any party, private or public, without a proper mine management plan appraised from the environmental angle and enforced by adequate machinery.

4.5 Wildlife Conservation

Forest Management should take special care of the needs of wildlife conservation, and forest management plans should include prescriptions for this

purpose. It is especially essential to provide for "corridors" linking the protected areas in order to maintain genetic continuity between artificially separated sub-sections of migrant wildlife.

4.6 Tribal People and Forests

Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest. While safeguarding the customary rights and interests of such people, forestry programmes should pay special attention to the following:

- One of the major causes for degradation of forest is illegal cutting and removal by contractors and their labour. In order to put, an end to this practice, contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives, government corporations, etc. as early as possible;
- Protection, regeneration and optimum collection of minor forest produce along with institutional arrangements for the marketing of such produce;
- Development of forest villages on par with revenue villages;
- Family oriented schemes for improving the status of the tribal beneficiaries; and
- Undertaking integrated area development programmes to meet the needs of the tribal economy in and around the forest areas, including the provision of alternative sources of domestic energy on a subsidised basis, to reduce pressure on the existing forest areas.

4.7 Shifting Cultivation

Shifting cultivation is affecting the environment and productivity of land adversely. Alternative avenues of income, suitably harmonised with the right landuse practices, should be devised to discourage shifting cultivation. Efforts should be made to contain such cultivation within the area already affected, by propagating improved agricultural practices. Area already damaged by such cultivation should be rehabilitated through social forestry and energy plantations.

4.8 Damage to Forests from Encroachments, Fires and Grazing

4.8.1 Encroachment on forest lands has been on the increase. This trend has to be arrested and effective action taken to prevent its continuance. There, should be no regularisation of existing encroachments.

4.8.2 The incidence of forest fires in the country is high. Standing trees and fodder are destroyed on a large scale and natural regeneration annihilated by such fires.

Special precautions should be taken during the fire season. Improved and modern management practices should be adopted to deal with forest fires.

4.8.3 Grazing in forest areas should be regulated with the involvement of the community. Special conservation areas, young plantations and regeneration areas should be fully protected. Grazing and browsing in forest areas need to be controlled. Adequate grazing fees should be levied to discourage people in forest areas from maintaining large herds of non-essential livestock.

4.9 Forest-based Industries

The main considerations governing the establishment of forest-based industries and supply of raw material to them should be as follows:

- As far as possible, a forest-based industry should raise the raw material needed for meeting its own requirements, preferably by establishment of a direct relationship between the factory and the individuals who can grow the raw material by supporting the individuals with inputs including credit, constant technical advice and finally harvesting and transport services.

- No forest-based enterprise, except that at the village or cottage level, should be permitted in the future unless it has been first cleared after a careful scrutiny with regard to assured availability of raw material. In any case, the fuel, fodder and timber requirements of the local population should not be sacrificed for this purpose.

- Forest-based industries must not only provide employment to local people on priority but also involve them fully in raising trees and raw-material.

- Natural forests serve as a gene pool resource and help to maintain ecological balance. Such forests will not, therefore, be made available to industries for undertaking plantation and for any other activities.

- Farmers, particularly small and marginal farmers, would be encouraged to grow, on marginal/ degraded lands available with them, wood species required for industries. These may also be grown along with fuel and fodder species on community lands not required for pasture purposes, and by Forest department/corporations on degraded forests, not earmarked for natural regeneration.

- The practice of supply of forest produces to industry at concessional prices should cease. Industry should be encouraged to use alternative raw materials. Import of wood and wood products should be liberalised.

- The above considerations will, however, be subject to the current policy relating to land ceiling and land-laws.

4.10 Forest Extension

Forest conservation programme cannot succeed without the willing support and cooperation of the people. It is essential, therefore, to inculcate in the people, a direct interest in forests, their development and conservation, and to make them conscious of the value of trees, wildlife and nature in general. This can be achieved through the involvement of educational institutions, right from the primary stage. Farmers and interested people should be provided opportunities through institutions like Krishi Vigyan Kendras, Trainers' Training Centres to learn agrisilvicultural and silvicultural techniques to ensure optimum use of their land and water resources. Short term extension courses and lectures should be organised in order to educate farmers. For this purpose, it is essential that suitable programmes are propagated through mass media, audio -visual aids and the extension machinery.

4.11 Forestry Education

Forestry should be recognised both as a scientific discipline as well as a profession. Agriculture universities and institutions, dedicated to the development of forestry education should formulate curricula and courses for imparting academic education and promoting postgraduate research and professional excellence, keeping in view the manpower needs of the country. Academic and professional qualifications in forestry should be kept in view for recruitment to the Indian Forest Service and the State Forest Service. Specialised and orientation courses far developing better management skills by inservice training need to be encouraged, taking into account the latest development in forestry and related disciplines.

4.12 Forestry Research

With the increasing recognition of the importance of forests for environmental health, energy and employment, emphasis must be laid on scientific forestry research, necessitating adequate strengthening of the research base as well as new priorities for action. Some broad priority areas of research and development needing special attention are:

- Increasing the productivity of wood and other forest produce per unit of area per unit time by the application of modern scientific and technological methods.
- Revegetation of barren/marginal/waste/mined lands and watershed areas.
- Effective conservation and management of existing forest resources (mainly natural forest eco-systems).
- Research related to social forestry for rural/ tribal development.
- Development of substitutes to replace wood and wood products.
- Research related to wildlife and management of national parks and sanctuaries.

4.13 Personnel Management

Government policies in personnel management for professional foresters and forest scientists should aim at enhancing their professional competence and status and attracting and retaining qualified and motivated personnel, keeping in view particularly the arduous nature of duties they have to perform, often in remote and inhospitable places.

4.14 Forest Survey and Data Base

Inadequacy of data regarding forest resources is a matter of concern because this creates a false sense of complacency. Priority needs to be accorded to completing the survey of forest resources in the country on scientific lines and to updating information. For this purpose, periodical collection, collation and publication of reliable data on relevant aspects of forest management needs to be improved with recourse to modern technology and equipment.

4.15 Legal Support and Infrastructure Development

Appropriate legislation should be undertaken, supported by adequate infrastructure, at the Centre and State levels in order to implement the Policy effectively.

4.16 Financial Support for Forestry

The objectives of this revised Policy cannot be achieved without the investment of financial and other resources on a substantial scale. Such investment is indeed fully justified considering the contribution of forests in maintaining essential ecological processes and life support systems and in preserving genetic diversity. Forests should not be looked upon as a source of revenue. Forests are a renewable natural resource. They are a national asset to be protected and enhanced for the well-being of the people and the Nation.

(K.P.Geethakrishnan)
Secretary to the Government of India

ASSAM FOREST POLICY, 2004

Grooming the forests, nature's bounty
To make the people healthy and wealthy

Background

Forest resources have been regulated since early times. The roots of legislations, policies and guide lines for natural resource management in India can be traced back to the days of British colonialism. The relevant constitutional framework at the backdrop of management of forest resources are briefly enumerated as follows:

The Constitution of India

Article 48 A: one of the Directive Principles, which state that the State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.

Article 51 A: deals with the fundamental duties of citizens, which includes the citizen's duty to value and preserve the rich heritage of our composite culture and to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

Article 246: points towards the Seventh Schedule to the Constitution, which enlists (in the union list and the concurrent list) the subjects that the Central and State Governments are to legislate upon. Forest is one of the subjects placed in the Concurrent List on which both the Central and State Governments shall legislate upon.

The National Forest Policy

In 1952, the erstwhile Ministry of Food and Agriculture, Government of India enunciated a Forest policy to be followed in the management of state forests in the country. The need for this Policy was to highlight the changes since the enunciation of the Forest policy of 1894. Forest, however, continued to be viewed as source of revenue. While recognizing that the proportion of land to be kept permanently under forest would naturally vary in different regions, the policy said that practical consideration suggests, "that India, as whole, would aim at maintaining one third of its total land area under forests." Emphasis was laid on the conversion of low value mixed forests to high value plantation of commercial species.

Large-scale deforestation and diversion of forest land for non-forestry uses finally led to the formulation of a new Forest Policy of 1988. The National Forest Policy, 1988 enunciated nine basic objections and identified five essentials of forest management and sets the strategy to attain the goal. Unlike the previous "user approach" Policies, the Forest Policy of 1988 was a pro people document, placing greater emphasis on the ecological role of forests and recognising for the first time the rights of the people, especially the tribals, with the direction that "their domestic requirements of fuel-wood, fodder, minor forest produce and construction timber would be the first charge on forest produce."

The North East Forest Policy

For the North East Region of India, having a special status for rich natural heritage, a separate North East Forest Policy is being framed by the Ministry of Environment and Forests, Government of India.

Need of Revision of policy due to 73rd and 74th Constitutional Amendments

The 73rd and 74th amendment to the Indian Constitution in 1992 made it mandatory for all the States to introduce democratic decentralization of governance through 3 tier structures of Panchayati Raj (Local Self Government) Institution (PRIs). The spirit of the constitutional amendment is to promote participatory democracy through empowering Gram Sabhas to have a decisive say through open and transparent decision making at the village level instead of the concentration of decision-making power in a few elected representatives. The 29 functions recommended for decentralization to the Panchayat Raj Institutions listed in the 11th schedule include "Agricultures, Land reforms, Land improvement and management, Minor irrigations, Water management, Watershed development, Animal husbandry, Fisheries, Social and Farm forestry, Non – Timber Forest Produces (NTFPs) and maintenance of community assets. Management of state owed forestlands is not included but may be specifically notified by individual State Governments. These objectives are endeavoured to be implemented through empowerment of the village level Joint Forest Management Committees (JFMCs).

1. PREAMBLE: WHY A SPECIFIC FOREST POLICY FOR ASSAM?

Assam falls under one of the recognized mega biodiversity zones of the world. Despite having priceless treasure of flora and fauna together with the most suitable natural conditions for sustainable growth of forestry, the State has been progressively losing its biodiversity as well as a vast expanse of forest due to various reasons including excessive biotic pressures. While the problems affecting the forestry sector of Assam are largely home grown and unique, the most damaging factor for steady depletion of Assam's forest cover has been the unabated encroachment in the reserved forests over the last few decades. The protection and conservation measures deemed to be implemented with the sole responsibility hitherto vested in the Forest Department

appeared to be inadequate, more so, in the matter of last two decades as the unique ground realities that have emerged in the 80's onward reduced the efficacy of the role assigned to the forest personnel in the State. The glory of the forestry sector of the days gone by has been undermined mainly due to the following reasons:

(I) The aftermath of the great Earthquake of Assam in 1950, annual recurring floods in the Brahmaputra and its tributaries, changing river courses and erosions result in lakhs of displaced people. The reserved forest of Assam throughout the 60's, 70's and even today seem to be targeted as the most suitable space for the rehabilitation of human as well as cattle population.

(II) Massive population increase and organized group encroachment in the reserved forests, at times backed by groups of armed militants from the 80's onwards.

(III) Grazing and poaching in the protected areas.

(IV) Inadequacy in addressing the needs of the people from the forestry sector. In view of the diminishing natural resource base in the state which has become insufficient to meet the genuine demands of the people, illegalities thrived forming various nexus leading to forest destruction.

In view of the perceptible shortfalls in protecting and conserving the forest, time has come to take a hard look at the lacunae in the existing Policies. As such, it has become imperative to review the situation and adopt new strategies of forest conservation in Assam, including preservation, enhancements, maintenance, and evolution of management strategies for improved productivity, sustainable utilization and overall quantitative and qualitative improvement of stand composition and structure for enrichment of the environment.

Accordingly, the Government of Assam has decided to adopt an environment and peoples friendly State Forest Policy of Assam.

2. OBJECTIVES

2.1 The basic objectives that govern the Assam Forest Policy, 2004 are

- Maintenance of environmental stability through preservation and where necessary, restoration of ecological balance that has been adversely disturbed by serious depletion of forests in the State.

- Conserving natural heritage of the state by preserving the natural forests and wetlands with vast variety of flora and fauna which represent the unique biodiversity and genetic resources of the State.

- Checking the denudation of forests and soil erosion in catchments areas of rivers and reservoirs for soil and water conservation; reducing the fury of floods and droughts; recharging of water bodies, aquifers and arresting siltation of the reservoirs.

- Promoting non consumptive use of Protected Areas for the purpose of providing livelihood support to the fringe dwellers by encouraging sustainable eco-tourism and eco-development.

- Enhancing the quality of forests/tree cover in the denuded and degraded land of the State through the involvement of people and symbiosis of traditional knowledge and modern technology.

- Increasing the forest/tree cover in forest deficient areas of State like chars, chapories permanently established along the course of the river Brahmaputra, through community afforestation and suitable agro-forestry and farm forestry models.

- Meeting the bonafide livelihood needs of fuel wood, fodder, bamboo, canes, small timbers and other N.T.F.Ps of the rural poor and the tribals in particular, with due regard to the carrying capacity of the forests.

- Increasing forest productivity through shift of accent from major to minor forest produces; from top canopy to lower canopies and from flagship species to smaller denizens of the forest.

- Encouraging efficient utilization of forest produce and maximizing value addition to the timber and non-timber forest produce in the State. The use of non-durable secondary species as constructional timber is to be encouraged after inducing durability through wood preservation techniques.

- Creating a massive people's movement with special involvement of women for achieving the objectives and to minimize pressure on forests under the community based conservation programme.

- Demarcation of all forest lands, irrespective of ownership, for the purpose of scientific management through special measures.

- Understanding the forest dynamics and encouraging the researchers from the region to undertake quality research works on forest conservation and its suitable use.

- Encouraging conservation of genetic resources and development of traditionl ethnic knowledge repository of Assam.

2.2 The principle aim of this policy is to ensure progressive sustainable development of the forests of Assam, to meet the twin objectives of environmental stability and ecological balance together with improved livelihood support system for her people. The Management Paradigm as envisaged in the policy given below:

2.2.1. The mega-biodiversity existence in Assam will be protected and developed with the active involvement of the communities.

2.2.2. Without compromising the basic tenets of forest conservation, the forestry sector will be selectively opened to the people of Assam for income and employment generation.

2.2.3. The Forest cover of Assam will be progressively increased and maintained through scientific sustainable forest management practices giving emphasis on the traditional knowledge and understanding of the ethnic communities of Assam.

3. THE ESSENTIAL OF FOREST MANAGEMENT

3.1 Exciting forest and forest land, including unclassed State Forests and Community Forest would be protected and their productivity improved through latest technological inputs. Forest and vegetal cover would be maintained and where necessary, increased rapidly with open forests being to dense forests, particularly on hills slopes and in catchments areas of rivers and reservoirs.

(Unclassed State Forest means any lands at the disposal of the Government and not included in a reserved or village forests as defined in the Rule made under the provisions of Section 34 (1) of AFR, VII of 1891 vide notification No. 1443-R, dated 20-05-1922)

3.2 The network of national parks, wildlife sanctuaries, conservation reserves, community reserves, biosphere reserves, world heritage sites and other forest areas would be strengthened and extended adequately with the involvement and meaningful participation of communities.

3.2.1 The existing rhino bearing areas and potential rhino habitats would be conserved as glorious heritage of Assam.

3.2.2 The Tigers Reserves would be protected to ensure maintenance of a viable population of tiger in the State for scientific, economic, aesthetic, cultural and ecological values.

3.2.3 To strengthen Elephant Reserves to ensure peaceful co-existence of man and elephant through ecological restoration, scientific and planned management of natural habitat and migratory routes in order to maintain viable population of Wild Asiatic Elephants in the State. It would also be endeavored to promote measures for mitigation of man elephant conflict in crucial areas, strengthening the measures for protection of wild elephants from poachers and unnatural causes of death, set up public awareness and educational programmes and veterinary care.

3.2.4 To conserve all other species of threatened endemic wildlife and their habitats including golden langur, hoolock gibbon, river dolphin, swamp deer, gaur, wild buffalo, pygmy hog, hispid hare, spot-billed pelican, white-bellied heron, greater adjutant stork, white winged wood duck, greater spotted eagle, phallus's fish eagle, swamped francolin, slender billed vulture, blyth's tragopan, purple wood pigeon, rufous-backed hornbill, marsh spotted babbler, jordon's babbler, black -breasted parrot bill, gharial, endangered turtles etc.

3.3 Development of sufficient fodder, fuel and pasture, bamboo, canes and other N.T.F.P. resources in areas adjoining forests, minimise harvesting of forests beyond sustainable limit. Since fuel wood continues to be the predominant source of energy in rural areas afforestation would be intensified with special emphasis on augmenting fuel wood production to meet the requirement of rural people. Fast growing fuel wood production programme has to be initiated in the fringe areas through JFMCs. Similarly alternative source of energy will be identified propagated and practiced.

3.4 N.T.F.Ps including medicinal and aromatic plants provide sustenance to the tribal and other people residing in and around the forests. Such produce would be sustainably managed and production enhanced with the objective of generating employment and income opportunities for the local people.

3.5 Supply of timber and small woods to urban centers from non-forest sources is necessary to reduce pressure on natural forests. Therefore, Agro-forestry, Farm forestry and Non-Farm cultivation of timber trees would be encouraged in the State.

3.6 Trade of bamboo and other N.T.F.Ps including medicinal and aromatic plants such as Agar wood and Patchouli etc. after adequate value addition and development of market facilities would be actively promoted. Surplus raw materials could also be exported after meeting local needs, within the limit of sustainable production.

3.7 Considering the inherent advantage , positive brand image as well as suitability of soil and climatic condition of Assam for commercially profitable Agar wood cultivation-the people of Assam would be given opportunity to grow Agar trees

abundantly and trade/value additions be facilitated by liberalizing and suitably modifying existing rules and procedures.

3.8 Targeting on broad range of goods and services in terms of physical, material, human, social, cultural and environmental assets in conjunction with appropriate entitlement regime, peoples protected area (PPA) envisions a pro-active and people's friendly framework to ensure long term protection and maintenance of biological diversity and providing at the same time a sustainable flow of natural products and services to meet local community needs. Therefore, a network of PPA would be established as people's pool of assets for strengthening livelihood security of forest dwellers.

4. STRATEGY

4.1 The national goal is to have a minimum of one-third total geographical area of the country under forest or tree cover. In Assam, the total forest cover is 27,714 Sq. Km, which is 35.33% of the total geographical area of the State. The emphasis is to be laid on the consolidation and preservation of the existing forest cover and increase their productivity.

4.1.1 Existing forest cover would be maintained and enriched (open forest would be resorted back to dense forest) consistent with the developmental needs of the State.

4.1.2 Enrichment plantations in open forests and protection of natural regeneration through Forest Development Agencies, which are confederation of Joint Forest Management Committees and Eco-Development Committees in respective Forest Division.

4.2 Management of State, Autonomous Council, Community and Private forests

4.2.1 The activities which interfere with forests that clothe steep slopes, river catchments, reservoirs and geologically unstable areas would be restricted. Tropical wet and moist forests would be cautiously and sustainable managed consistent with their role in preserving the biodiversity and hydrological cycle and meeting the livelihood needs of the people of the State.

4.2.2 No forest would be permitted to be worked without a duly approved working/ management plan which should be in a prescribed format and in keeping with National Forest Policy/ North East Forest Policy/ State Forest Policy on the principle of sustainable forest management. The effects of forest management on forests would be periodically measured with the help of set criteria's and indicators (C & I). The State would issue necessary guidelines to put in place a monitoring mechanism to regulate compliance of management/working plan prescriptions.

4.2.3 In order to meet the growing need of people for essential goods and services that the forest provide, it is necessary to enhance the forest cover in forest deficient districts and enrich the bio-diversity of the existing forests through appropriate scientific and technical inputs.

4.2.4 No exotic species would be introduced through public or private source; unless long term scientific trials undertaken by specialists in ecology, forestry, sociology and agriculture have established that they are suitable and would have no adverse impact on indigenous vegetation, ecology and bio-cultural environment of the State.

4.2.5 Joint Forest Management (J.F.M.) practices would form the basis of forest management in the State. Necessary provisions would be made in the Working Plans/ Management Plans for participation of forest fringe dwellers.

The abundant potential of people living in rural and forests areas would be tapped for sound participatory forest management. Efforts would be made to facilitate assistance from financial institutions to the forest dwellers engaged in forest based economic activities for furthering for mitigating their plight to the extent possible.

4.2.6 There is an increasing emphasis on greater stake of communities in forest management and benefit sharing. Joint Forest Management has to graduate to Community Forest Management (C.F.M.) aiming at Sustainable Forest Management (S.F.M.). The Forest Department shall initiate steps to upgrade the JFM Cell to SFM Cell.

4.2.7 The Autonomous Council Forests and the forest areas owned by community and private individuals shall also be managed under the same policy as laid down above for the State Forests.

Forests in the area covered by the Sixth Schedule of the Constitution namely, Karbi Anglong Autonomous Council, North Cachar Hills Autonomous Council and Bodoland Territorial Council (hereinafter mentioned as Councils) are located in geographically, geomorphologically and ecologically fragile and sensitive areas and provide a back drop to the plains of the Brahmaputra and Barak Valleys. Viewed in this context, management of forest areas in these areas attracts considerable significance.

It shall be the endeavour of the State Government to seek co-operation and involvement of the Council authorities is framing measures to avert any possible and anticipated adverse impact on -

(a) The vulnerable areas in the plains of the Brahmaputra and Barak Valleys prone to inundation and other natural calamities;

(b) Generation of adverse market forces due to incompatible market prices vis-a-vis royalty rates;

(c) Large scale diversion of forest areas for non-forestry purposes.

Emphasis needs to be laid on enrichment of the total forest areas to maximize the benefits as acquired from large compact forest against the demerits of fragmented forest areas including conservation of bio-diversity both flora and fauna of the region as a whole, without infringement or curtailment of rights and legal status vested upon the Councils by the Constitution.

4.3 Forest Protection

Forests being an open access resource are vulnerable to various kind of pressures, like (a) encroachment; (b) illicit felling and smuggling of timber; (c) fire; (d) grazing, (e) shifting cultivations etc.

4.3.1 Encroachment

Encroachment is one of the main causes of depletion of valuable forests in Assam. The encroachment of forest land is mainly for the following reasons:

- Rehabilitation of flood and erosion affected people in the forest land for settlement in the past as well as aggressive and organized group encroachment under compulsion of such vagaries.

- Heavy biotic pressures on the Reserved Forests due to high growth rate in population.

- Inter-state boundary disputes with the neighbouring States, like Nagaland, Mizoram, Meghalaya, Arunachal Pradesh.

4.3.1.1 Government of Assam shall endeavor to identify pre-1980 encroachers who were allowed to enter the forest area by any competent authority, with a view to finding a solution to their land related problems.

4.3.1.2. The encroachers who belong to the ethnic communities of Assam and who have traditionally and characteristically dependent on the forests would be motivated to join the forest protection activities as economic stakeholders. Providing sustainable livelihood support to the people who live in the fringe villages would be a major thrust activity of the forest department so that fringe villagers would work as real protectors of forests.

4.3.1.3 Action Plan would be formulated for demarcation and consolidation of reserved forest boundaries by permanent measures.

4.3.1.4 These areas would be treated as People's Protected Area (PPA) inside forests where the settlers create community assets of forest along with the services require for their livelihood. These PPAs shall act as people's pool of asset for strengthening livelihood security of forest dwellers.

4.3.1.5 The Government of Assam in Forest Department shall also take necessary steps to convert the Forest Villages to Revenue Villages as per the guidelines of the Ministry of Environment and Forests, Government of India.

4.3.2. Illicit felling of trees in forest and smuggling of timber

4.3.2.1 The Forest Department with involvement of people would endeavour to meet the basic demands of people from the factory sector by providing legal and bonafide avenues so that illegalities do not thrive.

Protection mechanism would be strengthened by involving local people through village level Joint Forest Management Committees. These Committees would be empowered and provide special incentives to prevent forest offences.

4.3.2.2. Forest officers would be well equipped to prevent/ detect/ investigate forest offences with all logistic support.

4.3.2.3. For tackling the crimes and criminals of forest offences, forest officers would be provided with adequate legal powers.

4.3.2.4 The Assam Forest Protection Force (AFPF), would be modernized with proper training and arms.

4.3.2.5. Steps would be taken for establishment of Special Courts at the district level for quick disposal of forest offence cases. The proposal for establishment of Green Bench in Gauhati High Court would also be pursued for swifter and judicious disposal of environment related cases.

4.3.3. Forest Fire

The incidence of forest fire in the State of Assam is not so much pronounced but the same do cause considerable damage in plantation and regeneration areas. Special precautions would be taken during the fire season. Improved and modern management practices would be adopted to deal with the forest fires. Community association in fire management will be strengthened.

4.3.3.1. The grassland management technique by artificial firing as practiced inside the Wild life Protected Areas such as Kaziranga would be scientifically appraised for protection of flora and faunal diversity.

4.3.4 Illegal grazing in forests

Grazing in forest areas would be regulated by raising awareness in the communities and with their active involvement. Special conservation areas, young plantations and regeneration areas would be fully protected. Grazing and browsing in forest areas need to be controlled. Adequate grazing regulation would be enacted to meet the genuine needs of the people while at the same time discouraging people in forest areas from maintaining large herds of under productive livestock.

4.3.5 Shifting cultivation

One of the difficult problems in the gamut of shifting cultivation is to move the *'Jhumias'* away from this age old tradition recognizing the fact that Jhuming is an emotional heritage mainly with the Hill Tribes.

The integrated Area Development Programme (IADP) with due reagard to local tradition and culture will be the mainstay in tackling the problem related to jhumming. This programme would aim at -

1. Raising awareness among the communities about the benefits of more sedentary land use systems.

2 Forest Development Works generating sustained employment -

i. Containing jhumming through short term and long term project implementations and their constant and continuous monitoring, facilitating re-orientation and improvement of the initial project parameters to suit the local requirements.

ii. Rehabilitation of shifting cultivation sites through innovative community based reafforestation in forest areas. Agro-forestry schemes with a significant input of horticulture and specifically approved cash crop cultivation on gentle slopes would be introduced on affected community lands. The Nodal agency would be the Forest Department to ensure primary rehabilitation and conservation.

4.4 Right and concessions

4.4.1 Rights and concessions including grazing should always remain related to the carrying capacity of the forests. The capacity itself would be optimized by

increased investment, silvicultural research and appropriate interventions. Stall feeding of cattle would be encouraged. The requirements of the community, which cannot be fulfilled by the rights and concessions so determined, would be met by development of Social Forestry outside the reserved forests.

The holders of customary rights and concessions in forest areas would be motivated to associate themselves with the protection and development of forests from which they derive benefits. The rights and concessions from forests would primarily be for the bonafide use of the communities living within and around forest areas, especially, the tribals, scheduled caste and other indigenous communities.

4.5 Management of Bamboo and Canes

4.5.1 Bamboo being a multipurpose, eco-friendly crop abundantly available, yet an under-utilized natural resource, needs to be managed and exploited for sustainable use. Bamboo is conceived as the thrust area in the industrial development of Assam and for economic and ecological security of people. This precious resource needs to be fully tapped as an industrial raw material, as substitute for wood in rural/urban housing, engineering works, handicrafts, furniture through appropriate value addition aimed at meeting national and international markets. Undoubtedly bamboo can revolutionalise the economy of the State ensuring employment opportunities to a large number of people, Extension and awareness about bamboo sector development will be given renewed thrust.

4.5.2 Conversion of bamboo diversity, germplasm, sustainable management and use of dedicated bamboo forest and promoting bamboo cultivation in homesteads are the key thrust areas of Bamboo Policy of Assam.

4.5.3 To enhance the productivity in bamboo sector, improved planting stock would be developed through application and extension of modern techniques both within the Forest Department and to the communities.

4.5.4 Forward and backward linkages between bamboo growers and bamboo enterprise, industry and craft centers should be established to boost bamboo trade, industry and marketing within and outside the State.

4.5.5 Harvesting of bamboo for paper mills would be properly monitored and silvicultural practices would be strictly followed. Such industries would be asked to procure atleast half of their requirement from village communities, which will encourage them to grow more bamboo and also help their economic upliftment. For all industrial use, the pricing would be done judiciously.

4.5.6 Appropriate interventions and association with NGOs working in the sector for introducing modern technology catering to the current market requirements and imparting necessary training to the local people of the State for optimum utilization of the returns from this invaluable resource of Assam.

4.5.7 Canes are now in a very dwindling state in Assam because of large scale conversion of cane bearing areas or cane brakes to paddy fields both in and outside the forest. The most important species of cane (rattans) available in Assam are- *(1)* Jati/Hill Jati (*Calamus tenuis*); (2) Tita/Rangi (*Calamus leptospadix*); (3) Raidang (*Calamus flagellum*); (4) Oyahing; (5) Lejai (*Calamus floribundus*); (6) Jeng (*Calamus erectus*); (7) Golla (*Daemonorops jenkinsiana*); (8) Huka (*Calamus latifolius*); (9) Sundi (*Calamus guruba*).

4.5.8 Joint Forest Management Committees are to be involved in propagation and expansion of cane plantations in suitable areas with proper value addition and market linkages. Canes would be transformed as the most important raw materials for the cottage industries specialized in handicraft and furniture.

4.6 Agar wood Plantation

Sanchi plant or Agaru or Agar wood is one of the precious gifts of nature to Assam being deeply associated with the cultural heritage of our state since ancient times. The soil and climate conditions of Assam are most suited for large scale Agar wood plantation. The Agar wood oil of Assam enjoys an international Brand Equity. As every state or region must have a mission for socio-economic development of the people utilizing potential resources, Agar wood or *Aquilaria agollocha* Roxb, has been identified as the most potential species of wood which can generate large scale income and employment for the people of Assam.

4.6.1 The Government would take measures for in-situ and ex-situ conservation and development of Agar wood as a cash crop for large scale cultivation (plantation) by the people.

4.6.2 As Agarwood grows abundantly and regeneration of this plant in Assam is very easy because of suitable climate and soil conditions, the restrictions put by various fora describing Agar wood as one of the endangered species need to be reviewed. The Government shall take measures to create conducive atmosphere for cultivation and utilization of Agar tree followed by trade of agar oil/derivatives by reviewing existing provisions with appropriate authorities so that optimum returns are forth-corning to the people of Assam.

4.7 Non Timber Forest Products (NTFP)

4.7.1 Rich flora of Assam yields various NTFPs, a list of which is at Appendix –I. Endeavour shall be made to conserve and increase productivity of forest with

regard to this NTFPs. Screening of Non-Conventional NTFP shall be carried out.

4.7.2 Government of Assam shall enact suitable policies endowing ownership rights of Minor Forest Produce to the JFMCs taking the following points into consideration:

Minor Forest Produce (MFP), now more appropriately rephrased as Non Timber Forest Produce (NTFP) covers species which can be harvested on non-destructive basis and shall not include minerals and wild animals or their derivatives.

Protected Areas, Biosphere Reserves and the refractory areas in high hills would not be used for harvesting NTFP as it would contravene the provisions of the Wildlife (Protection) Act, 1972.

Rights of ownership of NTFPs, to JFMCs may be exercised in a regulated manner with advice of Forest Department so that germplasm is not subjected to irreparable damage and the usufructs are available on a sustainable basis. JFMCs especially the women would be encouraged to take up cultivation of selected NTFPs for commercial use, leaving the resource base in the Reserve Forests intact for conservation purposes.

4.7.3 Since the time, people realized the preventive and curative properties of the invaluable medicinal plants; they started using them for their health care. In view of the richness of medicinal and herbal plants in the State, a mechanism shall be developed for in- situ and ex-situ conservation, domestication and sustainable harvesting with active association of local people including traditional healers and local *Bej/Baidyas* to give due importance to the traditional systems of medicine of Assam. The socio-cultural, spiritual and medicinal areas of local populace, particularly the tribal would form the backbone of community based conservation and utilization of medicinal and herbal plants.

4.8 Bio-diversity Conservation Strategy

4.8.1 Status of Bio-diversity in Assam

Plant Diversity

The State of Assam represents the transition zone between the India, Indo-Malayan and indo-Chinese biogeographical region. It is, therefore, considered as one of the most biologically diverse areas in the whole of South Asia. The vegetation of Assam is primarily of tropical type covering areas of evergreen, semi-evergreen, deciduous forests and grasslands. There are 3,017 species of flowering plants, a good

number of medicinal plants including several rare, endangered and endemic species. The state is also rich in Bamboo and Cane diversity has 10 genera and 42 species of bamboo and 14 species of cane. About 192 species of orchids are distributed in the plains and hilly areas of the state. A large part of Assam is covered by wetlands rich in both flowering and non-flowering plants. As many as 102 species belonging to 75 genera are considered to be endemic.

Animal Diversity

In Assam, the forests are extremely rich and diverse with wide varieties of primates, carnivores, herbivores and birds. About 190 species of mammals and more than 800 species and subspecies of birds are so far reported from Assam. The wildlife areas of the state house nearly 44 types of endangered and rare species of mammals and 14 types of reptiles and amphibia. Altogether around 230 forms of mammals including species and sub species have been recorded so far from Assam. There are 9 species of primates in Assam, which also includes the only ape of India, the Hoolock gibbon (Hylobates hoolock). As many as 8 cat species are found in the state. Moreover, Assam holds the entire known world population of Pygmy hog (*Sus salvanius*), 75% of the world population of the Indian rhinoceros (*Rhinoceros unicornis*) and wild Water buffalo (*Bubalus bubalis*) and a sizeable population of Asian elephant (*Elephus maximus*) and tigers (*Panthera tigris*).

Diversified habitats and various ecological associations have sigificantly enriched the avian diversity in Assam with more than 800 avian species. The State represents 53.5% of total bird species of Indian sub-continent. The White Winged Wood Duck (*Cairina sculalata*) and Bengal florican (*Eupodotis bengalensis*) are two of the noteworthy endangered species.

Reptiles constitute an important vertebrate group. Assam with its varying topography and habitat types supports a species rich reptilian fauna. Members of three living orders, namely, Crocodylia (Crocodiles & Gharials), Chelonia (Turtles & Tortoises) and Squamata (Snakes and Lizards) are found in the state. The records of reptilian resource of Assam show the presence of 2 species of crocodylia, 19 species of Chelonia and 77 species of Squamatas. Assam has diverse amphibian fauna too, so far 185 species belonging to 98 genera under 34 families being recorded. This group has 33 representatives endemic to the region - 25 species of fish have been identified as threatened.

The fresh water molluscs constitute an important part of the ecosystem. In Assam, 10 species of fresh water snails are used as food by different tribal communities. The family Thiariadae has the highest number (10) of species but the family Planordidae, Archatinidae, Bithyniidae, Cyclophoridae, Ariophantidae and Unionidae have the lowest number *(1)* of species.

In India about 1,500 species of butterflies have been identified so far and amongst these about 50% species are reported from Assam.

The cultivated land of Assam harbors large varieties of useful microbes. The nitrogen-fixing bacteria and blue-green algae are abundant in the soils of the State.

4.8.2 The activities related to management of Bio-diversity shall have the three basic goals-

(a) Conservation of bio-diversity.
(b) Sustainable use of biological resources and
(c) Equity in conservation and use.

Protection, conservation and management of bio diversity shall also aim at both (a) ecological security and (b) livelihood security.

(a) Ecological security refers to the maintenance of the diversity of eco-systems and habitats; the activity of species/sub-species/ varieties, population and communities; the interaction between species, population, communities and their habitats and ecosystems; their integrity including biological productivity of eco-system and taxa; the evolutionary potential of natural system and critical eco-system service.

The policy of the state is to make and promote efforts for protection, conservation and management of bio-diversity through maintenance of critical eco-system including Ecologically Sensitive Areas (E.S.As), Ramsar Sites, Heritage Sites, Biosphere Reserves, Medicinal Plants Conservation Area, Gene Conservation Centre etc.

(b) Livelihood security refers to the security of human communities and individuals critically dependent on biological resources including guaranteed access to and control over such biological resources and related knowledge.

(c) The status of forests with regards to its ecological functions and role in livelihood security of the people would be monitored and evaluated.

4.8.3 <u>Wildlife Conservation</u>

4.8.3.1 Protected Area Network (P.A.N) including National Parks, Wildlife Sanctuaries, Conservation Reserves and Community Reserves would be enlarged to atleast 5 percent of the geographical area of the State. Special management plans will be drawn up for protection and habitat restoration.

4.8.3.2 Wetlands being the areas supporting highest level of biodiversity would be identified and brought under P.A.N. prescribing efficient management plans.

The wetlands which are under heavy human use and at the same time very important for biodiversity and which could be included in P.A.N will be covered by a separate agency, which may be called as the "Wetland Development Agency".

4.8.3.3 State would persistently strive to improve the status of wildlife by augmenting vigilance mechanism both through Government functionaries and cooperation of communities to curb poaching and illegal traffic of wildlife and wildlife products.

4.8.3.4 Action Plan for protection and management of wildlife in multiple use areas shall be drawn up. NGOs, National and State Institutes will be called upon to associate in the sphere of wildlife education, interpretation and generation of public support for ensuring better protection and management of protected areas.

4.8.3.5 Action plan for identification, classification and listing of endangered and threatened species of plants and animals will be drawn up with an aim for their rehabilitation, development and preservation. Herbarium may be established at suitable sites for taxonomic studies

4.8.3.6 Research and monitoring activities would be geared up to keep pace with global efforts to meet site specific requirements of wildlife management. High priority to ethno-biological research involving plants and animals as well as their derivatives would be ensured and endeavour would be made for identification of useful species.

4.8.3.7 Studies on ecological risks in the important wildlife habitat including the PAs shall be made mandatory after a period of 3-5 years. Knowledge of the ecological sensitivity of the habitats can save resources or accelerate the expenditure of the limited resources towards critical areas.

4.8.3.8 Eco-development works will be encouraged around the protected areas to reduce dependency of the people on forests and forest products and generate a friendly attitude among the communities on appreciation of the need for preservation, protection and conservation of the protected areas in general and the flora and fauna in particular.

4.8.3.9 Man-animal conflict resolution mechanism will be evolved through innovative preventive measures, education, more effective compensation schemes, insurance schemes and so on.

4.8.3.10 Ensuring viability of small sized protected areas through compatible buffer zones and dispersal corridors. This would call for adjustment in forestry

operations to take care of the bio-diversity. Man-animal conflicts shall be resolved through appropriate measures in the tension zones.

4.8.3.11 The State Government shall also give importance to establishment of wildlife rehabilitation centre for temporarily disadvantaged wildlife saved by people.

4.8.4 Bio-cultural Diversity Conservation

The diverse ethnic groups of Assam have mosaic of traditions and culture, which are intrinsically associated with the biological diversity of the state. To protect and promote the bio-cultural diversity of the State, Government of Assam has declared the famous One Horned Rhino as the 'State animal', extremely rare White Winged Wood Duck as the `State Bird', magnificent Hollong tree as the 'State Tree' and the beautiful Kopouphool, an orchid as the 'State Flower'. The Government shall further endeavour to encourage preservation of bio-cultural diversity of the State.

This diversity shall be preserved through action as under –

I. Intensification of survey and inventorisation of bio-cultural resources of the various parts of the State will be carried out. The survey will include information on the distribution pattern of various species/population/community and the status of ethno-biologically important groups.

II. Legal and administrative measures shall be taken for the protection of the State's bio-cultural diversity against bio-piracy and/or sustainable use of plants and animal genetic resources. Intellectual property rights (I.P.R) of the people of the State, specially the tribal shall be well guarded. Domesticated species/ varieties of plants and animals shall be conserved as an integral part of the State's rich genetic diversity.

III. The various ethnic groups of the State, having rich cultural tradition and practices, living in the fringes of the forests and their age-old relationship with the forests shall be studied and strengthened to be used as a tool for conservation and preservation of the forests for the benefit of the indigenous people.

IV. The Traditional Knowledge (TK) and the Traditional Ecological Knowledge (TEK) systems shall be studied, documented and acknowledged, in conformity with India's commitment to the Convention on Biological Diversity.

4.8.4.1 Silvi-Muga Culture

In Assamese culture, muga is intrinsically associated with our dresses and costumes. Muga occupies a respectable birth in famous Bihu song "*Atikoi Seneher Mugare Muhura*". Production of muga (sericulture) is practiced on host trees like *Som, Hoanlo, Mejankari* etc. These tree species shall be promoted for plantation in

homesteads, wasteland to give a boost to muga production, silvi-muga culture-proving a boon to the Joint Forest Management Programme.

4.8.4.2 In-vitro and ex-situ propagation of orchids for commercial exploitation

"*Bohag*", the first month of the Assamese calendar brings thrill the Assamese folk, particularly the women. This is the season for "*Kapou Phool*", an orchid (*Rhyncostylus retusa*) declared the State flower by Government of Assam. Orchids are the most beautiful and wondrous among the flowering plants of the world and have the potential of forming the basis of a lucrative industry in international markets. Orchids occur in diverse agro-climatic conditions in Assam indicating the potential of growing wide variety of orchids on a commercial basis through intervention from biotechnology. The strategy for conservation and propagation of orchids includes:

(a) A pilot project for Agro-technological development from lab to field for orchid and other cut flower production in Assam is to be established.

(b) To use the Agro-technological development park for generation of data with enormous practical and scientific utility to enhance the knowledge with regard to orchids particularly the threatened and high valued species.

(c) Development and demonstration of commercial exploitation to interested groups to contribute towards socio-economic development.

(d) Dissemination of information on orchids to bring awareness among people regarding importance of orchids in commerce in the national and international market.

(e) Transfer of technology for ex-situ conservation through cultivation of orchids by entrepreneurs.

(f) Development of gene bank for endangered species found in this part of the country.

4.9 Afforestation, Social Forestry and Farm Forestry

4.9.1 A massive need based and time bound programme of afforestation and tree planting with particular emphasis on small timber, fuel-wood and fodder development would be initiated on all degraded and denuded lands in the State, whether forest or non-forest land.

4.9.2 The Eco-Task Force is envisaged to be-constituted under the Territorial Army Act, 1984 assisted by the local unemployed youth would be most suited for carrying out the massive afforestation work for re-greening the fragile *Bhabar* tract at the foot hills of Himalayas under hostile condition.

4.9.3 To encourage planting of trees along sides of roads, embankments, railway lines, rivers, streams, canals and other fallow lands under State/ Corporate, Institutional or private ownership. Green belts would be raised in urban/ industrial areas to check pollution and improve the micro-climate with the assistance of NGOs, private, educational institutions and corporate sector.

4.9.4 Village and community lands or any other such lands not required for other productive uses, would be taken up for development of tree crops and fodder resources. Technical guidance necessary for initiating such programmes would be provided. The revenue generated through such programmes shall be deposited to the respective JFMCs, where the lands are vested in them; in all other cases, such revenue would be shared with the local communities in order to provide an incentive to them. The vesting, in individuals, particularly from the weaker sections (e.g. landless labour, small and marginal farmers, schedule castes, schedule tribes and women) in general, certain ownership rights over trees in these areas, would be considered subject to appropriate regulation, beneficiaries being entitled to usufruct and in turn be responsible for their protection and maintenance.

4.9.5 Land laws and the pricing structure of forest products would be so modified and standardized so as to facilitate and motivate individuals and institutions to undertake tree-farming and growing of fodder plants, grasses, legumes and fuel wood on their own land. Wherever possible, degraded lands would be made available for the purpose to JFMCs in terms of usufruct benefits, so as to make each Committee self reliant.

4.9.6 Laws relating to harvesting of trees from private lands would be reviewed with a view to encourage the growers to undertake such plantations with more zeal.

4.9.7 Suitable market linkages shall be developed for disposal of the non-wood forest products (NWFPs) at remunerative prices, which would act as an incentive to tribal and other rural folk in taking positive interest in growing such crops.

4.10. Production of Biomass

For the vast majority of the people in the State, the foremost need is fuel wood, timber, fodder and fibre. The issue of enhanced production and sustainable resource utilization would therefore be prioritized to meet the needs of the rural people.

4.10.1 The microplans dovetailed with working plan prescriptions would guide the production of the biomass. Fuel-wood plantations and agro forestry would be encouraged on community lands. Necessary steps to promote efficient conversion and utilization of timber would be promoted for maximization of resources use.

4.10.2 Promotion of alternative sources of domestic energy would be taken up to reduce pressure on the forests. Use of non-conventional sources of energy would also be encouraged in a big way.

4.11 Wood based industry

In accordance with the directives of the Hon'ble Supreme Court of India, the Government of Assam would like to work for a perfect equilibrium between conservation and developmental activities. Following a scientific sustainable Forest Management Model, the Government of Assam would also like to encourage wood based industries wherever possible. Establishment of forest based industries and supply of raw materials would be as follows:

4.11.1 All wood based industries would be located within approved industrial estates.

4.11.2 The wood based industries would be encouraged to raise their own captive plantations or alternately try to procure raw materials from JFM community forests or private platations.

4.11.3 Government would encourage import of wood for the wood based industries with suitable fiscal incentives.

4.11.4 Forest based industries would be encouraged to raise their own plantations for the raw materials needed for meeting their requirements or support individuals/communities to grow the raw materials with inputs including credit, technical advice, harvesting and transport services. Farmers, particularly, small and marginal farmers would be motivated to grow on marginal/degraded land available with them, wood species required for industries. The industries would undertake purchase of the outturn after a fixed number of years at a minimum prefixed price capable of attracting growers.

4.11.5 The prescribed annual harvest from the State Forests as per the microplan and Working Plan/ Management Plan prescription shall first serve the bonafide domestic requirements of the fringe dwellers. The surplus only shall be made available to the industry.

4.11.6 Forest based industries must not only provide employment to the local people on priority but also involve them fully in raising trees and raw materials.

4.12 Eco-Tourism

Creating conducive atmosphere and facilitate for development of Eco- Tourism in the state is considered a major thrust of the new forest policy of Assam. Ecotourism that utilizes the forest scenic spots as well as the opportunities provided by the

Protected Areas for wildlife viewing are to be seen as a community based conservation activity. This activity would in addition be promoted as a revenue generating mechanism to benefit the rural communities through their active involvement along with employment opportunities in various sectors, like tour operator, guide, hotel and restaurant, boating sites, bio-mass based crafts and enterprises etc.

4.12.1 Consistent with the National Eco-Tourism Policy and Guidelines (1998), the National Policy for Tourism, 2002 and the National Wildlife Action Plan (2002-2016), the following steps will be taken on priority for development of Eco-Tourism in the State:

1. Set up an Assam State Ecotourism Board/Authority/ Corporation that will plan, regulate, and fund tourism activities in different parts of the state especially in Protected Areas and Scenic spots in Reserve Forests and outside.

2. Develop tourism management plan in Protected Areas in the State.

3. Put in place the stringent standards of waste disposal, energy and water consumption, construction plans and materials used therein.

4. Develop impact assessment techniques and standards to evaluate negative impacts of tourism on soil, water resources, vegetation, animal life, sanitation or waste disposal, and cultural environment.

5. Conduct orientation programme for tour operators and take up study of carrying capacity for most visited PAs.

4.12.2 Forest Development Agencies (FDAs) constituted in Wildlife areas, which is the confederation of Eco-Development Committees would be the implementing agency with State Tourism Development Corporation/ Tourism Department/Forest Department of the state assuring supportive and supervisory roles.

4.12.3 The Forest Department would expand and revamp its own facilities for the development of Eco-Tourism all over Assam.

4.13 Marketing, Supply and Utilization of Forest Produces

The State Government would make all endeavours to utilize the forest produces efficiently and extract maximum economic return from the forest produces in the form of income to the stake holders and revenue to the State Exchequer. The State shall take appropriate measures for procurement, marketing and supply of forest produces to serve the social obligation.

4.13.1 Marketing and Supply of Timber from State Forests

(a) The State Government shall arrange for proper marketing and supply of timber to achieve maximum economic return from the available resources. The existing administrative setup of the Assam Forest Department shall be re-organized constituting a full-fledged Marketing Wing upgrading the office of the Forest Utilization Officer of the state. The Forest Department shall evolve such measures as to make the marketing of forest produce simpler and hassle free. The Marketing Wing would in addition, also study and establish linkages for the important N.T.F.Ps. for increasing the association of and benefits accruing to the JFMC and its members.

(b) The Government shall promote education and training to the farmers, tribal and others involved in the growing of forest species on value -addition of timber and non timber products, use by various industries, market price, market preference, etc. and shall forecast the minimum prices of the forest products in the market analyzing its supply and demand scenario.

4.13.2 Marketing of wood from Agro Forestry and Commercial Plantations

(a) The Assam Forest Department shall promote education to the farmers on use of timber by various industries, market prices, various sizes of timbers preferred by users, value addition by proper processing and treatment, etc. These efforts would include use of Radio and T.V. and other media on a large scale as is done for agricultural crops. Whenever possible, the Government shall make reliable forecasts of minimum wood price available to the farmers.

(b) The Government in order to check the slump in the market shall encourage commercial and industrial enterprises to offer a minimum support or guaranteed price for the wood produced by farmers and other tree growers and also take steps so that State owned forests do not complete with farm forestry.

(c) The Government shall encourage the private sector and where appropriate, make arrangement for the public sector entities to make quality-planting materials available to farmers and other tree growers.

4.13.3 Marketing of of Non-Timber Forest Produces (N.T.F.Ps)

(a) The Government shall foster steps to improve the bargaining position of local N.T.F.P. collectors by developing the capacity of JFMCs. These steps would include (a) increasing the knowledge and awareness of prices, quality differentials, purchaser preferences and possible marketing channels (b) increasing value addition to various forest based products and (c)

developing financial and management capacities through training and arrangements to establish revolving funds, etc. Depending on costs and benefits analysis of possible options specific to various sites and products, steps might also include participation of committees and/or co-operatives in NTFP processing and/or marketing.

(b) The Government shall sponsor research to better understand NTFP marketing chains and identify potential reforms affecting competition among market agents and processors, transparency and availability of information, market linkages, value addition (e.g. collection technologies, processing, packaging), consumer demand, contract arrangements, etc. that would increase returns to NTFP collectors, especially those who are participating in forest management. The Government shall also sponsor research to analyze the environmental and economic sustainability of N.T.F.P. supplies, market demands and harvesting levels to make for a sustainable system.

4.13.4 Trade implications and Forest Certification

One of the major implications of Sustainable Forest Management is in terms of International trade. For trade in international market, it would be necessary to certify the products for their origin from sustainability-managed forests. Export items from India basically have rural origin with little or no quality control. Among the major products exported under this category are - Bamboo products, Cane products, handicrafts and N.T.F.Ps. Importers always insists on certification of these products. Thus, forest certification will promote these products and at the same time will also result in higher economic returns.

The State of Assam has advantage of processing a very rich variety of commercially useful medicinal plants and other non-timber forest products. It also has abundant bamboo and other resources and dependant artisans capable of producing exportable items. Most of these are in terms of cottage industries employing thousands of rural people, skilled persons and artisans. With western importers of these products insisting on certification, the State Forest Department shall initiate a Forest Certification Process keeping in view global requirements.

4.13.5 Social obligation of meeting the local demand

The Forest Department shall work out the estimated outturn of timber and forest produces annually from the building permission issued by the Municipal Authority and other local bodies and try to meet the demand of local needs on no loss no profit basis by installing Consumer Depots at District and Sub Division Headquarters.

4.13.6 Wood substitution and preservation

More emphasis shall be given on wood substitution and efficient utilization of wood. In all government construction, use of timber shall be minimized by maximizing wood substitution.

Local entrepreneurs shall be encouraged to set up timber treatment plants for increasing the durability of nondurable timbers to reduce the consumption of traditionally used species.

4.14 Forests and Tribal

The 10th Plan Approach Paper, 2002 of Government of India narrates the unresolved issues in tribal development as below-

"From the view point of policy, it is important to understand that tribal communities are vulnerable not only because they are poor, asset-less and illiterate compared to the general population; often their distinct vulnerability arises from their inability to negotiate and cope with the process of integration with the mainstream economy, society, cultural and political system, from which they were historically protected as the result of their relative isolation. Post independence, the requirement of planned development brought with them the specter of dams, mines, industries and roads on tribal lands. With these came an concomitant process of displacement, both literal and metaphorical - as tribal institutions and practices were forced into uneasy existence with or gave way to market or formal state institutions (most significantly, in the legal sphere), tribal found themselves at a profound disadvantage with respect to the influx of better-equipped outsiders into tribal areas. The repercussions for the already fragile socio economic livelihood base of the tribal were devastating -ranging from loss of livelihoods, land alienation on a vast scale, to hereditary bondage.

As tribal grapple with these tragic consequences, the small clutch of bureaucratic programmes has done little to arrest the precipitous pauperization, exploitation and disintegration of tribal communities. Tribal respond occasionally with anger and assertion, but more often in anomaly and despair, because the following persistent problems have by and large remained unattended to:

- Land alienation and their non restoration
- Indebtedness
- Tribal Forest Rights, Development of Forest Villages and Shifting Cultivators.
- Involuntary displacement due to development projects and lack of proper rehabilitation.
- Rehabilitation of displaced and disabled tribal.
- Survival, protection and development of the Primitive Tribal Groups.
- Effective and meaningful implementation of strategy of Tribal Sub plan.

To tackle the various unresolved problems of the tribal, the Tenth Plan shall formulate a comprehensive National Policy for Empowering Tribal through their integrated development, which will lay down the responsibilities of the different wings of Government with appropriate accountability".

Therefore, the policy of the State emphasizes that while safeguarding the customary rights and interests of tribal and scheduled caste people living within or in vicinity of forests, forestry programmes would pay special attention to the following:

- Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for Forest Management would be to associate the tribal people closely as partners in management, protection, regeneration and development of forests as well as to provide gainful employment to people living in and around forests.

- Protection, regeneration and optimum collection of NTFP along with institutional arrangements for marketing of such produces.

- Such economic activities shall have linkage with State Bio-diversity Action Plan.

- The contractors system of the Forest Department would be replaced by institution such as tribal village councils and other institutions, tribal co-operative, labour co-operative etc. This task is envisaged to be executed through the involvement and empowerment of JFMCs.

- To avoid the exploitation of the tribal, there would be proper market development, fixing of a minimum price for important forest produces and mechanism for dissemination of information.

- Undertaking Integrated Area Development Programmes to meet the needs of tribal economy in and around forest areas including provision of alternatives sources of domestic energy on a subsidized basis to reduce pressure on existing forests.

- Family oriented schemes for improving the status of the tribal beneficiaries, forest villagers in general and tribal and scheduled caste in particular.

- Creation of a Forest Development Agency (FDA) for taking up integrated development of forest resources for alleviation of poverty among the tribal and other people dependant on forests.

The Forest Policy of Assam gives highest priority to the economic emancipation of the ethnic and tribal communities who live in the forest fringe areas and who would be the real protectors of the forests.

4.15 Forest Extension

4.15.1 Forest conservation programmes shall remain a myth without active support and co-operation of the people. It is therefore, essential to inculcate in the people an awareness of the value of the trees, forests and wild life and their contribution towards not only a healthy environment but also towards their poverty alleviation. This may be achieved through involvement of educational institutions, right from the primary stage. Study of forests and environment would be included in school curricula. Teachers would be given orientation training on environmental protection and its impact on social life. Raising of fruit trees and other useful trees by the students on institutional land, their own homestead land and nearby degraded areas would be encouraged. State awards would be declared to felicitate the institutions doing best work in the sphere. Award of credits would be given to the students showing special interest in matters related to forestry and environment. Modalities would be worked out in consultation with the authorities of education department.

4.15.2 Farmers and interested people would be provided opportunities through institutions, like Krishi Vigyan Kendras, Trainers' Training Centres, Gram Sewak Training Centres and Forest Research Institutes to learn agrosilvicultural, Silvi-pastoral and Silvicultural techniques to ensure optimizing the productivity of their land and water resources. Short term extension courses and lectures would be organized to educate farmers and other interested persons.

4.15.3 Publicity and extension activities of the Forest department would be intensified. Suitable programmes would be propagated through mass media, audio-visual aids and extension machinery, which is essential for the purpose.

4.16 Forestry Education

Study of forestry science has been considered as a part of environment study. Government would endeavor recruiting forestry professionals of academic and professional excellence. Government would consider sponsoring larger number of forestry personal for attending specialized and orientation training for developing better management skills.

Institutes of Forestry Education of the State shall be upgraded and strengthened to take up multi-disciplinary short and medium term courses including on the job training in addition to regular programme.

4.17 Forestry Research

With the increasing realization of the importance of forests for environmental health, energy and employment, emphasis is warranted on scientific forestry research

necessitating adequate strengthening of the research base as well as new priority formulation. Some broad priority areas of research and development needing special attention are

- Increasing the productivity of timber and other forest produce per unit area per unit time through modern scientific and technological inputs.
- Re-vegetation of barren/marginal/waste/mined lands and watershed areas.
- Effective conservation and management of existing forest resources (mainly, natural forest eco-systems).
- Research related to social forestry and agroforestry for rural/ tribal development.
- Development of substitutes to replace wood and wood products.
- Research related to wildlife management in parks, sanctuaries, biosphere reserves as well as wildlife outside protected areas. Research priorities are to be identified as system level, community level and species level.
- Discovery of new indigenous species with hitherto unknown utility status.
- Research on marketing N.T.F.P.
- Research on processing and scope of developing cottage industry with N.T.F.P. for marketing value added products.
- Research related to tribal-forest interface including development of site specific viable models of rehabilitation of shifting cultivation lands.

For the above purposes linkage with universities and other institutions would be established.

4.18 Personal Management and Capacity Building

4.18.1 Government policies in personal management for professional Foresters, while aiming at optimum utilization of their professional skill, would endeavour to enhance their status attracting qualified and motivated personal, keeping in view particularly the arduous nature of duties performed, often in remote and inhospitable areas. Posting of officers would be in keeping with their aptitude for specific assignments.

4.18.2 Government policy would be to recruit grass root level forest workers amongst people from rural areas, particularly living in vicinity of forests and not habituated to urban life, as far as practicable.

4.18.3 Service rules would be scrutinized and notified for different categories of forest employees.

4.18.4 Restructuring the Department with well defined duties and responsibilities at each level of the departmental functionaries.

4.19. Application of Information Technology

4.19.1 Development of comprehensive database

The present state of forest information is unsatisfactory in terms of availability, coverage, consistency and reliability.

There is urgent need for improving the forestry information base, with clear definition of scope, sources and acceptable standards of accuracy and efficiency in order to strengthen forestry planning process as well as implementation. A Geographic Information System (G.I.S) Cell will be established to inventorise, update and analyse the states natural resource base, its productivity and related issues. G.I.S. and Global Positioning system (G.P.S) technologies have important applications in forestry. A full fledged G.I.S. Center for rapid adoption of these technologies have important applications in forestry, A full fledged GIS Centre for rapid adoption of these technologies into the planning, implementation and monitoring of forestry plans and schemes would be established. Forest Management Information System needs to be set up simultaneously to optimize human resource development in the Forest Department.

4.19.2 Promotion of Electronic Governance in forestry

Electronic Governance (E-Governance), has assumed importance in all walks of life. Forest administration would be encouraged to maximize the use of e- technology in all its operation, especially that which pertains to public dealings. Forest Department has recognized the power of I.T. to act as catalyst in efficient governance and development of human resources. The policy of the department is to draw detail plan for improving transparency, providing information speedily to all citizens and improving administrative efficiency. Official web sites will be specially dedicated to promote E- Governance for the Assam Forest Department as a whole.

4.20 Legal support and Infrastructure Development

Appropriate legislation would be undertaken supported by adequate infrastructure in order to implement the State Forest Policy effectively. Every effort would be made to frame Rules and Procedures within a reasonable period from the date of policy coming into force for its effective implementation. In addition legal literacy drives would be initiated to increase Knowledge base on environmental issues.

4.21 Diversion of forest land for non - forestry purposes

4.21.1 Forest land or land with tree cover would not be treated merely as a resource readily available to be utilized for various project and programmes but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for non-forestry purposes would be subject to most careful examinations by specialists from the

standpoint of social and environmental costs and benefits. Construction of dams and reservoirs, mining and industrial development and expansion of agriculture would be consistent with the needs for conservation of trees and forests. It would be mandatory for project's which involve such diversion to provide in their investment budget, fund for regeneration/compensatory afforestation.

4.21.2 User agencies who are allowed mining and quarrying in forest areas and in land covered by trees would be required to repair and re-vegetate the area in accordance with the established forestry practices in accordance with the Forest (Conservation) Act, 1980 and its amendments. No mining lease would be granted to any party, private or public, without a proper mine management plan appraised from the environmental angle and enforced by adequate machinery.

4.22 Monitoring and Policy Review

A High Power Committee shall be constituted to monitor the progress of the policy guidelines and to review the policy periodically so that essential policy directives are evolved further from time to time.

4.23 Financial support for forestry

The objectives of this revised policy cannot be achieved without investment of financial and other resources on a substantially higher scale. Considering the contribution of forests in maintaining essential ecological balance, higher level of investment in forestry sector is the crying need of the day. The Government has to strive to channelise the resources from its own diverse sources, central contribution and also from external sources through the Forest Department. Forest would not be looked upon as a source of revenue. Forests are a renewable natural resource. They are an asset to be protected and enhance for the well being of the people of Assam.

Working Plan prescriptions would be backed by financial commitment by the State Government. It must be ensured that a minimum level of funds (atleast 10 % for hills and 5% for plains) from State Plan resources is made available for the development and protection of forests of Assam.

Appendix-I

A Partial List of N.T.E.P & Species available in Assam

(1) Oil yielding plants

(a) Oil from leaves - Citronella grass, Patchouli
(b) Oil from seeds - Sal seed, Nahar seed, Karach Seed, Bhotera seed
(c) Oil from, wood - Agar wood, Sandal wood
(d) Oil from flower - Nahar Flower, Champa flower, Keteki (Keora) flower, etc.
(e) Oil from fruit - Salmogra, Dalmogra
(f) Oil from Rhizome- Gandhi/Gan-Kachu/Ganchena/ Sugandha Mantri

(2) Medicinal Plants

(a) Medicine from leaves - Neem, Vasak, Nayantara, Nephaphu, etc.
(b) Medicine from bark - Ahoi, Arjuna, Ashoka, Chirota, Laham, Kaula. Bhatghila, Amora etc.
(c) Medicines from roots - Sarpagandha, Keturi,Chukchini
(d) Medicines from seeds -Amlokhi, Hilikha, Bhoma Thekera, Makuri kendu, Bel

(3) Resins and Gums

Sal Dhuna, Dhuna, Katera Gum from Odal

(4) Kutch and Katha

(5) Charcoal

(6) Broom grass

(7) Roofing materials: Thatches, Takoupat, Jengupat

(8) Matmaking: Patidoi and Kuhila

(9) Fruit trees: Jamun, Bogori, Thekera, Taportenga, Nagatenga, Miricatenga, Satkora etc.

(10) Species: Dalchini, Pipali

(11) Vegetables: Dhekia, Katchu, Ma-sundari, Hoklati, Manimuni, Khutora, Jilmill, mati-kanduri, Kalmau, Tengechi, Narsinha.

BAMBOO AND CANE POLICY, 2005

I. Preamble

1. Bamboo has played an important part in the lives of the people of Assam, and has been an integral part of the cultural, social and economic traditions of the State. It is a renewable and versatile resource, and an important component of the wealth of Assam. It grows in the natural forests, and is cultivated in homesteads, groves and on private plantations. It is utilized in many ways, for housing, fencing, functional articles, agricultural implements, basketry, and even fuel and food. People possess traditional skills of working with the material, and knowledge of the cultivation and management of Bamboo. Rattan is also an important natural material for the state of Assam. Building on traditional patterns of usage, it has evolved to become the basis for many artisans and craft persons working on cane furniture and craft products for the market.

2. Bamboo is an essential component of forest ecosystem. In the hilly and mountainous areas as well as riverbanks elsewhere it protects the slopes from erosion as an effective soil binder. Bamboo forests are also home to many endangered wild life including a large number of birds. For the Wild Elephants, endangered Hoolock Gibbons, and some other fauna, it forms a major part of their diet.

3. In Assam, even today, by far the most important and visible uses of bamboo are at the household level, in every day lives of people. Bamboo is used extensively for house construction (walls, flooring, roofing, panels and partitions), fencing, agricultural and fishing implements, storage, basketry, household articles and other domestic applications and for economic activities such as cocoon rearing trays in sericulture. Some households also produce for the market - often as independent products for localized markets, making storage and carrying baskets, fishing traps agricultural implements, seed trays, mats and fencing material. Sometimes they function as subcontractors, on a piece rate basis. These activities are not normally carried out as a primary vocation, but supplement household income, especially in the lean season for agricultural activities.

4. In semi-urban areas, another development has taken place, in the form of the emergence of individual entrepreneurs, and clusters of cane and bamboo activity. Such groups of craftsperson and micro-entrepreneurs manufacture an array of products for adjacent and even distant markets. The product range builds on its functional origins, and incorporates decorative and non-traditional productsranging from largely low value bamboo basketry to expensive cane furniture.

5. The overwhelming industrial use is however still for pulp and paper. The paper mills in the State have a capacity of 8,00,000 tonnes per annum, met largely from

Assam, but to a lesser extent from the neighbouring States. Much of the bamboo utilized in these spheres comes from the forests through a system of contracts, leases and departmental operations.

6. Bamboo was extensively used in the construction industry as scaffolding, ladders and supports. This usage is declining, due to the increasing use of substitutes. Similarly, there is a perceptible decline in the use of bamboo for temporary structures in cities- in the tent house, market stall and low cost shelter categories. Bamboo is still, however, a widely used material for rural, low cost and traditional housing. It continues to be preferred because it is relatively cheap, easy to work with, and readily available.

7. The decline in the availability of timber and the emergence of new technologies and product options has spurred interest in the field of wood substitutes and composites. These include boards of diferent types- mat, corrugated, laminated, particle, wafer and chip. Some products provide promising linkages between the organized and unorganized sectors, between household activity and organized industry, for instance resin bonded boards made from hand woven mats. Edible bamboo shoots, processed for the market represent another promising area of economic activity.

8. In recent decades a number of factors have contributed to changing patterns of usage and demand for bamboo and rattan. The forests, traditional repositories of the resources, have come under the pressure of increasing population and encroachment, reduction in notified area, and degradation of biotic quality. Continued extraction of bamboo for pulp and paper to meet the demands of pulp and paper units outside the State, and the establishment of paper mills within the state has increased the industrial demand for bamboo. The reduction of forest cover and the degradation of its biotic quality have placed stresses, in particular, on cane (rattan) resources, which have substantially declined. At the same time, the emergence and growing popularity of synthetic materials- plastics and other engineered material has led to the decline of traditional craft and even skill. This has adversely impacted on the livelihoods of artisans and bamboo workers.

9. Despite this, Assam continues to be relatively well-endowed with resources of bamboo and cane, in particular of bamboo. With a wide range of forest types, the state's area continues to support over thirty species of bamboo, excluding exotics. Most of these species are commercially significant and through new perspectives on cultivation and management are capable of supporting the needs of industrial and value added applications.

10. Recent advances in technology and in product and application, development have brought about a growing realization that bamboo in particular can be the vehicle for value addition, incremental income and employment. It is a material that lends itself easily to simple processing technologies. At the same time it is capable of being used for high end and high value products and applications.

11. The state of Assam is uniquely positioned to take advantage of these advances, to utilize its extensive natural resources, and the legacy of skill and knowledge harboured by its people, to provide for vastly enhanced economic activity, and create opportunities for employment and income.

12. The 'Bamboo and Cane Policy' of the State of Assam is an important step in this direction.

II. The Vision Bamboo

The Government of Assam will encourage, promote and support the development of the bamboo sector in a comprehensive manner, through a multi-disciplinary, multi-departmental and multi-dimensional integrated approach to provide economic benefits to the people of the State

13. The objectives of the policy are to support, facilitate and catalyze:

(a) Development and implementation of a sustainable community based production model for bamboo with concomitant benefits for forest conservation

(b) Development and implementation of an economic development program using bamboo for spurring industrial development

(c) Enhancing employment and income generating opportunities using bamboo and cane as the prime resource

(d) Protection and preservation of ecosystem in the hilly areas, especially protection of slopes and riverbanks, and for sustained productivity.

(e) Conservation of biodiversity, as a large number of endangered species use bamboo forest as habitat and many take it as part of their diet.

(f) All varieties of native bamboo species shall be protected and germplasm preserved.

14. The thrust and application areas for the implementation of this vision will include

(a) Manufacture of value added products and applications, such as wood and plywood substitutes, composite material, charcoal, activated carbon and energy

(b) Housing and constructional applications involving the use of bamboo and bamboo composite material, in the field of low cost and mass housing and earthquake resistant construction

(c) Processed edible bamboo shoot

(d) Craft, and small enterprises

(e) Resource development within and outside forest areas including regeneration and conservation

(f) Capacity building in technical institutions, universities and colleges, to support the intensification and deepening of bamboo based activity

(g) Skill upgradation and training

(h) Dissemination of techn ical and sectoral knowledge and creation of awareness, about the potential offered by bamboo and the related economic opportunities.

(i) Market analysis and support

III. The raw material front

The Government of Assam shall endeavour to enhance the availability and quality of bamboo, and provide a facilitating and enabling environment for the cultivation, extraction and movement of bamboo to industries, craft groups and other users

15. The Government of Assam shall

(a) Review the access and regulatory regime for the cultivation, harvesting and movement of bamboo, including the system of transit permits, and the felling and extraction rules in forest areas, taking into account the fact that it is a grass and a renewable resource, and the need to develop and promote its usage, in particular for value added applications.

(b) Take steps to improve the quality, productivity and outturn of bamboo from forest areas through development of plant material capabilities, adoption of intensive management and input approaches, scientific management of forest based bamboo resources, systematic and block plantation of commercially significant species and improved harvesting and post harvest practices.

(c) Encourage non-Government and entrepreneur based plantation on private land, homesteads, and wasteland through provision of extension services, induction of quality plant material and other forms of support.

(d) Promote the upgradation, acquisition and dissemination of knowledge and practices for the bamboo sector, through involvement of research institutions, universities and colleges, Government agencies, NGOs, communities, users, and link them with national/ international resource agencies and institutions

(e) Take steps to update existing management practices based on end use and to down-stream the same to the communities

(f) Establish Bambusetum atleast at two locations in the State

16. The Government of Assam shall

(a) Review the feasibility and desirability of declaring bamboo as a horticultural crop, to encourage the systematic plantation and management of bamboo resources.

(b) Encourage and support the development of bamboo markets and the developmentof grading systems for raw bamboo.

(c) Develop and encourage maturity marking systems at the cultivator level.

IV. The Vision – Cane (Rattan)

The Government of Assam will promote and support the cane (rattan) sector through a programme of conservation and development of the rattan resources of the States, and through support to the craft and small enterprise users of cane (rattan).

17. The Government of Assam shall encourage value addition in cane (rattan) based handicrafts through improved processing, product diversification, design development and enhanced shelf life.

18. The Government of Assam shall

a. Establish at least two cane (rattan) plantations, to be managed under scientific practices, to enhance the availability of rattan for users over a period of time.

b. Set up a system of gene pool conservation of rattan resources

V. Bringing in Assam's strength- the community and the people

The role of the government in achieving the above objectives would be that of a facilitator and promoter of activities in each of the areas outlined in the approach. The strategic direction and thrust would be provided by the Government while the community and the private sector would be the implementors of the strategy.

19. Bamboo provides subsistance and livelihood security to communities and it is a part of the cultural, social and economic traditions of the State. A community based development approach would be adopted for the sector though active participation and involvement of communities under Joint Forest Management (JFM), under cluster cooperatives of artisans, and other mechanisms. Panchayati Raj Institutions would also be involved in promotion and development of bamboo and cane.

VI. The Market

The Assam Bamboo and Cane Policy is predicated on the adoption of market-led community based development and demand driven approaches

20. The Government of Assam shall

(a) Take effective steps for developing local manufacturing capability to encourage local demand and, in turn, increase the effective demand for raw material, and the returns to cultivators.

(b) Support plantation on priority of commercially significant species of bamboo and rattan.

(c) Involve the community in decision making for resource generation and management, and review state regulatory mechanism that inhibit such people and community centred participation.

(d) Promote market led stimulation of bamboo growing as an economic activity by easing existing regulations relating to trade and movement of bamboo to ensure appropriate income generation to growers and extractors

(e) Provide market linkages, information and support to commercial units based on bamboo and cane products in different applications segments.

VII. Management of bamboo flowering

Immediate steps would be taken to tackle ongoing bamboo flowering of Muli (*Melocanna bambusoides*) in South Assam (Barak valley and Hill districts) and other species in different areas.

21. These steps would include

(a) Covering maximum area under plantation program, preferably with superior bamboo species having industrial usage and applications provided that plantation of superior bamboo species for industrial usage should pe done after examining its possible effect on local species and also other ecological aspects. Introduction of exotic species in large scale should be avoided at any cost. Moreover, natural Muli bamboo areas in the wild should not be disturbed by such plantations. Main thrust areas should be private and homestead plantations, and also some select areas under JFM. Muli profusely grows under natural condition in southern Assam but not in upper Assam or westerm Assam, which itself indicates that it has a major role in the ecosystem in that region

(b) Protection of flowered areas against fire and grazing to ensure establishment of profuse regeneration

(c) Harvesting/removal of flowering culms up to the extent silviculturally available which will reduce fire hazards and will also develop potential for large scale economic usage such as power generation, pulp production and mat weaving etc.

(d) Documentation and cohort mapping of flowered areas

(e) Ex-situ conservation of different cohorts;

(f) Rodent pest management in affected areas of flowering

VIII. Research and Development

The focus of research and development would be to improve existing seedlings & nursery practices, packages of practices and site management practices for different end use applications of bamboo and cane.

22. The Government of Assam shall take steps to promote linkages between research institutions within the state, amongst themselves, and with other such institutions in the country and outside.

23. The Government of Assam shall disseminate information on technologies, products and applications, and set up a Bamboo Technology Park at appropriate locations in the State to facilitate effective lab to land transfer. It shall carry out disseminations of technology through campaigns involving extension activities, media support, exhibitions and a programme of demonstrations.

IX. The implementation mechanism

An Assam Bamboo and Cane Development Agency (ABCD) will be constituted to promote and support the integrated development of the bamboo and cane sector in the State

24. The Assam Bamboo and Cane Development Agency (ABCD) would be constituted by the Government of Assam as an autonomous, professionally managed nonprofit organization. It would be headed by a Chairman with a technical and professional background and experience. The Chairman would be assisted by a small group of subject and technical experts with professional experience relevant to the tasks of the Agency.

25. ln the period before establishment and operationalization of the Agency, a core group would be constituted in the Planning and Development Department, consisting of representatives on deputation from the Industries, Forests and Agriculture Departments, to carry out the tasks to be assigned later to the Agency.

26. A Cane & Bamboo Development Institute (CBDI) would be established in the State, and managed by the ABCD. It will be developed as a demand driven center of excellence for extension and training in bamboo and cane to ensure realization of their economic, social and environmental potential in the State as well as in the North-East. The proposed Institute would ensure networking, transfer, adaptation and dissemination of technology as well as capacity building in related sub-segments of bamboo and cane development. It would also carry out application oriented research in relevant fields.

27. Funding support would be sought from the Government of India, the North-East Council and other bodies for the establishment of the Institute and related activities.

28. The Government of Assam will endeavour to provide funds for the development of the sector through the levy of a cess, set as a proportion of the royalty payable on the extraction of bamboo from forest areas.

29. The resources realized from this cess shall be utilized to support the functioning of the ABCD, the Cane & Bamboo Development Institute, and the creation of a corpus of funds to be managed by the ABCD to support projects in the Government, non-governmental, community and private sectors to develop the bamboo and cane sectors.

30. Projects taken up from resources available in this corpus shall be selected and approved by an Advisory Committee constituted by the ABCD, and consisting of technical personnel.

X. Acts and Rules

31. Existing regulations applicable for Bamboo and Cane (Rattan) development sector would be reviewed and revised, to the extent possible, to suit the objectives and strategies out-lined under the policy.

XI. Monitoring

32. The Assam Cane and Bamboo Policy shall be implemented through appropriate action plans and implementation programmes for each strategic segment to be development by the concerned Department of the State Government

33. A State Level Advisory Committee (SLAC) of the Bamboo and Cane Development would be formed under the Chairmanship of the Chief Secretary. The committee would monitor on a bi-annual basis the progress of action plans and implementation programmes for each strategic segment.

34. The Committee would also ensure that existing regulations applicable for Bamboo and Cane (Rattan) development sector are revised to achieve the objects of the policy.

THE RIGHT TO INFORMATION ACT, 2005

No. 22 OF 2005

[15th June, 2005]

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India has established democratic Republic;

AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Government and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

Now, THEREFORE, it is expedient to provide for furnishing certain information to citizens who desire to have it.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.

(1) This Act may be called the Right to Information Act, 2005.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) The provisions of sub-section *(1)* of section 4, sub-sections *(1)* and *(2)* of section 5, sections 12, 13, 15,16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day* of its enactment.

2. Definitions.

In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly-

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the State Government, the State Government;

(b) Central Information Commission" means the Central Information Commission constituted under sub-section *(1)* of section 12;

(c) "Central Public Information Officer" means the Central Public Information Officer designated under subsection *(I) and* includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

(d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

(e) "competent authority" means-

(i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;

(v) the administrator appointed under article 239 of the Constitution;

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

(g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(h) "public authority" means any authority or body or institution of self-government established or constituted—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any—

(i) body owned, controlled or substantially financed;

(ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

(i) "record" includes—

(a) any document, manuscript and file;

(b) any microfilm, microfiche and facsimile copy of a document;

(c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and

(d) any other material produced by a computer or any other device;

(j) -right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-

(i) inspection of work, documents, records;

(ii) taking notes, extracts or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the thrm of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

(k) “State Information Commission" means the State Information Commission constituted under sub-section *(1)* of section 15.

(l) "State Chief Information Commissioner" and "State Information Commivioner mean the State Chief Information Commissioner and he State Information Commissioner appointed unc1d$ sub-section 15; *(3)* of section

(m) "State Public Information Officer" means the State Public Information Officer designated under subsection *(1)* and includes a State Assistant Public Information Officer designated as such under sub-section section *5; (2)* of

(n) “Third party" means a person other than the citizen mak ng a request for information and includes a public authority.

CHAPTER II

RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

3. Right to information

Subject to the provisions of this Act, all citizens shall have the right to information.

4. Obligations of public authorities

(1) Every public authority shall—

(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

(b) publish within one hundred and twenty days from the enactment of this

Act,—

(i) the particulars of its organisation, functions and duties;

(ii) the powers and duties of its officers and employees;

(iii) The procedure followed in the decision making process, including channels of supervision and accountability.

(iv) the norms set by it for the discharge of its functions;

(v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards; councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such other information as may be prescribed;

and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or quasi-judicial decisions to affected persons.

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause *(b)* of sub-section *(1)* to provide as much information *suo motu* to the public at regular intervals through various means of communications, including intemet, so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purposes of sub-section *(1)*, every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation.-For the purposes of sub-sections (3) and *(4)*, "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the intemet or any other means, including inspection of offices of any public authority.

5. Designation of Public Information Officers

(1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section *(1)*, every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for infbrmation or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section *(1)* of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section *(1)* of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, whose assistance has been sought under sub-section (4), shall

render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

6. Request for obtaining information.

(1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to -

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,—

(i) which is held by another public authority; or

(ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made. shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the tiansfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7. Disposal of request

(1) Subject to the proviso to sub-section *(2)* of section 5 or the proviso to sub-section *(3)* of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request. either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section *(1)*, the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving—

(a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section *(1)*, requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded fbr the purpose of calculating the period of thirty days referred to in that subsection;

(b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printe,d or in any electronic format, the applicant shall, subject to the provisions of sub-section *(6)*, pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (/) of section 6 and sub-sections *(1)* and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of belovv poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section *(5)*, the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in subsection *(1)*.

(7) Before taking any decision under sub-section *(1)*, the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 1.

(8) Where a request has been rejected under sub-section *(1)*, the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,—

(i) the reasons for such rejection;

(ii) the period within which an appeal against such rejection may be preferred; and

(iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8. Exemption from disclosure of information

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided figther that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer

or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section *(1)*, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses *(a), (c)* and *(i)* of sub-section *(1)*, any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

9. Grounds for rejection to access in certain cases.—

Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

10. Severability.—

(1) Where a request for access to informatiOn is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (I), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—

(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;

(c) the name and designation of the person giving the decision;

(d) The details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and

(e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of acceSs provided, including the particulars of the senior officer

specified under sub-section *(1)* of section 19 or the Central Information Commission or the State Information Commission. as the case may be, time limit, process and any other form of access.

11. Third party information.—

(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section *(1)* to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section b, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether poar rntyo.t to disclose the information or record or part thereof and give in writing the notice of his decision to the third

(4) A notice given under sub-section *(3)* shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

12. Constitution of Central Information Commission:

(1) The Central Government shall, by notification in the Official Gazette constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Central Information Commission shall consist of—

(a) the Chief Information Commissioner; and

(b) such number of Central Information Commissioners, not exceeding ten,

as may be deemed necessary.

(3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—

(i) the Prime Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Lok Sabha; and

(iii) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction *and* management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act

(5) The Chief Information Commissioner and information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Central Intimation Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

13. Term of office and conditions of service.

(1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty five years

(2) Every Information Commissioner shall hold office tbr a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;

(b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous serVice rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment

(6) The Central Government shall provide the Chief Information Commissioner and the information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and

the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14. Removal of Chief Information Commissioner or Information Commissioner

(1) Subect to the provision of sub section (3), the Chief Information Commisioner of any Information Commission shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has *been* made to the Supreme Court under sub-section *(1)* until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section *(1)*, the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner

(4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Govemment of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section *(1)*, be deemed to be guilty of misbehaviour.

CHAPTER IV

THE STATE INFORMATION COMMISSION

15. Constitution of State Information Commission.

(1) Every State Government shall, by notification in the Official Gazette,

constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The State Information Commission shall consist of—

(a) The State Chief Information Commissioner, and

(b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Govemor on the recommendation of a committee consisting of—

(i) the Chief Minister, who shall be the Chairperson of the committee;

(ii) the Leader of Opposition in the Legislative Assembly; and

(iii) a Cabinet Minister to be nominated by the Chief Minister.

Erplanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.

(5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

16. Term of office and conditions of service.

(1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner

shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed

17. Removal of State Chief Information Commissioner or State Information Commissioner.

(1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Govemor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference *has* been made to the Supreme Court under sub-section *(1)* until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section *(1)*, the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Govemor, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner

(4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or

agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section *(1)*, be deemed to be guilty of misbehaviour.

CHAPTER V

POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS, APPEAL AND PENALTIES

18. Powers and Functions of Information Commissions

(1) Subject to the provisions of this Act, it shall be, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person, -

(a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding tbe same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section *(1)* of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

(b) who has been refused access to any information requested under this Act;

(c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;

(d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
(b) requiring the discovery and inspection of documents
(c) receiving evidence on affidavit
(d) requisitioning any public record or copies thereof from any court or office;
(e) issuing summons for examination of witnesses or documents; and
(f) any other matter which may be prescribed

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

19. Appeal

(1) Any person who, does not receive a decision within the time specified in sub-section *(1)* or clause*(a)* of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from thereceipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section *(1)* shall lie vvithin ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall

give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section *(1)* or sub-section *(2)* shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause *(b)* of sub-section *(1)* of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

20. Penalties.

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section *(1)* of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading inthrmation or destroyed intbrmation which was the subject of the request or,obstructed in any manner in fumishing the information, it shall impose a penalty of

two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section *(1)* of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in fumishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

CHAPI'ER VI
MISCELLANEOUS

21. Protection of action taken in good faith.—

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

22. Act to have overriding effect.—

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

23. Bar of judisdiction of courts

No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

24. Act not to apply in certain organizations.

(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information fumished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption

and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organization already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament

(4) Nothing contained in this Act shall apply to such intelligence and security organisation being organizations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

25. Monitoring and reporting.

(1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates,—

(a) the number of requests made to each public authority;

(b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;

(c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;

(d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;

(e) the amount of charges collected by each public authority under this Act;

(f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;

(g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section *(1)* to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

(5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

26. Appropriate Government to prepare programmes

(1) The appropriate Government may, to the extent of availability of financial and other resources.—

(a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

(b) encourage public 'authorities to participate in the deN elopment and organisation of programmes referred to in clause *to)* and to undertake such programmes themselves;

(c) promote timely and effective dissemination of accurate information by public authorities about their activities; and

(d) train Central Public Information Officers or State Public Information Officers as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such inthrmation, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section *(2)* at regular intervals which shall, in particular and without prejudice to the generality of sub-section *(2),* include—

(a) the objects of this Act;

(b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be. of every public authority appointed under sub-section *(1)* of section 5;

(c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;

(d) the assistance available from and the duties of the Central Public Information Officer or State Public information Officer, as the case may be, of a public authority under this Act;

(e) the assistance available from the Central Information Commission or State Information Commission, as the case may be:

(f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;

(g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;

(h) the notices regarding fees to be paid in relation to requests for access to an information; and

(i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

27. Power to make rules by appropriate Govemment

(1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions 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) The cost of the medium or print cost price of the materials to be disseminated under sub-section *(4)* of section 4.

(b) the the payable under sub-section *(1)* of section 6;

(c) the fee payable under sub-sections *(1)* and *(5)* of section 7;

(d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section *(6)* of section 13 and sub-section *(6)* of section 16;

(e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (/0) of section 19; and

(f) any other matter which is required to be, or may be, prescribed.

28. Power to make rules by competent autbmity.

(1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions 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:—

(i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(ii) the fee payable under sub-section *(1)* of section 6;

(iii) the fee payable under sub-section *(1)* of section 7; and

(iv) any other matter which is required to be, or may be, prescribed.

29. Laying of rules.

(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or armulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

30. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, malce such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

31. Repeal.

The Freedom of Information Act, 2002 (5 of 2003) is hereby repealed.

THE FIRST SCHEDULE

[See sections 13 (3) and 16(3)]

FORM OF OATH OR AFFIRMATION TO BE MADE BY THE CHIEF INFORMATION COMMISSIONER/FHE INFORMATION COMMISSIONER/ THE STATE CHIEF INFORMATION COMMISSIONER/ THE STATE 1NFORMATION COMMISSIONER

"I ……., having been appointed Chief Information Commissioner/Information Commissioner/State Chief Information Commissioner/State Information Commissioner swear in the name of God that I will bear true faith and solemnly affirm allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or and that I will uphold the Constitution and the laws.".

THE SECOND SCHEDULE

(See section 24)

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau
2. Research and Analysis Wing of the Cabinet Secretariat
3. Directorate of Revenue Intelligence
4. Central Economic Intelligence Bureau
5. Directorate of Enforcement
6. Narcotics Control Bureau
7. Aviation Research Centre
8. Special Prontier Force
9. Border Security Force
10. Central Reserve Police Force
11. Indo-Tibetan Border Police
12. Central Industrial Security Force
13. National Security Guards
14. Assam Rifles

[1][15. Sashtra Seema Bal.]

16. Special Branch (CID), Andaman and Nicobar
17. The Crime Branch-C.1.D.-C13. Dadra and Nagar Haveli
18. Special Branch. Lakshadweep Police

[2][19. Special Protection Group

20. Defence Research and Development Board
21. Border Road Development Board
22. Financial Intelligence Unit, India]

[1] Subs by Notification No G.S.R 347. dated 28.9-2005

[2] Ins by tind (w.e 28-9-2005)

ASSAM RTI FEES, 2005

GOVERNMENT OF ASSAM
ADMINISTRATIVE REFORMS AND TRAINING DEPARTMENT
DISPUR: GUWAHATI – 781 006
NOTIFICATION

No.AR.78/2005/91, Dated 7th October, 2005

The Governor of Assam is pleased to prescribe following fees to be charged under various Sections of the Right to Information Act, 2005 (No. 22 of 2005) enacted by the Parliament:

Section 6 *(1)*	(i)	Rs.10/- per application
Section 7 *(1)*	(i)	Rs.2/- for each page (In A-4 or A-3 size paper)
	(ii)	Actual charge or cost price of a copy in larger size paper.
	(iii)	Actual cost or price for samples or models.
	(iv)	For inspection of records no fee for the first hour and a fee of Rs.5/- for each 15 minutes thereafter.
Section 7 (5)	(i)	Rs.50/- per diskette or floppy.
	(ii)	Price fixed for printed publication at Printed Price or Rs.2/- per page of photocopy for extracts from the publication.

Provided that

(a) No fee prescribed under Section 6 *(1)*, 7*(1)* and 7(5) shall be charged from the persons who are of below poverty line as may be determined by the State Government as stipulated under Section 7(5) of the right to Information Act, 2005.

(b) No fee prescribed under Section 7*(1)* and 7(5) shall be charged where the "State Public Information Officer" fails to provide information within the time limits prescribed under Section 7*(1)* as stipulated under Section 7(6) the Right to Information Act, 2005.

The above fees shall be collected in form of Demand Draft or Banker's Cheque or cash against proper receipt to be issued by an officer authorized in this behalf by the State Public Information Officer or the Assistant State Public Information Officer, as the case may be and shall be deposited through Treasury Challan under the Head of Account "0070- other Administrative Services".

This will come into force with immediate effect

Under Secretary
Administrative Reforms & Training Department

ASSAM RTI (REGULATION OF FEE AND COST) RULES, 2006

GOVERNMENT OF ASSAM
ADMINISTRATIVE REFORMS AND TRAINING DEPARTMENT
DISPUR: GUWAHATI – 781 006

ORDERS BY THE GOVENROR

NOTIFICATION

Dated 2nd January, 2006

No.AR.78/2005/142: In exercise of powers conferred by clauses (b) and (c) of sub section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005) enacted by Parliament the State Government hereby make the following rules namely:

1. Short title and commencement –

   (1) These rules may be called the "Assam Right to Information (Regulation of Fee and Cost) Rules, 2006.
   (2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions –

   In the rules, unless the context otherwise requires –

   (a) 'Act' means the "Right to Information Act, 2005" enacted by Parliament.
   (b) 'Authorized person means' a person nominated by the "State Public Information Officer and Assistant State Public Information Officer as defined under section 2 (m) of the Act or "Appellate Authority under section 19*(1)* of the Act" as the case may be, to accept fee prescribed under these rules.
   (c) "Section" means section of the Act.
   (d) all other words and expreasions used herein but not defined and defined in the Act shall have the meanings assigned to them in the Act.

3. A request for obtaining information under sub section (I) of Section 6 shall be accompanied by an application fee of rupees ten by way of each against proper receipt or by demand draft or bankers cheque payable to the Authorized Officer of the public authority.

4. For providing the information under sub section *(1)* of section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the authorized officer of the public authority at the folloging rates -

(a) rupees two for each page (in A-4 or A-3) size paper) created or copied;

(b) Actual charge or cost price of a copy in larger size paper;

(c) actual cost or price for samples or models; and

(d) for inspection of records, no fee for the first hour, and a fee of rupees five for each fifteen munites (or fraction thereof) thereafter.

5. For providing the information under sub section (5) of section (7) the fee shall be charged by way of each against receipt or by demand draft or bankers cheque payable to the authorized officer of the public authority at the following rates:

(a) for information provided in diskette or floppy fifty per diskette or floppy and

(b) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

Sd/- (P. K. Chowdhary)
Principal Secretary
Administrative Reforms and Training Department

ASSAM RTI (REGULATION OF FEE AND COST) AMENDMENT RULES, 2007

GOVERNMENT OF ASSAM
ADMINISTRATIVE REFORMS AND TRAINING DEPARTMENT
GUWAHATI – 781 006

ORDERS BY THE GOVENROR

No.AR.78/2005/167 Dated 10th October, 2007

In exercise of powers conferred by clauses (b) and (c) of sub section (2) of section 27 of the Right to Information Act, 2005 (No. 22 of 2005), the Government of Assam hereby makes the following rules further to amend the "Assam Right to Information (Regulation of Fee and Cost) Rules, 2005", namely –

1. Short title and commencement –

   (1) These rules may be called the Right to Information (Regulation of Fee and Cost) Amendment Rules, 2007.
   (2) They shall come into force on the date of their publication in the Assam Gazette.

2. In the Right to Information (Regulation of Fee and Cost) Rules, 2005-

   (a) In rule 3, after the words "banker cheque" the words "or Indian Postal Order or non-jueicial stamp" shall be inserted.
   (b) In rule 4, after the words "banker cheque", the words "or Indian Postal Order or non judicial stamp" shall be inserted.
   (c) In rule 5, after the words "banker cheque" the words "or Indian Postal Order or non judicial stamp" shall be inserted.

Sd/- (Jishnu Barua)
Commissioner and Secretary
Administrative Reforms & Training Department

FOREST RIGHTS ACT, 2006

THE GAZETTE OF INDIA
EXTRAORDINARY
Part II – Section 1
Published by Authority

No.2] New Delhi, Tuesday, January 2, 2007/PAUSA 12, 1928

MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 2nd January, 2007/Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29th December, 2006 and is hereby published for general information:

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

No. 2 of 2007

[29th December, 2006]

An Act to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognized rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem.

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other

traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:

CHAPTER – I

PRELIMINARY

Short title and commencement

1. *(1)* This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires -

(a) "community forest resource" means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(b) "critical wildlife habitat" means such areas of National parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections *(1)* and (2) of section 4;

(c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bonafide livelihood needs and includes the Scheduled

Tribe pastoralist communities;

(d) "forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) "forest rights" means the forest rights referred to in section 3;

(f) "forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(h) "habitat" includes the area comprising the customary habitat and such other habitants in reserved forests and protected forests of primitive tribal groups and preagricultural communities and other forest dwelling Scheduled Tribes;

(i) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

(j) "nodal agency" means the nodal agency specified in section 11;

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act.

(m) "Scheduled Area" means the scheduled areas referred to in clause 91) of article 244 of the Constitution;

(n) "Sustainable use" shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;

18 of 2003

(o) "other traditional forest dweller" means any member or

community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for banafied livelihood needs.

Explanation – For the purpose of this clause "generation" means a period comprising of twenty-five years;

(p) "village" means -

40 of 1996

(i) a village referred to in clause (b) of section 4 of the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or

(ii) any areas referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

53 of 1972

(q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found with wild in nature.

CHAPTER – II
FOREST RIGHTS

Forest rights of Forest Dwelling Scheduled Tribes and other traditional forest dwellers.

3. *(1)* For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:

(a) Right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) Community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) Right to ownership, access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) Other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) Rights including community tenures of habitat and habitation for primitive tribal groups and preagricultural communities;

(f) Rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) Rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) Rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;

(i) Rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) Rights which are recognized under any State law or laws of any Autonomous District Council for Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) Right to access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) Any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be which are not mentioned in clause (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) Right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely - 69 of 1980

(a) Schools;

(b) Dispensary or hospital;

(c) Anganwadis;

(d) Fair price shops;

(e) Electric and telecommunication lines;

(f) Tanks and other minor water bodies;

(g) Drinking water supply and water pipelines;

(h) Water or rain water harvesting structures;

(i) Minor irrigation canals;

(j) Non-conventional source of energy;

(k) Skill upgradation or vocational training centres;

(l) Roads, and

(m) Community centres;

Provided that such diversion of forest land shall be allowed only if –

(i) The forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(ii) The clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

CHAPTER – III
RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

Recognition of and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.

4. *(1)* Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognizes and vests forest rights in -

(a) The forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3.

(b) The other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognized under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions re satisfied, namely -

(a) The process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

53 of 1972

(b) It has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) The State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) A resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities

given in the relevant laws and the policy of the Central Government;

(e) The free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) No resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package;

Provided that the critical wildlife habitants from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section *(1)* shall be heritable but not allenable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.

(6) Where the forest rights recognized and vested by sub-section *(1)* are in respect of land mentioned in clause (a) of sub-section *(1)* of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and compensatory afforestation for diversion of forest land, except those specified in this Act. 69 of 1980

(8) The forest rights recognized and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes

and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to -

(a) Protect the wild life, forest and biodiversity;

(b) Ensure that adjoining catchments area, water resources and other ecological sensitive areas are adequately protected;

(c) Ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) Ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity and complied with.

CHAPTER – IV
AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof

6. *(1)* The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition;

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha.

Provided further that no such petition shall be disposed of

against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition;

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level committee;

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER – V
OFFENCES AND PENALTIES

Offences by members or officers of authorities and Committees under this Act.

7. Where any authority or Committee or officer or member of such authority or Committee contravences any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees;

Provided that nothing contained in this Sub-section shall render any member of theauthority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Cognizance of offences

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority given a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority

CHAPTER – VI
MISCELLANEOUS

45 of 1860

Members of authorities, etc. to be public servants.

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith

10. *(1)* No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or

intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal Agency

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer of authority authorized by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

Act not in derogation of any other law

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. 40 of 1996

Power to make rules

14. *(1)* The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

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

(a) Procedural details for implementation of the procedure specified in section 6.

(b) The procedure for receiving claims, consolidating and verifying them and preparing a map delineaning the area of each recommended claim for exercise of forest rights under sub-section *(1)* of section 6 and the manner of preferring a petition to the Sub-divisional Committee under sub-section (2) of that section;

(c) The level of officers of the departments of Revenue, Forest and Tribal Affairs of theState Government to be appointed as members of the Sub-divisional Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) Any other mater which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified from or be or no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K. N. Chaturvedi
Secretary to the Government of India

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007

MINISTRY OF TRIBAL AFFAIRS
NOTIFICATION

New Delhi, the 1st January, 2008

G.S.R.I (E):- Whereas the draft Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 were published, as required by sub-section *(1)* of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the notification of the Government of India in the Ministry of Tribal Affairs number G.S.R. 437 (E), dated the 19th June, 2007 in the Gazette of India, Part II, Section 3, Sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of forty-five days from the date on which the copies of the Gazette containing the said notification are made available to the public;

And whereas copies of the said Gazette were made available to the public on 25-06-2007;

And whereas the objections and suggestions received from the public in respect of the said draft rules have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-sections *(1)* and (2) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby makes the following rules for recognizing and vesting the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers residing in such forests, namely –

1. **Short title, extent and commencement –** *(1)* These rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.

(2) They shall extend to the whole of India except the State of Jammu and Kashmir.

(3) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions** – *(1)* In these rules, unless the context otherwise requires –

(a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007).

(b) "bonafide livelihood needs" means fulfillment of sustenance needs of self and family through production or sale of produce resulting from self-cultivation of forest land as provided under clauses (a), (c) and (d) of sub-section *(1)* of section 3 of the Act;

(c) "claimant" mean an individual, group of individuals, family or community making a claim for recognition and vesting of right listed in the Act;

(d) "disposal of minor forest procedure" under clause (c) of sub-section *(1)* of section 3 of the Act shall include local level processing, value addition, transportation in forest area through head-loads, bicycle and handcarts for use of such produce or sale by the gatherer or the community for livelihood;

(e) "Forest Rights Committee" means a committee constituted by the Gram Sabha under rule 3;

(f) "section" means the section of the Act;

(2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. **Gram Sabha -** *(1)* The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein at least one-third members shall be the Scheduled Tribes;

Provided that not less than one-third of such members shall be women;

Provided further that where there are no Scheduled Tribes, at least one-third of such members shall be women.

(2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.

(3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.

4. **Functions of the Gram Sabha –** *(1)* The Gram Sabha shall –

(a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;

(b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;

(c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;

(d) consider resettlement packages under clause (c) of sub-section (2) of section 4 of the Act and pass appropriate resolutions; and

(e) constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.

(2) The quorum of the Gram Sabha meeting shall be not less than two-thirds of all members of such Gram Sabha;

Provided that where there is a heterogeneous population of Scheduled Tribes and non Scheduled Tribes in any village, the members of the Scheduled Tribes, Primitive Tribal Groups (PTGs) and pre-agricultural communities shall be adequately represented.

(3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.

5. **Sub-Divisional Level Committee:** The State Government shall constitute Sub-Divisional Level Committee with the following members namely –

(a) Sub-Divisional Officer or equivalent officer	Chairperson
(b) Forest Officer in charge of a Sub-division or equivalent officer	Member
(c) Three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member' or in areas covered under the Sixth Schedule to the Constitution three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman membe; and	

(d) An officer of theTribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

6. **Functions of the Sub-Divisional Level Committee –** The Sub-Divisional Level Committee (SDLC) shall –

(a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected;

(b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;

(c) collate all the resolutions of theconcerned Gram Sabhas;

(d) consolidate maps and details provided by the Gram Sabhas;

(e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;

(f) here and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;

(g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;

(h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims;

(i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of governments records;

(j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;

(k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules;

(l) ensure every and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A and B) of these rules;

(m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.

7. **District Level Committee –** The State Government shall constitute District Level Committee (DLC) with the following members, namely –

(a)	District Collector of Deputy Commissioner	Chairperson
(b)	Concerned Divisional Forest Officer or concerned Deputy Conservator of Forest	Member;
(c)	Three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a women member, or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member, and	
(d)	An officer of the Tribal Welfare Department in-charge of thedistrict or where such officer is not available, the officer in-charge of the tribal affairs.	

8. **Functions of District Level Committee –** The District Level Committee shall -

(a) ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;

(b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act.

(c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;

(d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;

(e) co-ordinate with other districts regarding inter-districts claims;

(f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;

(g) ensure publication of the record of forest rights as may be finalized; and

(h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively;

9. **State Level Monitoring Committee –** The State Government shall constitute a State Level Monitoring Committee with the following members, namely:

(a) Chief Secretary	Chairperson
(b) Secretary, Revenue Department	Member
(c) Secretary, Tribal or Social Welfare Department	Member
(d) Secretary, Forest Department	Member
(e) Secretary, Panchayat Raj	Member
(f) Principal Chief Conservator of Forests	Member
(g) Three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government	
(h) Commissioner, Tribal Welfare or equivalents who shall be the Member Secretary.	

10. **Functions of the State Level Monitoring Committee –** The State Level Monitoring Committee shall -

(a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;

(b) monitor the process of recognition, verification and vesting of forest rights in the State;

(c) furnish a six monthly report on the process of recognition, verification and vesting of forest rights and submit to the nodal agency such returns and reports as may be called for by the nodal agency;

(d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;

(e) monitor resettlement under sub-section (2) of section 4 of the Act.

11. **Procedure for filling, determination and verification of claims by the Gram Sabha –** *(1)* The Gram Sabha shall –

(a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such

claims shall be made within a period of three months from the date of such calling of claims along with a least two of the evidences mentioned in rule 13, shall be made within a period of three months.

Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.

(b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the State Level Monitoring Committee.

(2) The Forest Rights Committee shall assist the Gram Sabha in its functions to –

(i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;

(ii) prepare the record of claims and evidence including maps;

(iii) prepare a list of claimants on forest rights;

(iv) verify claims as provided in these rules;

(v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.

(3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.

(4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for community forest rights in Form B as provided in Annexure I of these Rules.

(5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule (2), meet with prior notice, to consider the findings of the Forest Rights Committee, pass appropriate resolutions and shall forward the same to the Sub-Divisional Level Committee.

(6) The Secretary of Gram Panchayat will also act as Secretary to theGram Sabhas in discharge of its functions.

12. **Process of verifying claims by Forest Rights Committee –** *(1)* The Forest Rights Committee shall after due intimation to the concerned claimant and the Forest Department –

(a) visit the site and physically verify the nature and extent of the claim and evidence on the site;

(b) receive any further evidence or record from the claimant and witnesses;

(c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individual the communities or their representatives are present;

(d) ensure that the claim from member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and

(e) prepare a map delineating the area of each claim indicating recognizable landmarks.

(2) The Forest Rights Committee shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.

(3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing:

Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

(4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorized officer.

13. **Evidence for determination of forest rights –** *(1)* The evidence for recognition and vesting of forest rights shall, inter alia, include –

(a) public documents, Government records such as Gazetters, Census, survey and settlement reports,maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, pattas or leases,

reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;

(b) Government authorized documents such as voter identity card, ration card, passport, houses tax receipts, domicile certificates;

(c) physical attributes such as house, huts and permanent improvements made to land including leveling, bunds, check dams and the like;

(d) quasi-judicial and judicial records including court orders and judgements;

(e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;

(f) any record including maps, record or rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;

(g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;

(h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;

(i) statement of elders other than claimants, reduced in writing.

(2) An evidence for Community Forest Rights shall, inter alia, include –

(a) community rights such as nistar by whatever name called;

(b) traditional grazing grounds, areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds, irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;

(c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;

(3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above mentioned evidences in determining the forest rights.

14. **Petitions to Sub-Divisional Level Committee –** *(1)* Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.

(2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.

(4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.

(5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.

(6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.

(7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

15. **Petitions to District Level Committee –** *(1)* Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-divisional Level Committee file a petition to the District Level Committee.

(2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The District Level Committee may either allow or reject or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.

(4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.

(5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.

(6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.

(7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-divisional Level Committees and pass appropriate orders.

[F No.1714/02/2007-PC&V (Vol.VII)]
Dr. Bachittar Singh, Joint Secretary.

ANNEXURE – I

(See Rule 6 (1)]
FORM – A

CLAIM FORM FOR RIGHTS TO FOREST LAND
[See rule 11 *(1)* (a)]

1. Name of the claimant (s):
2. Name of the spouse:
3. Name of father/mother:
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil-Taluka:
8. District:
9. (a) Scheduled Tribes: Yes/No.
   (Attach authenticated copy of certificate)
   (b) Other Traditional Forest Dweller: Yes/No
   If a spouse is a Scheduled Tribe (attach authenticated copy of certificate)
10. Name of other members in the family with age:
    (including children and adult dependents)

Name of claim on land:

1. Extent of forest land occupied
   (a) for habitation
   (b) for self-cultivation, if any:
   [see section 3 *(1)* (a) of the Act]
2. Disputed lands if any:
   [See Section 3 *(1)* (f) of the Act]
3. Pattas/leases/grants, if any:
   [See Section 3 *(1)* (g) of the Act]
4. Land for in situ rehabilitation or alternative land, if any:
   [See Section 3 *(1)* (m) of the Act]
5. Land from where displaced without land compensation:
   [See Section 4 (8) of the Act]
6. Extent of land in forest villages, if any:
   [See Section 3 *(1)* (h) of the Act]
7. Any other traditional right, if any:
   [See Section 3 *(1)* (l) of the Act.
8. Evidence in support:
   [See Rule 13]
9. Any other information:

Signature/Thumb impression of the Claimant(s)

FORM – B
CLAIM FORM FOR COMMUNITY RIGHTS
[See Rule 11 *(1)* (a) and (4)]

1. Name of the claimant(s):
   a. FDST community: Yes/No
   b. OTFD community: Yes/No
2. Village:
3. Gram Panchayat:
4. Tehsil/Taluka:
5. District:

Nature of community rights enjoyed:

1. Community rights such as nistar, if any:
   [See Section 3 *(1)* (b) of the Act]
2. Rights over minor forest produce, if any:
   [See Section 3 *(1)* (c) of the Act]
3. Community rights:
   a. uses or entitlements (fish, water bodies), if any:
   b. Grazing, if any:
   c. Traditional resource access for nomadic and pastoralist, if any:
   [See Section 3 *(1)* (g) of the Act]
4. Community tenures of habitat and habitation for PTGs and pre-agricultural communities, if any:
   [See Section 3 *(1)* (e) of the Act]
5. Rights to access biodiversity, intellectual property and traditional knowledge, if any:
   [See Section 3 *(1)* (k) of the Act]
6. Other traditional rights, if any:
   [See Section 3 *(1)* (l) of the Act]
7. Evidence in support:
   [See Rule 13]
8. Any other information:

Signature/Thumb impression of the Claimant(s)

ANNEXURE – II

[See Rule 3 (b)]

TITLE FOR FOREST LAND UNDER OCCUPATION

1. Name(s) of holder(s) of forest rights (including spouse):

2. Name of the father/mother:

3. Name of dependents:

4. Address:

5. Village/Gram Sabha:

6. Gram Panchayat:

7. Tehsil-Taluka:

8. District:

9. Whether Scheduled Tribe or Other Traditional Forest Dweller:

10. Area:

11. Description of boundaries by prominent landmarks including khasra/compartment No:

This title is heritable, but not alienable or transferable under Sub-section (4) of Section 4 of the Act.

We, the undersigned, hereby, for and on behalf of the Government of (Name of theState) …… affix out signatures to confirm the above forest, right.

Divisional Forest Officer/Deputy Conservator of Forests

District Tribal Welfare Officer

District Collector / Deputy Commissioner

ANNEXURE – III

[See Rule 8(b)]

TITLE TO COMMUNITY FOREST RIGHTS

1. Name(s) of the holder(s) of community forest right:

2. Village/Gram Sabha:

3. Gram Panchayat:

4. Tehsil/Taluka:

5. District:

6. Scheduled Tribe/Other Traditional Forest Dweller:

7. Nature of community rights:

8. Conditions if any:

9. Description of boundaries including customary boundary and/or by prominent landmarks including khasra/compartment No.:

Name(s) of the holder(s) of community forest right:

1. ……..

2. ……..

3. ……..

We, the undersigned, hereby for and on behalf of the Government of (Name of the State) …….. affix our signatures to confirm the forests, right as mentioned in the Title to the above mentioned holders of community forest rights.

Divisional Forest Officer/Deputy Conservator of Forests

District Tribal Welfare Officer

District Collector / Deputy Commissioner

FRA - State Level Monitoring Committee

ORDERS BY THE GOVERNOR OF ASSAM
NOTIFICATION

No.TAD/SCA/TSP/346/05/Pt-III/174 Dated Dispur, the 20th March, 2008

In exercise of the powers conferred by Rule 4 & 5 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, framed under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Governor of Assam is pleased to constitute "the State Level Monitoring Committee" with the following members.

Members:

a) Chief Secretary as Chairperson
b) Commissioner and Secretary, Revenue Department
c) Commissioner and Secretary, Forest Department
d) Principal Chief Conservator of Forests.
e) Commissioner and Secretary, WPT & BC Department as Member Secretary
f) Three Schedule Tribes member of the Advisory Council for welfare of Scheduled Tribes nominated by the Chairperson of the Advisory Council and three independent experts on forest and wildlife, tribal and gender issues to be nominated by the State Government and where there is no Tribes Advisory Council three independent experts of forest and wildlife, tribal and gender issues to be nominated by the State Government.

Functions of the State Level Monitoring Committee:-

The State Level monitoring committee shall

a) monitor the process of recognition, verification and vesting of forest rights in the State;
b) devise criteria and indicators for monitoring the effectiveness of the process of recognition and vesting of forest rights;
c) co-ordinate with other State Government and State Level Monitoring Committees in case of inter-state claims;
d) furnish a six monthly report on the process of recognition, verification and vesting forest rights and submit to the nodal agency such returns and reports as may be called for by the nodal agency;
e) on receipt of any such notice as mentioned in section 8 of the Act, the State Level Monitoring Committee may take appropriate actions against such authorities under the Act where such offence is established and take corrective measures;
f) monitor the resettlement as provided under the Act.

–Sd/-
Secretary to the Government of Assam
WPT & BC Department

FRA - District Level Committee

ORDERS BY THE GOVERNOR OF ASSAM

NOTIFICATION

No.TAD/SCA/TSP/346/05/Pt-III/173 Dated Dispur, the 20th March, 2008

In exercise of the powers conferred by Rule 4 & 5 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, framed under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Governor of Assam is pleased to constitute "The District Level Committee" as per powers conferred by the Rule 4 & 7 under chapter-II of the Scheduled Tribes and Other Traditional Forest Dweller (Recognition of Forest Rights) Rules, 2008 of theScheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 with the following members.

Members:

1. District Collector or Deputy Commissioner as Chairperson.
2. Divisional Forest Officer - Member.
3. Three members of the Zila Parishad nominated by the Zila Parisad of whom two shall be the Scheduled Tribes members preferably those who are forest dwelling and where there are no Scheduled Tribes member, two members who are preferably other traditional forest dwellers and at least one shall be a women member; or in areas covered under the Sixth Scheduled of the Constitution, three members of the Autonomous District Council at least one being a women member.
4. Project Director, ITDP or where not available SDWO of the District HQ will act as Member Secretary. In case of Hill Districts, corresponding Officer in charge of Tribal Affairs will act as Member Secretary.

Functions of the District Level Committee shall be to:-

(a) examine whether all claims have been addressed keeping in mind the objectives of the Act;
(b) consider and finally approve the claims and record of Forest rights prepared by the Sub-divisional Level committee;
(c) hear petitions from persons aggrieved by the orders of the Sub-divisional Level committee;
(d) co-ordinate with other District regarding inter-District claims;
(e) issue directions for incorporation of the Forest rights in the relevant Government records including record of rights;

2. District Level Committee shall also:

(a) facilitate the Gram Sabha in accessing Government documents, and other relevant information in determining forest rights and provide technical assistance if required;
(b) ensure dissemination process and awareness programmers on the Act and Rules made there under;
(c) ensure that the Gram Sabhas are conducted in a free, open and representative manner with full and unrestricted participation of women.

3. The District Collector or Deputy Commissioner shall be responsible for:-

(a) publishing the records of forest rights as finalized by the District Level Committee

(b) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexure-II to these rules, is provided to the concerned claimant and the Gram Sabha and publicly posted at convenient places in the village.

Secretary to the Government of Assam
WPT & BC Department

FRA – Sub-divisional Level Committee

ORDERS BY THE GOVERNOR OF ASSAM

NOTIFICATION

No.TAD/SCA/TSP/346/05/Pt-III/172 Dated Dispur, the 20th March, 2008

In exercise of the powers conferred by Rule 4 & 5 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, framed under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Governor of Assam is pleased to constitute "The Sub-divisional Level Committee" with the following members.

Members:

a) Sub-divisional Officer as Chairperson.
b) Forest Officer in charge of Sub-divisional or any Officer deputed by DFO not below the rank of an ACF.
c) Three members of the Gaon Panchayat/Anchalik Panchayat nominated by the Zila Parisad of whom two shall be the Scheduled Tribes member preferably those who are forest dwelling or who belong to the tribal groups and where there are no Scheduled Tribes member, two members who are preferably other traditional forest dwellers and at least one shall be a women member; or in areas covered under the Sixth Scheduled of the Constitution, three members nominated by the Autonomous District Council at least one being a women member.
d) The Sub-Divisional Welfare Officer (SDWO) of the concerned Sub-Division will act as Member Secretary. In case of Sub-Division under Hill Districts corresponding in-charge of Tribal Affairs as Member Secretary.

Functions of the Sub-divisional Level Committee shall be to:-

a) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest rights Committee;
b) collect all the resolutions of the concerned Gram Sabhas;
c) consolidate maps and details provided by the Gram Sabhas;
d) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of theclaims;
e) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
f) hear petitions from persons aggrieved by the resolutions of the Gram Sabhas;
g) co-ordinate with other Sub-Divisional Level Committee for inter Sub-Divisional claims;
h) prepare block/Circle draft record of forest rights after reconciliation of Government records;
i) forward the claim with the draft record of forest rights through the Sub-divisional Officer to the District Level Committee for final decision;
j) raise awareness through workshops and other means about the objectives, provisions and procedures of the Acts and in rule 25 (4);
k) ensure easy and free availability of preformed of claims to the claimants as provided in Annexure-I to these rules.

Secretary to the Government of Assam

Assam Minor Mineral Concession Rules, 2013

THE ASSAM GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY

No.100, Dispur, Saturday 26th March, 2013, 25th Phalguna,1934 (S.E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
POWER (E), MINES AND MINERALS DEPARTMENT

The Assam Minor Mineral Concession Rules, 2013

NOTIFICATION
The 16th March, 2013

No.PEM.83/2009/Pt-I/627 – In exercise of the powers conferred by sub-section *(1)* of section 15 and section 23C of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), the Governor of Assam hereby makes the following rules for regulating the grant of various forms of mineral concessions and for prevention of illegal mining, namely –

Part – I (General)
Chapter – I
Preliminary

Short title and commencement

1. *(1)* These rules may be called the Assam Minor Mineral Concession Rules, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette

Definitions

2. *(1)* In these rules, unless the context otherwise requires -

(a) "Act" means the Mines and Minerals (Development and Regulation) Act, 1957;

(b) "boundary pillar" means cemented pillar of size sixty centimeter x sixty centimeter with one meter height and fifty centimeter foundation with the yellow paint and marked lease/contract number and pillar number along with Global Positioning System (in short GPS) readings in black paint;

(c) "carrier" means any mode of transport or facility by which mineral or its products are transported either in raw or processed form from the place of raising or from one place to another and includes any mechanized device, person, animal or cart;

(d) "competitive bid" means an amount offered by the participant

in the open auction or tender process under these rules;

(e) "competent authority" means the Director of Geology and Mining, Assam in respect of minor minerals as listed in Schedule 'X' or the Principal Chief Conservator of Forests and Head of Forest Force, Assam in respect of minor minerals as listed in Schedule 'Y' or any other authority specified by any Government Notification for exercise of such powers and carrying out of such functions as specified in these rules;

(f) "contractor" means a person holding a mining contract under these rules;

(g) "contract money" means the amount to be paid by the contractor(s) of minor minerals for raising the mineral(s) from the area granted on contract;

(h) "dead rent" means the minimum amount payable in a year by the person granted a mining lease under these rules irrespective of the fact as to whether or not he operates/could operate the area fully or partly;

(i) "Department" means the Department of Mines and Minerals, Assam in respect of minerals under Schedule 'X' and the Department of Environment and Forest in respect of minerals under Schedule 'Y';

(j) "Director" means the Director of Geology and Mining, Assam;

(k) "form" means a form appended to these rules;

(l) "fund" means the Mines and Mineral Development, Restoration and Rehabilitation Fund created and established under these rules;

(m) "Government" means the Government of Assam;

(n) "lease" means a person holding a valid grant of lease for raising the minerals from the area granted on lease and would include the plural thereof;

(o) "letter of intent" (LoI) means a 'Letter of Intent' issued to the successful bidder on acceptance of the bid for grant of a mining lease or contract or permit or a mineral concession under these rules;

(p) "licensee" means holder of a prospecting license granted under these rules wherein a licensee is required to pay fixed annual license fee exclusive of royalty;

(q) "mineral concession" means a mining lease or a mining contract or permit in respect of minor mineral and includes quarrying permits and any other mineral concession, permitting the mining of minor mineral in accordance with the provisions of these rules;

(r) "mining contract" means a mining contract given on behalf of the Government to carry, win, work and carry away any minor mineral(s) specified therein through a competitive bidding

process;

(s) "mining dues" means and includes any of the dues on account of royalty, dead rent, contract money, amount payable towards the Mines and Mineral Development, Restoration and Rehabilitation Fund, interest on delayed payments or any fee or any other sum in respect of a mineral concession granted under these rules;

(t) "mining lease" means a lease granted under these rules to mine, search, undertake excavation for winning of mineral and to carry away any minor mineral9s) specified therein;

(u) "mining operations" means any operation carried out for the purpose of winning any mineral except mineral oils;

(v) "mining plan" means a plan prepared by a recognized qualified person (RQP) on behalf of mineral concession holder of minor mineral and includes progressive and final mine closure plans;

(w) "mineral product" means minerals in any processed form, bricks, dressed stone, rock aggregates, chips, ballast, stone dust, and/or any product to be prepared from minerals without involving any chemical changes;

(x) "mineral transit pass" means a document issued by the competent authority to the lessee/contractor/ permit holder for lawful dispatch and transportation of any mineral(s) raised;

(y) "mining permit" means a mineral concession, other than a lease granted for a specified quantity of minor minerals to be extracted/collected within a specified period not exceeding two years in specified cases on payment of advance royalty;

(z) "processing" means all physical processes such as pulverizing and/or grinding and/or powering or washing of minerals in such a way that no chemical change takes place by that process and includes cutting and polishing process of slate, granite blocks or marble blocks or blocks of any other types of rocks;

(aa) "producer" means any person carrying on the business of extracting/producing/collecting minerals or mineral aggregates in raw or processed form including the licensee of a registered metal mineral unit, as the case may be, in accordance with the provisions of the Act or rules made there under;

(bb) "rules" means the rules made under the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957);

(cc) "Schedule" means a Schedule appended to these rules;

(dd) "scheme of mining" means a scheme prepared by a recognized qualified person (RQP) on behalf of mineral concession holder for systematic and scientific mining of minor mineral'

(ee) "scientific mining" mean sand refers to mining operations consisted with the approved mining plan/ scheme of mining, clearances/permissions granted by the authority;

(ff) "un-authorized mining" means any mining operation undertaken without any valid mineral concession granted under these rules;

(gg) "unscientific mining" means and refers to the manner of undertaking mining operations not consisted with the mining plan/scheme of mining approved, clearances/permissions granted by the authority.

(2) All other works and expressions used in these rules, and not defined herein but defined in the Act, shall have the same meanings respectively assigned to them in the Act.

Power to grant mining lease or mining contact or any other concession or license or transit pass or permit etc.

3. A mining lease or a mining contract or permit or any other concession or license or transit pass or permit or license or control or regulation of mining or other auctions under these rules, etc. shall be granted/taken by-

(a) The Director in respect of minor minerals for industrial and specific uses as specified in Schedule 'X';

(b) The Principal Chief Conservator of Forests and Head of Forest Force, Assam or any officer authorized by the Government by notification in this behalf in respect of minor minerals for uses other than in industry as specified in Schedule 'Y';

Relaxations in certain cases

4. *(1)* No royalty or permit fee shall be charged or transit permit required for -

(i) Extraction of ordinary clay or ordinary sand by hereditary artisans for use in manufacturing of earthen pots/artifacts on a cottage industry basis;

(ii) Mining, transportation or storage of clay or sand by hereditary artisans or a co-operative society of artisans for making pots or earthen images, etc. by traditional means but not by the process of manufacture in kilns or by way of any mechanical device;

(iii) Leveling of any agricultural fields by a landowner within his own land.

(2) No royalty shall be charged for removal of any ordinary earth by a person from his own land for meeting personal land fill requirements either in another agricultural field or for meeting his personal bonafide requirements.

(3) The relaxations granted under this rule shall not be available for excavation or mineral in any area where use of explosive is inevitable, whether being mined by a concession holder or not.

Provided that the aforesaid relaxation do not afford immunity from any action which might be taken under the provisions of any existing rules or Acts of the State or the Central Government for unauthorized removal of minor mineral from any Government land by private persons, without the

permission of the competent authority or the State Government or any officer authorized by it in this behalf.

Quarrying of minor minerals by Government Departments/ Agencies/ Contractors engaged by Government Departments or Agencies

5. *(1)* An application for the grant of mining permit for quarrying of any minor mineral by the notified Departments of State or Central Government or any of their agencies for any work/project, shall be made by an officer authorized by the concerned Department to the competent authority.

(2) The contractors engaged for the works/projects of the Government Departments/Agencies shall be granted mining permit for the required quantity as specified in the detailed project report for execution of the works/ projects on making an application under sub-rule *(1)* above.

(3) The Department or the agency or the contractor granted a permit under sub-rule *(1)* above, shall be liable to pay royalty/dead rent/fee etc. in advance as notified by the Government and shall abide by the terms and conditions of such grant and other laws as applicable to the lessee or any other concession holder(s) unless specifically relaxed.

Chapter – 2

General Restrictions

Mining operations under a mineral concession.

6. No person shall undertake any prospecting or mining operation activity in respect of any mineral(s) in any part of the State, except under and in accordance with the terms and conditions of a permit or a prospecting license or a mining lease or a mining contract or a permit, or a concession in any other form, as the case may be, granted:

Provided that nothing in this sub-rule shall apply to any prospecting operations undertaken by the Geological Survey of India, the Indian Bureau of Mines, the Atomic Minerals Directorate for Exploration and Research of the Central Government, the Directorate of Geology and Mining, Assam or the Mineral Exploration Corporation Limited.

Restrictions on grant of mining lease/contract/permit

7. *(1)* No mining lease/contract/permit shall be granted in respect of any land within a distance of-

(i) Fifty metres from the outer periphery of the defined limits of any village habitation, National Highway, State Highway and other roads where such excavation does not require use of explosives;

(ii) Two hundred fifty metres from the outer periphery of the defined limits of any village habitation, National Highway,

State Highway and other roads where use of explosives is required;

(iii) Five hundred metres from major structures like R.C.C. Bridges, Guide bund etc.

Provided that the Government may relax the above distance parameters, wherever required in the interest of workings, mineral conservation or for any unforeseen reasons subject to such conditions as may be imposed under the said relaxation.

(2) No mining lease/contract/permit or other mineral concession shall be granted in respect of any such minor mineral or in respect of any specific or general area which the Government may notify.

Part – II
Grant of Mineral Concessions

Chapter – 3
Grant of Mining Lease

Grant of a Mining Lease through competitive bidding

8. *(1)* No mining lease shall be granted by the competent authority unless it is satisfied that there is evidence to show that the area for which grant of mining lease is considered has been prospected earlier for minor minerals or the existence of minor minerals therein has been established otherwise.

(2) Any minor mineral deposits, where the competent authority decides such areas to be operated under a lease, may be granted on mining lease; subject to rule 5, for a period ordinarily not less than 10 years but not exceeding 20 years following a competitive bid process as provided under Chapter 6 of these rules;

Provided that the competent authority may, wherever it deems necessary, pre-qualify the bidders, with the pre-qualification criteria determined upfront, by inviting expressions of interest through a public notice, and limit the bidding process among such pre-qualified bidders.

(3) In case the competent authority accepts the bid, the payment of earnest money, initial bid security, security and advance instalment shall be made in the accordance with the provisions contained in Chapter 6 of these rules.

(4) The highest bid received shall become the ‘annual dead rent’ amount payable by the lessee. The rate of annual dead rent initially determined on the basis of competitive bids/auctions shall be increased @ 25% on completion of each block of three

years.

Explanation: If the initially determined amount of annual dead rent is Rs.100/-, it shall be increased to Rs.125/- with the commencement of the fourth year and to Rs.156.25 with the commencement of the 7th year and so on and so forth for the next each block of three years.

(5) A lease deed shall be executed by the successful bidder with the competent authority in the prescribed Form ML-1, appended hereto, within the period as prescribed under rule 17 of these rules.

(6) The lessee shall pay royalty in advance in respect of each of the minor minerals extracted or removed or consumed by him or by his agent, manager, employee etc. The royalty shall be payable at the rates prescribed in the First Scheduled appended to these rules.

Register of applications and Mining Lease

9. *(1)* A register of applications for grant of renewal of mining leases shall be maintained in Form ML-2.

(2) A register of mining leases granted under these rules shall be maintained in Form 'ML-3'.

Inspection of Register

10. The register of applications for grant of mining leases and the register of grant of mining leases shall be open to inspection by any person on payment of a fee of Rs.100/- on any working day.

Compact area and minimum area of lease in case of isolated deposits.

11. The area for any mining lease should be compact and contiguous as far as possible. However, no mining lease shall be granted for an area of less than one hectare in case of isolated and small deposits.

Transfer of a mining lease or contract

12. *(1)* The lessee or contractor shall not assign, sublet, mortgage, or in any other manner transfer the lease or contract or any right, title or interest therein, to any person without prior approval of the competent authority.

(2) When a lease is granted following the system of pre-qualification of lessees, the competent authority may specify a lock-in-period within which no transfer of such lease shall be permissible. A lease may, however, in such cases be permitted to induct other partners/share holders to the extent of forty nine percent of the total shareholding of the original grantee.

(3) Any application for transfer of a mining lease or contract shall be accompanied with a non-refundable fee of Rs.10,000/- per hectare, subject to a minimum of Rs.2,00,000/-. The said application shall be signed by the lessee himself in the case of an individual, each of the partners in case of a partnership firm and by the person authorized by a special resolution of the Board of Directors, in the case of a company.

(4) No consent to the transfer of mining lease or contract shall be

accorded unless the applicant has paid all the outstanding mining dues in respect of the lease or contract and the transferee has accepted all the terms and conditions and the liabilities enjoined upon the transferor in respect of such mining lease or contract.

(5) The transferor shall make the original or certified copies of all plans of abandoned workings in the area available to the transferee.

(6) The transferor-lessee or contractor shall not charge or accept from the transferee any premium in addition to the sum spent by him in obtaining the lease or contract and for conducting all or any of the operations in or over the lease granted to him.

(7) The transferee shall be required to furnish an undertaking that he has filed up-to-date income tax returns, paid income tax assessed on him or on the basis of self-assessment as provided in the Income Tax Act, 1961.

(8) Subject to submission of the transfer application, complete in all respects, the competent authority may allow the transfer of such lease or contract and prescribe such additional conditions, as it may deed appropriate.

(9) The competent authority may refuse to allow such transfer, wherever deemed appropriate, for reasons to be recorded in writing, after giving an opportunity of representation to the applicant.

(10) Where the competent authority gives its consent for transfer of such lease or contract on an application for transfer of mining lease under sub-rule (2), a transfer lease deed shall be executed within ninety days of the date of the consent in Form ML-4 failing which, the consent shall be deemed to have lapsed, unless the period is extended on the request of the lessee made prior to the expiry of such period of ninety days.

(11) Where it comes to the notice of the competent authority that any lessee or contractor has violated the conditions prescribed in rub-rule *(1)* above, it may terminate such lease by an order in writing at any time. However, no such order shall be passed without giving a reasonable opportunity of show cause to the lessee or the contractor for standing his case.

Renewal of lease

13. *(1)* A mining lease, originally granted under rule 9, may be renewed only once over and above the original lease period, for such period as considered appropriate but not exceeding ten years on expiry of the original lease period, subject to strict, compliance of the terms and conditions of the grant, lease agreement and other approvals or permission for mining granted by Central or State agencies.

(2) The lessee shall submit application for renewal of mining lease

twenty four months before the date of expiry of lease period in the prescribed Form ML-5 to the competent authority giving complete details of the mineral excavated, royalty paid, mineral reserves available, details of explorations undertaken, if any, along with the details of the areas reclaimed or restored, the sites of overburden, restoration works undertaken etc. The details regarding compliance of other statutory requirements such as environmental clearance, safety provisions as per Mines Act, 1952 and the rules and regulations framed thereunder etc. shall also be provided.

(3) No application for renewal of a mining lease shall be considered in a case where the lessee has been found to be indulging in any violation of the conditions of original lease grant or has been penalized or held accountable for such violations.

(4) Every application for renewal of a mining lease shall be accompanied with a non-refundable fee of Rs.1,000/- per hectare or part thereof, subject to a minimum of Rs.1,00,000/-. Besides, the application shall be accompanied with the following supporting documents -

(i) A valid clearance certificate for payment of mining dues on all accounts, such as royalty or dead rent or contract money or the Fund, and the surface rent payable to the landowners under the Act or the rules made thereunder, in respect of the original mining lease or any other mineral concession held by him in the State from the competent authority;

(ii) In case of a firm or a company or association of persons, a valid clearance certificate shall be submitted in respect of the firm, company or association of persons as well as the other firms in which partners in the applicant firm are partners or directors;

Provided that the grant of a clearance certificate shall not discharge the holders of such certificate from the liability to pay the mining dues which may subsequently be found to be payable by such applicant under the Act or rules made thereunder.

(iii) Where any injunction has been granted by a count of law or any other authority, staying the recovery of any such outstanding mining dues or income tax, non-payment thereof shall not be treated as a disqualification for the purpose of renewing the said mining lease;

(iv) A declaration stating that the applicant has filed up-to-date income tax returns, paid the income tax assessed on him, or on the basis of self-assessment, as provided in the Income Tax Act, 1961 on the project.

(5) The competent authority shall issue notice within thirty days from the date of receipt of application to make up the deficiencies in the application, if any, or for furnishing any additional information as may be required by the competent authority, requiring the applicant(s) to supply the requisite information within a period thirty days from the date of issue of such notice. In case the said information is not furnished within such specified period, the application shall be decided on the basis of information already submitted along with application.

(6) The renewal of a lease shall be considered only in cases where the lease has been granted after the commencement of these rules.

Acknowledgement of application

14. The receipt of an application of renewal of a mining lease under rule 14, if delivered personally, shall be acknowledged forthwith in Form ML-6 and if the application is received by post, the same shall be acknowledged within seven days of the receipt thereof.

15. *(1)* An application for renewal of a mining lease shall be decided by the competent authority within a period of six months of the receipt of complete application in all respects keeping in view the following parameters-

(i) The lessee has complied with all the terms and conditions of the original lease grant and other permissions for undertaking mining operations;

(ii) The mining operations under the original lease grant have been carried out in a scientific manner;

(iii) The mined out area has been restored/reclaimed/ rehabilitated as per the progressive mine closure plan;

(iv) The lessee has not defaulted in submission of all details with regard to the production, payment of mining dues in time and has not been found wanting in taking adequate measures for the labour safety;

(v) The lessee has not been penalized for non compliance of the environmental safeguards, or for any other reason, including suspension of the mining operations, for whatsoever reasons, during the original lease period;

(vi) Substantial investment has been made by the lessee in the development of mine, plant and machinery with a long term perspective and optimal benefit of the same could not have been derived during the original lease period; and

(vii) Such other matters as may be considered necessary.

(2) The competent authority may reduce the area of mining lease at the time of renewal for reasons to be recorded in writing;

Provided that the reduction in the area of mining lease shall not

result in any prorated reduction in the dead rent.

(3) Where the competent authority accords its approval to the renewal of a mining lease, the annual dead rent shall be increased by an amount of twenty five percent over the amount of dead rent payable in the last year of the original lease grant. Further, future increase in such dead rent, on the expiry of each block of three years, shall be regulated on the same terms and conditions as applicable in the case of any mining lease granted on the first occasion;

Provided that in case the lessee makes an application for surrendered of part area of the lease, it shall not result in any prorated reduction of the dead rent and the rate of dead rent payable and applicable for the entire area at the time of such application shall remain intact.

Surrender of a mining lease

16. *(1)* The Government may accept the request of a lease holder for surrender of a lease or part thereof in cases where it is established that it has not been found feasible to operate the mining lease grant, for whatsoever reasons, subject to the condition that the lessee-

(i) Has been regular in furnishing the production returns as required in terms of the lest agreement;

(ii) Has been taking the requisite steps for the progressive mine closure plan as per the conditions of the lease grant;

(iii) Is not in default for payment of any mining dues on account of any mineral concession as on the date of making such application and undertakes to pay all such dues till the date of expiry of the notice period either in advance or by way of adjustment of the security or both.

(2) In case the lessee makes an application for surrender of part area of the lease, it shall not result in any prorated reduction of the dead rent and the rate of dead rent payable and applicable for the entire area at the time of such application shall remain intact.

Execution of mining leas Agreement

17. *(1)* Where a mining lease is granted or renewed, the lease deed shall be executed in Form ML-1 within a period of ninety days of the date of order of grant of renewal of the mining lease and duly registered.

(2) If the lease deed is not executed within the aforesaid period, the order sanctioning the mining lease shall be deemed to have been revoked and the ‘advance dead rent’ and ‘security amount’ deposited at the time of auction shall stand forfeited;

Provided that where the competent authority is satisfied that the LoI holder/lessee is not responsible for the delay in the execution of the lease deed, the competent authority may, for reasons to be recorded in writing, permit the execution of the

lease deed beyond a period of ninety days but not exceeding pone hundred twenty days of the expiry of the aforesaid period.

(3) The LoI holder/lessee shall also furnish a solvent surety for a sum equal to the annual bid amount for execution of the agreement. In case the surety offered by the lessee during the subsistence of the mining lease is not found solvent, the lessee shall offer another solvent surety and a supplementary deed to this effect shsll be executed.

Chapter – 4

Grant of Mining Contracts

Grant of mining contracts by competitive bidding

18. *(1)* The minor mineral deposits, where the competent authority decides to grant the mineral concession in respect of such area in the form of a contract, may be granted on mining contract, subject to rule 5, for a specified annual quantity (or parts thereof) of minor mineral for period ordinarily not less than seven years but not exceeding ten years following a competitive bidding process as prescribed under chapter 6 of these rules.

(2) No bid shall be regarded as successful unless accepted by the competent authority. The amount of the successful bid shall become the annual contract money payable by the contractor. The annual contract money determined at the time of initial grant shall be increased at the rate of twenty five percent on completion of each block of three years.

(3) The mining contract deed shall be executed by the successful bidder with the competent authority in the prescribed Form MC-1.

(4) Other terms and conditions of the contract shall be in accordance with provisions as contained in chapter 7.

Renewal of mining contract

19. *(1)* The contractor shall submit an application to the competent authority for renewal of the mining contract eighteen months prior to the date of expiry of contract period in the prescribed Form MC-2, containing complete details of the mineral excavated, royalty paid, mineral reserves available, details of explorations undertaken, if any, along with the details of the areas reclaimed/restored, the sites of overburden, restoration works undertaken etc. The details regarding compliance of other statutory requirements such as environmental clearance, safety provisions as per Mines Act, 1952 and the rules and regulations framed thereunder etc. shall also be provided.

(2) No application for renewal of a mining contract shall be

considered in a case where the contractor has been found to be indulging in any violation of the conditions of original contract grant or the conditions accompanying the environmental clearances, and penalized or held accountable for any such violations.

(3) Every application for renewal of a mining contract shall be accompanied with a non-refundable fee of Rs.1,000/- per hecters or part thereof, subject to a minimum of Rs.1,00,000/- along with the following supporting documents -

(i) A valid clearance certificate regarding payment of mining dues on all accounts (such as royalty or dead rent or contract money or Fund and surface rent payable to the landowners under the Act or the rules made thereunder) in respect of the original contract or any other mineral concession held by him in the State;

(ii) In case of a firm or a company or association of persons, a valid clearance certificate shall have to be submitted in respect of the firm, company or association of persons as well as the other firm in which the partners in the applicant firm are partners or directors;

Provided that the grant of a clearance certificate shall not discharge the holder(s) of such certificate from the liability to pay the mining dues which may subsequently be found to be payable by such applicant under the Act or rules made thereunder.

(iii) Where any injunction has been granted by a count of law or any other authority, staying the recovery of any such outstanding dues, non-payment thereof shall not be treated as a disqualification for the purpose of renewal of the said mining contract;

(iv) A self declaration stating that the applicant has filed up-to-date income tax returns, paid the income tax assessed on him or on self assessment as provided in the Income Tax Act, 1961 on the project.

(4) The competent authority shall communicate the discrepancies in the application, if any, or requirement of any additional information within thirty days from the date of receipt of application, requiring the applicant(s) to make up the deficiencies and/or provide such additional information within a period of thirty days from the date of issue of such notice. In case the required information is not submitted within such specified period, the application shall be decided on the basis of information already submitted.

(5) No renewal shall be granted for the mining contracts exempted under section 3 of the Mines Act, 1952.

(6) The renewal of a contract shall be considered only in cases where the contract has been granted after the commencement of these rules.

(7) A contract for minor minerals granted under rule 18 may be renewed only once by the competent authority for a period not exceeding five years, after having satisfied itself that the contractor has undertaken mining operations strictly in accordance with the terms and conditions of grant, contract agreement and other approvals/permissions for mining granted by Central/State agencies.

Decision on the application for renewal of Mining Contract

20. *(1)* The application for renewal of mining contract shall be decided on satisfaction of the competent authority with regard to the following -

(i) The contractor has complied with all the terms and conditions of the contract agreement and other permissions for undertaking mining operations;

(ii) The mining operations under the original contract grant have been carried out in a scientific manner;

(iii) The mined out area has been restored/reclaimed/ rehabilitated as per the progressive mine closure plan;

(iv) The contractor has not been in default of submission of any returns with regard to the production, payment of contract money in time and has not been found wanting in taking adequate measures for the labour safety;

(v) The contractor has not been penalized in any manner, including suspension of the mining contract, for whatsoever reasons, during the original contract period;

(vi) Substantial investment has been made by the contractor in the development of mine and plant and machinery with a long term perspective and optimal benefit of the same could not have been derived during the original contract period; and

(vii) Such other matters as may be considered.

(2) The competent authority may reduce the area of contract at the time of renewal for reasons to be recorded in writing.

(3) Where the competent authority accords its approval to the renewal of a contract, the annual contract amount shall be increased by an amount of 25% over the amount of contract money payable in the last year of the original contract grant. Further, future increase in such contract amount, on the expiry of each block of three years, shall be regulated on the same terms and conditions ad applicable in the case of any contract granted on the first occasion.

Surrender of a mining contract

21. The Government may accept the contractor's request for surrender of a contract or part thereof in cases where it is established that it has not been found feasible to operate the

contract grant for whatsoever reasons subject to the condition that the contractor-

(i) Has been regular in furnishing the production returns as required in terms of the contract agreement;

(ii) Has been taking the requisite steps for the progressive mine closure plan as per the conditions of the contract grant;

(iii) Is not in default of payment of any dues of the Government as on the date of making such application and undertakes to pay all such dues till the date of expiry of the notice period either in cash in advance or by way of adjustment of the security or both.

Provided that in case the contractor makes an application for surrender of part of the contract area, it shall not result in any prorated reduction of the contract money and the rate of contract amount payable and applicable for the entire area at the time of making such application shall remain intact.

Execution of Contract Agreement within ninety days

22. *(1)* Where a mining contract is granted or renewed, the agreement deed shall be executed in Form 'MC-1' within a period of 90 days of thedate of order or grant/renewal of the contract and shall be duly registered;

(2) If the contract agreement is not executed within the aforesaid period, the order sanctioning the contract shall be deemed to have been revoked and the 'advance contract money' and the 'security amount' deposited at the time of auction shall be forfeited to the Government:

Provided that where the competent authority is satisfied that the LoI holder/contractor is not responsible for the delay in the execution of the contract agreement, the competent authority may, for the reasons to be recorded in writing, permit the execution of the contract agreement deed beyond a period of 90 days but not exceeding 120 days of the expiry of the aforesaid period.

(3) The LoI holder/contractor shall also furnish a solvent surety for a sum equal to the amount of theannual bid for execution of the agreement. In case the surety offered by the contractor(s) during the subsistence of the contract is not found solvent, the contractor(s) shall offer another solvent surety and a supplementary deed to this effect shall be executed.

(4) In case the contractor is not able to remove the whole or any part of the mineral for which he obtained the contract within the permissible time for any reasons, whatsoever, within the validity of the contract he shall not be entitled to claim the refund of contract amount or any part thereof.

Chapter – 5
Grant of Mining of Quarrying Permits

Grant of Mining/quarrying Permits

23. *(1)* Subject to rule 5, mining or quarrying may be granted by the competent authority in respect of any area not covered under any mineral concession already granted under these rules in the following cases -

(i) Mining in respect of areas ordinarily less than five hectres for a specified annual quantity [or part(s) thereof] of minor mineral;

(ii) Removal of salt petre;

(iii) Excavatin of Brick Earth by the Brick Kiln Owners;

(iv) Extraction of ordinary clay/earth;

(v) Permits for specific Government works under emergency conditions.

(2) All mining/quarrying permits in respect of sub clauses (i) and (ii) mentioned under rule *(1)* shall be granted following a competitive bid process, unless specifically decided otherwise by the Government in any specific case.

(3) The mining/quarrying permits in respect of (iii) to (v) above shall be granted on the basis of application submitted under rules 26, 27 and 28 respectively.

(4) A mining permit under these rules may be granted for a period as considered appropriate by the competent authority, but not exceeding two years, on such terms and conditions as may be stipulated therein.

(5) The competent authority, may refuse the application to grant permits in respect of sub-clauses (ii) and (iv) mentioned under sub-rule *(1)* of this rule for reasons to be recorded in writing.

Grant of permits for mining over area less than five hectares

24. *(1)* Subject to sub-rule (2) of rule 23, permits for mining of minor minerals may be granted by the competent authority for extraction of minor minerals in respect of area ordinarily less than five hectares.

(2) Permits under this rule shall be granted only in cases where the competent authority decides such areas to be operated for short periods under special circumstances and with adequate environmental safeguards, precautions and applicable clearances.

(3) In case more than one individual/agency shows interest in taking the permit, it shall be granted in favour of the individual/agency offering the highest bid.

(4) In case of permit granted under this rule, the permit holder shall execute an agreement in Form MPS-1 with the competent authority within a period of ninety days from the date of grant and shall be duly registered.

(5) The permit holder shall submit monthly production returns in Form MMP-1.

Grant of permit for removal of saltpeter

25. *(1)* Subject to sub-rule (2) of rule 23, the permit for excavation of saltpeter, a minor mineral, may be granted along with suitable restrictions regarding the depth of excavation which shall generally not exceed 12 inches.

(2) In case more than one individual/agency shows interest in taking the permit it shall be granted in favour of the individual/agency offering the highest bid.

(3) In case of permit granted under this rule, the permit holder shall execute an agreement in Form MPS-2 with the competent authority within a period of ninety days from the date of such grant and shall be duly registered.

(4) The permit holder shall submit monthly production returns in Form MMP-1.

Permits for excavation of Brick Earth by the Brick Kiln Owners

26. *(1)* A permit for excavation of brick earth may be granted by the competent authority in favour of the Brick Kiln Owner only for the purposes of manufacturing of bricks.

(2) The initial permit shall be granted for a period that co-terminates with the close of the next financial year so that the further renewal thereof is allowed on bi-annual basis.

(3) The excavation of brick earth under this permit shall not be permissible beyond a depth of nine feet measured from the natural ground level of the area.

(4) The application for lifting of brick earth shall be made to the competent authority in form PIM-1 along with the following supporting documents -

(i) The particulars/details of the land from where he proposes to extract/remove the brick earth;

(ii) Lay out plan of the area from where brick earth is to be removed;

(iii) Written consent of the land owner(s) along with certified copy of the agreement signed between the landowner and the applicant after mutual settlement of compensation between the parties;

(iv) A copy of the partnership deed or Articles of Memorandum in case the applicant is a partnership firm or a company as the case may be.

(5) The existing brick kiln owner shall apply ninety days before the expiry of permit already held by him for fresh grant in cases where the extraction of brick earth has reached the maximum permissible level in respect of area of the permit already held;

In case the excavation of the brick earth is to be carried out in the same area earlier held on permit, the brick kiln owner shall

apply for renewal of the permit ninety days before the expiry of already held.

(6) The royalty on account of excavation of brick earth shall be charged as per rates prescribed in the First Schedule appended to these rules. The payment in these cases shall be made in advance for the complete financial year or part thereof.

(7) An application for renewal of permit fresh grant under this rule shall be submitted within the period prescribed above along with the payment towards applicable royalty for the ensuing year and a surety for the remaining period of the permit.

(8) A permit for excavation of brick earth shall be granted in form PIM-2.

Permits for extraction of ordinary clay/earth

27. *(1)* Save in the cases covered under sub-rule (2) of rule 26, the competent authority may grant permit for lifting of ordinary earth from an area not already granted on any mineral concession to the landowner or the person having consent of the landowner on submission of an application.

(2) The permit for extraction of ordinary earth shall be granted only up to a maximum depth of nine feet measured from the natural ground level of said area.

(3) The permit for extraction of ordinary earth/clay in respect of any land of which the ownership or management vests in a Gram Panchayat shall be granted only if a resolution is passed to that effect by the Gram Panchayat and approval of the concerned Deputy Commissioner is obtained by the applicant or the Gram Panchayat.

(4) The royalty shall be charged on lump-sum basis on the basis of quantity/volume of the earth for which the permit is applied/granted as per rates prescribed in the First Schedule. The payment of royalty in these cases shall be made in advance for the complete financial year or part thereof.

(5) An application for grant of permit shall be submitted in model form PIM-3. The application shall be submitted along with following documents -

(i) The particulars/details of the land from where he proposes to extract/remove the brick earth;

(ii) Lay out plan of the area from where earth is to be removed;

(iii) Written consent of the land owner(s) or a certified copy of the agreement signed between the landowner and the applicant after mutual settlement of compensation between the parties;

(iv) A copy of the partnership deed or Articles of Memorandum in case the applicant is a partnership firm or a company, as the case may be.

(6) A permit for excavation of ordinary earth shall be granted on model form PIM-4.

Permits for specific emergency situations

28. The competent authority may, on a requisition from the Deputy Commissioner of the District concerned, grant permit for extraction of minor minerals from any area including the areas where mineral concession have been granted to such Government Department or any other Government Agency requiring mineral for execution of works relating to other pressing circumstances for safety of human and cattle life under emergency conditions:

Provided that the Government may decide the terms and conditions of grant of such permits under emergency situations in advance or ex-post-facto.

Application fee for permits

29. The permits, other than those given through competitive bidding process, may be granted on application made to the competent authority on Forms submitted along with non-refundable application fee of Rs.500/-:

Provided that a Government Department/Agency seeking a permit under rule 29 shall be exempted from payment of the application fee.

Conditions on which the Permit for mining/quarrying shall be granted

30. *(1)* Any mining operations in the case of mining of brick earth or ordinary clay or alluvial deposits below a depth of 1.5 meters shall necessarily require formation of benches for safe mining. The benches would be formed in a manner that the width of the bench is not lesser than the height of the bench.

(2) Any quarrying permit granted under these rules shall contain information with regard to the following -

(i) Manner, mode and place of payment of rent, royalties, permit money, rehabilitation and restoration fund amount and interest on delayed payments or any other dues as admissible under these rules;

(ii) Particulars of the receipt heads of the Government to which the payments are to be credited;

(iii) Rent, compensation of damage to the landowners for the land covered by the permit;

(iv) Felling of trees, pumping of ground water;

(v) Restriction of surface operations in any area prohibited by any authority;

(vi) Entering and working in any forest area;

(vii) Reporting all accidents, use of explosives;

(viii) Indemnity to the Government against claim of third parties;

(ix) Mineral to be stacked, measured and dispatched;

(x) Applicability of the provisions of all other statutes/ rules framed by the Central and State Governments;

(xi) Reclamation or restoration of the mining areas and security thereof;

(xii) Development and conservation of minerals and environment

and ecology of the area;

(xiii) Extent of the area or land from where the minor mineral shall be extracted;

(xiv) Period within which the minor mineral shall be extracted and removed and delivery of possession of land on the expiry of such period or on removal of the quantity of the minor mineral for which the permit is valid/granted;

(xv) Release of security by the authority issuing permit after having satisfied that the permit holder has fulfilled all the conditions of the permit satisfactorily;

(xvi) Any other condition, as may be found expedient by the competent authority to grant the permit, may be imposed in the interest of scientific mining, mineral conservation and mineral development.

(3) In case the permit holder is not able to remove the whole or any part of the mineral for which he obtained the permit within the permissible time for any reasons, whatsoever, he shall not be entitled to claim the refund of permit amount/royalty or any part thereof.

(4) The permit holders for the brick kilns shall furnish a solvent surety within fifteen days of the issue of the permit by submitting an undertaking of such surety that he would be responsible for deposit of all dues in case the permit holder fails to deposit the same.

Forfeiture of property left after cancellation of the permit.

31. In case of breach of any of the conditions of the grant of permit, the competent authority may cancel the permit by passing orders after giving thirty days notice to the permit holder and for reasons to be recorded in writing. On cancellation of the permit, unless specifically ordered otherwise, the quarried mineral lying on the land from which the same was extracted shall be allowed to be removed by the permit holder within a period of seven days after which any residual mineral will become the absolute property of the Government.

Chapter – 6

Procedure for inviting competitive bids/auctions and payments

Mode of Grant of mining lease or contract or permit

32. *(1)* Save in the cases specifically mentioned under these rules and where such mineral concessions may be granted on application, all mining leases/contracts/ permits shall be granted through a transparent process of inviting competitive bids/open auction.

(2) The competent authority may, in the interest of mineral conservation and scientific mining, pre-qualify the potential bidders, based on an objective assessment criteria determined upfront, by inviting Expressions of Interest through general public notice and restrict the bids among the pre-qualified bidders.

Determination of reserve price for inviting bids/auction

33. *(1)* The competent authority shall upfront determine the reserve price in each case where the mineral concessions are granted through competitive bidding/ open auction, as the case may be.

(2) State's priorities with regard to the observance of principles of sustainable development, inter- generational equities and conservation of minerals, scientific mining, availability of construction material at economic rates for developmental works and the State Revenues shall remain the overarching principles in fixing the reserve prices.

(3) The reserve price may be fixed keeping in view the past trends, availability of mineral reserves in the area, the potential, access and proximity to the markets. However, any aberrations in the auctions held earlier and the bids received of exceptionally lower or higher amount, due to whatsoever reasons, may be ignored.

(4) In case no bid/offer is received against a reserve price fixed for an area on two successive occasions, the competent authority may revise the reserve price downwards at appropriate level.

Public notice for inviting expressions of Interest/Bids/ open auctions

34 *(1)* Public notice of 21 days shall be published for inviting bids or conduct of open auctions for the grant of mineral leases/contracts/permits, as the case may be.

(2) In addition to the publication of notice in writing, competitive bids/open auction under sub-rule *(1)* above, the gist of such notice, along with the schedule for inviting bids/holding open auctions, shall also be published in once daily newspaper having good circulation in the area.

(3) A copy each of the said public notice shall also be sent to the Deputy Commissioner and others as decided by the competent authority for giving wide publicity in the area.

Earnest money

35. *(1)* The intending bidder shall deposit the earnest money, equal to ten percent of the reserve price and rounded by an amount of Rs.10,000/- in each case before commencement of open auction or deposited with the bid, as the case may be.

(2) In case of competitive bids invited through sealed tenders, the earnest money shall accompany the bid offers in the form of a Demand Draft drawn in favour of the competent authority.

(3) In the case of open auctions, the earnest money deposited by all bidders, save in the cases where the earnest money has been ordered to be forfeited by the Presiding Officer on grounds of

any misconduct during the auction proceedings, shall be refunded immediately upon completion of the auction proceedings.

(4) In case the highest bidder fails to deposit 10% of the annual bid amount towards the 'Initial bid security', his earnest money shall be forfeited and such bidder shall not be eligible to participate in any such auctions/competitive bids in respect of the same area or any other area in the State for a period of five years.

(5) No person, who is a defaulter or any mining dues in respect of any mineral concession granted in the past or any other current mineral concession shall be eligible to participate in the auction or bid process. In case he is found to be in such arrears at any stage, his bid shall be revoked with forfeiture of the amount deposited by him. In case any of the partners of a Partnership Firm or a Director of a company participating in the bid/auction process are found to be defaulters, the bidder firm/company would be held ineligible and attract similar action:

Provided that where any injunction has been granted by a court of law or any other competent authority staying the recovery of any such amount, the non-payment thereof shall not be treated as a disqualification for the purpose of participation in the auction.

Powers of the Presiding Officer

36. *(1)* The presiding officer shall conduct the auction in a peaceful manner and may direct any bidder to leave the auction premises in the event of a disorderly conduct by or on behalf of any bidder. In cases of extreme misconduct or misbehavior, the presiding officer may order the forfeiture of earnest money deposited by such bidder and recommend his debarring from participation in any future auctions.

(2) The presiding officer shall send his recommendation through proper channel to the officer competent to accept tender.

Payments of the bid amount

37. *(1)* No bid shall be regarded as 'successful' unless accepted by the officer competent to accept bid/tender in accordance with the provisions of The Delegation of Financial Powers Rules, 1999 of the State.

(2) The highest bidder shall be required to deposit an amount equal to 25% of the annual dead rent/contract money as the 'Security' along with an additional amount equal to one month's dead rent/contract money in advance.

(3) The process for completion of the various stages of payment as specified under sub-rule (2) above shall be as follows -

(i) On completion of the bid process i.e. the fall of the hammer or the opening of the sealed bids, as the case may be, the highest

bidder shall deposit an amount equal to 10% of the annual bid amount as 'Initial Bid Security' before expiry of the period allowed.

(ii) The amount deposited towards the 'initial bid security' would be adjusted as part of the Bid Security on acceptance of the bid by the competent authority and a Letter of Intent (LoI) will be issued in favour of the successful bidder.

(iii) The letter of intent holder shall deposit the balance amount of Bid Security i.e. equal to 15% of the annual bid amount before expiry of the period allowed.

(iv) The amount of security already deposited towards the initial bid security shall be duly adjusted to make up the twenty five percent of the bid amount towards the bid security.

(v) Wherever a LoI holder fails to deposit the balance fifteen percent amount towards security as prescribed under sub-rule (3) (iii) above, and/or fails to execute the agreement after the issue of letter of intent, the same shall be deemed to have been revoked and the ten percent amount deposited by him towards 'initial bid security' shall stand forfeited. In addition, the letter of intent holder/defaulter shall be liable to deposit the unpaid balance of fifteen percent to make up twenty five percent of the bid amount as bid security.

(vi) Where the LoI holder fails to deposit the unpaid fifteen percent amount on demand, such amount with interest shall be recoverable as arrears of land revenue and such bidder shall be debarred from participation in any subsequent bids for a period of five years.

(vii) No interest, whatsoever, shall be payable on the security amount deposited.

(viii) On enhancement of the dead rent/contract money with expiry of every three years period, the lessee/ contractor shall deposit the balance amount of security so as to upscale the security amount equal to 25% of the revised annual dead rent/contract money as applicable for one year with respect to the next block of three years.

Chapter – 7

General conditions for grant of any mineral concession

Conditions of the mining lease/ contract

38. *(1)* The lessee/contractor shall deposit the annual dead rent (in case of lease) or contract money, as the case may be, in respect of the minor minerals in four quarterly instalments in advance on the 1st of April, 1st of June, 1st of September and 1st of December of the year.

(2) The advance amount paid on account of one instalment along with the fifteen percent amount of the bid security shall be required to be deposited/ adjusted in a manner that the subsequent installment are payable for a full quarter/year, as the case may be.

(3) In case of a mining lease, where the amount of royalty payable in respect of a month exceeds the amount of dead rent deposited in advance, the lessee shall deposit such amount of royalty on the mineral extracted and dispatched or consumed by the 7th day of the following month after adjusting the amount of advance dead rent already deposited.

(4) In cases where the lessee has paid the amount of royalty or dead rent during a part of the year, which is equal to or more than the annual dead rent payable fo the year, he shall not be required to deposit the advance dead rent for the remaining period of the said year and the royalty for the balance part of the year shall be deposited by the 7th day of the following month.

(5) Where the lessee/contractor is operating the area, he shall also deposit/pay an additional amount equal to ten percent of the due dead rent/royalty/contract money along with installments towards the "Mines and Minerals Development, Restoration and Rehabilitation Fund".

(6) In case of any default in payment of the installments of dead rent/contract money/royalty/contribution to the 'Mines and Minerals Development, Restoration and Rehabilitation Fund' on the due date(s), the amount would be payable along with interest at the following rates -

Serial No.	Period of delay	Rate of Interest applicable
(i)	If paid within a period of 7 days from the due date	A grace period of upto 7 days is allowed without any interest
(ii)	If paid after 7 days but upto 30 days of the due date	15% on the amount of default for the period of default including the grace period
(iii)	If paid after 30 days but within 60 days of the due date	18% on the amount of default for the period of default including the grace period
(iv)	Delay beyond 60 days of the due date	Termination of the lease/ contract and the entire outstanding amount would be recoverable along with interest calculated at the rate of twenty one percent for the entire period of default.

(7) Any default in payment of the due installments of dead rent, royalty, contract money, contribution to the Fund beyond a period of seven days from the due date would entail-

(i) Issue of a notice requiring the mineral concession holder to clear the default immediately and stating that in case the due

amount is not paid within a period thirty days of the due date, his mining operations would be suspended;

(i) If the concession holder fails to deposit the due amount within a period of thirty days of the due date along with interest applicable thereon, the competent authority shall direct the concession holder to suspend his mining operations and stop any dispatch of mineral from the concession area till such time the default is cleared;

(ii) The order of suspension issued under (ii) above shall, inter alia, include a show cause notice for termination of the lease or contract or permit along with forfeiture of security in the event of continuation of default for a period of thirty days from the date of order of suspension. The concession holder shall also be liable to pay the dues for such suspension period;

(iii) The competent authority may revoke the suspension of mining operations in case the concession holder deposits atleast fifty percent of the due amount with an undertaking to pay the balance amount within a period of three months along with interest, concurrent with the installments payable during this period;

(iv) The order of suspension of mining operations and the ban on dispatch of mineral from the area would remain in force throughout such default period;

(v) The competent authority may terminate the mineral concession, with or without forfeiture of the whole of the security deposit or part thereof, as deemed appropriate, in such cases without any further opportunity.

(8) The mineral concession holder shall erect boundary pillars around the mining area sat his own expense as per his plan of mining and shall at all times maintain and keep the same in good condition. Each of the boundary pillars shall also be numbered along with the GPS readings duly marked thereon. The plan annexed to the concession agreement shall clearly indicate the location of pillars along with their GPS readings.

(9) The mineral concession holder shall, at all times, carry out the mining operations subject to the following restrictions -

(i) Maintain a distance of fifty meters from the outer periphery of the defined limits of any village habitation, National Highway, State Highway and other roads where such excavation does not require use of explosives, unless specifically relaxed and permitted by the competent authority;

(ii) Maintain a distance of two hundred fifty meters from the outer periphery of the defined limits of any village habitation, National Highway, State Highway and other roads where use

of explosives is required, unless specifically relaxed and permitted by the authority or any specific dispensation is obtained from the Director, Mines Safety;

(iii) Mining operations in the river beds shall be undertaken in accordance with the conditions prescribed under rule 39.

(10) The lessee/contractor shall at all times keep and maintain correct and true accounts of -

(i) The quantity and other particulars of all minerals obtained from the mines;

(ii) The number of persons employed in mining operations;

(iii) An up-to-date complete plan and sections of the mine;

And shall allow any officer authorized by the Central or the State Government or competent authority in that behalf to examine at any time any accounts and records maintained by him, and shall furnish to the Central or the State Government or the competent authority with such information and returns, as it may require.

(11) Where the continuance of mining operations in any area, in the opinion of the State Government, is likely to endanger the safety of any national or State highway, road, bridge, drainage, reservoir, tank, canal or other public works, or public or private building, or any other public interest or in the interest of environment/ecology of the area, the Government may suspend the operations in the entire concession area or part thereof with immediate effect by communicating the reasons thereof in writing. The Government may, wherever so warranted, terminate such mining lease/contract over entire area or part thereof after giving sixty days notice to the concession holder in this behalf and the grant of such mineral concession shall stand terminated from the date specified in the said notice.

(12) A mineral concession holder shall not stock any mineral outside the concession area granted on mining lease/contract/permit. The total mineral excavated and stacked by the concession holder within the area granted on mining lease/contract/ permit shall not exceed two times of the average monthly production as per approved mining plan at any point of time.

(13) In cases where access to an from any other mineral concession area granted under these rules is required to be provided through the land/area of the lessee/ contractor, he shall allow the existing and future lessee/contractor of any other mineral concession holder a reasonable access to pass through such land/area which is comprised in or adjoins or is preached through the land held by such mineral concession

holder.

(14) The mineral concession holder shall ensure unhindered access to any officer, authorized by the State or Central Government or competent authority, to enter upon any building, excavation or land comprised in the concession area for the purpose of inspecting the mines. If the mineral concession holder creates any hindrance in peaceful inspection of the mines, the competent authority may take recourse to extreme measure of cancellation of the mineral concession and forfeit the security deposit in whole or part thereof.

(15) A mineral concession holder shall -

(i) Submit by the 7th day of every month, a return in Form "MMP-1" containing the total quantity of minor mineral raised and dispatched from the area and other details prescribed in the said form during the preceding calendar month and its value, to the competent authority; and

(ii) Also furnish by the 30th April of every year, a statement containing information in Form 'MMP-2' regarding the quantity and value of minor mineral extracted, dispatched, stacked during the previous financial year, average number of regular labourers employed (men and women separately), number of accidents (if any), compensation paid and number of days worked and such other details as prescribed in the form to the competent authority.

(16) The mineral concession holder shall at all times maintained and, if required, strengthen any railway line, bridge, national highway, reservoir, tank, canals, road any other public works or building in proper condition to the satisfaction of the Railway Administration or the competent authority or any officer authorized by him and shall ensure that no risk is caused to any such structure as a result of his mining operations.

(17) The mineral concession holder shall report the discovery of any such minor mineral which is not specified in the concession to the competent authority or an officer authorized by him without any delay and shall not dispose off the same.

(18) In case the mineral concession holder incidentally extracts any major mineral, in the process of extracting minor minerals granted through the mineral concession, which is not forming part of the concession, the same shall be the property of the Government and the mineral concession holder shall stack and store the same separately and maintain its proper record in accordance with the directions given by the competent authority.

The competent authority shall lay down a procedure for the

disposal of the major mineral so detected, excavated and stacked.

(19) In case, it is detected that the mineral concession holder has disposed of the incidentally extracted major mineral in whole or part thereof or failed to maintain the record of the stored mineral in terms of sub-rule (18) above, he shall be liable to penalties as specified in sub section (1), (4) and (5) of section 21 of the Act, and also termination of mining lease/contract.

(20) In case the mineral concession holder does not commence mining operations within a period of one hundred and eighty days counted from the date of commencement of the mineral concession, notwithstanding the payment of dead rent/contract money by him, the mineral concession shall be liable to be terminated unless specifically permitted by the competent authority on application for reasons to be recorded in writing.

(21) The mineral concession holder shall immediately inform in writing in Form 'MSE-1: (a) the working in the mines extend below the superjacent ground, or (b) the depth of any open cast excavation reaches six meters (measured from its highest to the lowest point); or (c) the number of persons employed on any day is more than 50, or (d) any explosives are used, to the following -

(i) The Director General of Mines Safety, Government of India, Dhanbad;

(ii) The Director, Mines Safety, Government of India, Guwahati;

(iii) The Competent Authority;

(iv) The District Magistrate of the District concerned.

(22) The competent authority will make arrangements for the survey and demarcation of the area granted under the concession at the expense of the mineral concession holder. The mineral concession holder shall have to bear actual expenses of the staff deputed for the work, which shall include prorated salary of the staff, travelling allowance and daily allowance of the staff deployed and instrument usage charges which shall be equal to ten percent of the staff charges.

(23) A safety margin of two meters shall be maintained above the ground water table while undertaking mining and no mining operations shall be permissible below this level unless a specific permission is obtained from the competent authority in this behalf.

(24) A mineral concession may contain and provide for such additional conditions as the competent authority may deem necessary with regard to but not limited to the following -

(i) Payment of deed rent, royalty, contract money, Mines and Mineral Development, Rehabilitation and Restoration Fund, and the interest payable on delayed payments or any other dues;

(ii) Particulars of the receipt heads of the Government to which the payments are to be credited;

(iii) Payment of rent for use of the surface area and compensation for damage to the landowner in respect of land covered under the lease/contract;

(iv) Restriction of surface operations in any area prohibited by any authority;

(v) Notice by the mineral concession holder for surface occupation;

(vi) Facilities to be given by the mineral concession holder to another mineral concession holder for working of minor mineral(s) in the area or the adjacent area or for work of State or Central Government Departments or their Agencies.

(vii) Entering and working in any forest area;

(viii) Reclamation/restoration and securing of the pits, shaft and other areas affected by mining;

(ix) Reporting of accidents and use of explosives;

(x) Indemnity to the Government against any third party claims;

(xi) Mineral to be attacked, measured and dispatched;

(xii) Applicability of the provisions of all other statutes/ rules framed by the Central and the State Governments;

(xiii) Maintenance of sanitary conditions in the mining area;

(xiv) Development and conservation of the minerals, and environment and ecology of the area;

(xv) Forfeiture of property left after termination/expiry of the mineral concession;

(xvi) Delivery of possession of lands and mines on surrender, expiration or premature termination of the mineral concession;

(xvii) Powers to take possession of plant, machinery, premises and mines in the event of war or emergency; and

(xviii) Termination of a mineral concession for non-compliance of terms and conditions of the grant and agreement;

(xix) Any other special conditions may be imposed in the interest of scientific mining, mineral conservation and mineral development, as may be found expedient by the competent authority.

(25) Boundaries of the area covered by a mining lease/ contract/permit shall run vertically downwards below the surface towards the centre of the earth.

Special conditions for river-bed

39. Following conditions shall be applicable for excavation of minor mineral(s) from river beds in order to ensure safety of river-beds, structures and the adjoining areas:

(i) No mining would be permissible in a river-bed up to a distance of five times of the span of a bridge on upstream side and ten times the span of such bridge on down stream side, subject to a minimum of 250 meters on the up stream side and 500 meters on the down stream side;

(ii) There shall be maintained an un-mined block of 50 meters width after every block of 1000 meters over which mining is undertaken or at such distance as may be directed by the competent authority;

(iii) The maximum depth of mining in the river bed shall not exceed three meters measured from the un-mined bed level at any point of time with proper bench formation;

(iv) Mining shall be restricted within the central 3/4th width of the river/rivulet;

(v) No mining shall be permissible in an area up to a width specified by the competent authority from the active edges of embankments;

(vi) Any other conditions as may be required by the competent authority in public interest.

Powers to issue directions

40. *(1)* The competent authority may, in the interest of systematic development of mineral deposits, conservation of minerals, scientific mining, sustainable development and protection of the environment, issue directions to the owner, agent, mining engineer, geologist or manager of a mine.

(2) Every direction issued under sub-rule *(1)* shall be complied within such period as may be specified, not being a period of less than one week:

Provided that where there is difficulty in giving effect to any such direction, the owner, agent, mining engineer, geologist or manager of the mine, as the case may be, may apply for modification or rescinding of such direction and the competent authority may either modify or rescind the direction or confirm the same.

Consequences of any non compliance or violation of the terms and conditions of the grant of a mineral concession

41. *(1)* In case the mineral concession holder fails to (a) undertake mining in a scientific and systematic manner, or (b) undertakes mining in violation of environmental safeguards, or (c) fails to deposit the due amount of dead rent, royalty, contract money or any other amount due to the Government under these rules, or (d) fails to comply with any of the terms and conditions of grant of the mineral concession agreement or other conditions imposed by any other State/Central agency at the time of granting permission/approval for

undertaking mining activity, or (e) fails to comply with any other directions issued during the subsistence of the mineral concession, the competent authority shall have the right to suspend the mining operations or prematurely terminate the lease/contract along with forfeiture of part or full amount of security after following the prescribed procedure;

(2) As a measure of recovery of any outstanding amount towards mining dues from a defaulting mineral concession holder, the competent authority shall be competent to enter upon the said premises and detain all or any of the mineral or moveable property therein till the concession holder makes the payment of outstanding amount. If the concession holder fails to make the payment within a period of ten days, such officer may order disposal and sale of the detained material and such property to the extent it covers the recovery of the outstanding dues and all costs and expenses incurred on this account.

(3) Where a mineral concession is prematurely terminated for breach of any of the conditions subject to which the mineral concession is granted, the competent authority may also order forfeiture of the quarried material lying in the concession area and on passing of such an order, such mineral shall become the absolute property of the State.

Rights of the lessee/contractor

42. Subject to the conditions mentioned under rules 39 and 40, the mineral concession holder shall have the right to use the land in respect of which the mineral concession has been granted for following activities,

(i) Working of the mines;
(ii) Sink pits and shafts and construct roads;
(iii) Erect plant and machinery;
(iv) Use water;
(v) Use land for stacking purpose;
(vi) Install fuel-pumps or stations or diesel or petrol for self use with the permission of the authority;
(vii) Construct magazine for explosives and storage sheds for explosive related substances with permission from the licensing authority;
(viii) Store over burden/waste material in areas identified for the purpose; and
(ix) Request for diversion of public roads, overhead electric lines passing through the concession area from the concerned authorities at his expense to ensure scientific mining.

Special rights of the Government

43. *(1)* The Government shall have the right of pre-emption of the minor mineral and all products thereof lying over the area

granted on a mineral concession or elsewhere under the control of the mineral concession holder at all times during the term of any mineral concession. Upon issue of an order by the Government writing to this effect, the mineral concession holder shall deliver all minor mineral or products thereof to the Government at rates worked out on the basis of average billing of mineral for the last one month at the pit head in such quantities and in such manner as may be specified in the order exercising the said right.

(2) The Government may terminate/cancel the mineral concession in the State of a National Emergency or War without giving any notice for such termination.

(3) The Government may terminate or cancel the mineral concession, by giving three calendar months prior notice in writing, in the event the minor mineral under the concession is required for establishing an industry beneficial to the general public.

Chapter – 8

Payment of rent and compensation to the landowners and determination thereof

Mining over land in the ownership of their parties

44. *(1)* Where a mineral concession is granted under these rules over any land in respect of which minor mineral rights vest in the State Government, the rights of the landowner shall be subordinate to that of the State Government for extraction of the mineral, access to the quarry/mine, stacking of minerals and other subsidiary purpose. The landowner is entitled to a fair rent and compensation for such use of the land and any damage or injury caused to such land.

(2) A mineral concession holder, who is granted the mineral concession under these rules, is entitled to use the land/area for extraction of mineral in respect of which the said concession is granted. The mineral concession holder shall be liable to pay (a) the annual rent in respect of the land area blocked under the concession but not being operated, and (b) the rent plus compensation in respect of the area used for actual mining operations.

(3) In case the landowner is allowed to use part of the area granted under the mineral concession for his normal operations for which it was being used prior to the grant of mineral concession, concurrent with the concession grant, no rent shall be payable in respect of such portion of land which is not being used for actual mining operations for such period

as it remains available to the landowner for his normal use. In cases where the mineral concession holder blocks the entire concession area as a result of which the landowner is not able to use such land or part thereof for his normal operations, the rent shall be payable in respect of the entire blocked area.

Mutual settlement of rent and compensation for the land used for mining

45. The amount of annual rent and the compensation shall be settled mutually between the landowner and the mineral concession holder.

Determination of fair market rent, if not mutually settled between the parties

46. *(1)* Where no agreement is reached by way of mutual settlement between the landowner and the mineral concession holder regarding the rate of rent, the mineral concession holder shall offer to pay rent equal to the amount of Annuity, as applicable from time to time, as payable in cases of land acquisition.

(2) Where the land owner is not agreeable for a mutual settlement under rule 46 and is also not satisfied with the rent offered to be paid under sub-rule *(1)* above, the landowner or the concession holder may apply to the competent authority to make a reference to the District Collector for determination of the fair rent payable in respect of such land.

(3) Where either of the parties prefer a reference to the District Collector under sub-rule (2) above, the competent authority shall forward the reference to the District Collector for determination of the fair market rent in respect of such land. The competent authority shall also require the mineral concession holder to deposit the rent for one year as prescribed under sub-rule *(1)* above as a tentative compensation with the Collector. Upon so doing, the mineral concession holder shall be entitled to commence mining operations over the said land area.

(4) Upon a reference from the competent authority, the District Collector may call upon the parties to furnish the details of their claims and counter claims, inter alia, containing information on the parameters prescribed under sub-rule (5) of this rule and afford an opportunity of hearing to the parties.

(5) Pursuant to the hearing granted to the parties to the reference,

(a) the District Collector shall determine the fair market rent of the land keeping in view the following -

(i) Nature/character of the land;

(ii) Use to which such land was being up immediately before the grant of mineral concession;

(iii) Annual net income that the landowner was able to derive/earn from such land use;

(iv) Normal increase in the income level that would have taken place in such net income during the intervening period;

(v) Amount so worked out shall be added an amount equal to thirty percent in lieu of compulsory use of the land;

(b) While determining the fair market rent, the collector shall also decide the rate at which such rent would be increased on year to year basis during the currency of the mineral concession.

(6) Notwithstanding the parameters prescribed for determining the fair market rent under sub-rule (5) above, Collector shall not determine the rent at a rate lesser than the amount of annuity payable in case of land acquisition.

(7) The District Collector shall order parties and the mineral concession holder to pay such rent to the landowner from time to time, as determined by him.

(8) Any appeal against the order of the District Collector shall lie with the Government.

Determination of Compensation

47. *(1)* In addition to the rent settled between the parties under rule 45 or determined and payable under rule 46, the landowner would also be entitled to payment of a fair and reasonable compensation for any damage caused to such land in respect of the area under actual mining operations.

(2) In cases where the amount of compensation is not mutually settled between the parties under rule 45, the tentative amount of compensation shall be equal to 10% of the annual contract money, dead rent/ royalty actually paid by the mineral concession holder to the Government, less the amount of rent settled or determined.

(3) Where the landowner or the mineral concession holder is not agreeable to accept the amount of compensation prescribed under sub-rule (2 above, either of them may seek a reference through competent authority to the District Collector for determination of fair and reasonable compensation with reference to the damage or injury cause to such land. Pending a decision by the District Collector on such reference by either of the parties, the mineral concession holder shall deposit the tentative compensation amount for one year with the District Collector in accordance with sub-rule (2) above, whereafter the concession holder shall be entitled to operate the area.

(4) Upon a reference from the competent authority, the District Collector shall proceed to determine the fair compensation amount on account of any damage likely to be caused to such land on account of the mining operations. The Collector shall invite claims and counter claims and afford an opportunity of haring to the parties before determining the compensation amount.

(5) The Collector shall determine the fair compensation for the

(a) damage or injury caused to such land keeping in view the following -

(i) Nature or character of the land;

(ii) Economic activity for which such land was being used immediately before the grant of mineral concession;

(iii) Nature and content of damage caused and as to whether such land is fully or partially reclaimable after closure of the mining operations or the damage is irreversible;

(iv) Economic activity for which such land can be used after mine closure, with or without any investment, and the kind of returns it is capable of yielding after such restoration.

(v) Extent of efforts and expenditure proposed to be made by the mineral concession holder for restoration or reclamation or rehabilitation of the land as per the mine closure plan for its eventual use by the landowner;

(b) While determining the compensation amount, the Collector shall keep in view the total rent and the estimated compensation amount payable to the landowner throughout the concession period. In case the sum total of the rent and the compensation amount assessed is more than the prevailing market value of land, the mineral concession holder may be given an option to buy the land at such rates subject to the landowner agreeing to the same. Alternatively, the Collector may determine the compensation amount keeping in view that the landowner would continue to retain the ownership of land after the closure of mining operations.

(c) In case the mineral concession holder and the landowner(s) are able to settle the compensation mutually in respect of a portion of the land required for actual mining operations, compensation for such portion of the land shall not be a subject for settlement. However, the amount of compensation already settled in respect of part of the operating area shall be kept in view while settling the compensation for the disputed area.

(6) Notwithstanding the determination of compensation on the considerations stated under sub-rule (5) above, the annual rent and the compensation amount put together shall not be less than 10% of the amount of contract money/deal rent/royalty actually paid by the mineral concession holder to the Government with reference to such portion of land in accordance with sub-rule (2) above.

(7) The compensation amount determined by the District Collector shall be final and binding on the parties and the mineral concession holder shall be liable to pay such compensation amount to the landowner annually during the

currency of the mineral concession.

(8) An appeal against the order of the Collector shall lie with the Government.

Part – III
Scientific and Systematic Mining and Environmental Safeguards

Chapter – 9
Mining operations to be undertaken as per the Mining Plan

Mining Plan

48. Any mining operations under mineral concession granted under these rules shall be undertaken by the mineral concession holder in accordance with a duly approved 'Mining Plan':

Provided that the State Government may exempt certain specified nature of mining activities from the requirements of preparation of a mining plan.

Registration of a 'Recognized Qualified Person' (RQP)

49. *(1)* No person shall be registered as a 'Recognized Qualified Person' for the purposes of rule 50 *(1)* by the Director, unless he possesses -

(i) A degree in Mining Engineering or a post graduate degree in Geology granted by a university established or incorporated by or under an Act of Parliament or any institution recognized by the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956) or any qualification equivalent thereto; and

(ii) Professional experience of five years of working in a supervisory capacity in the field of mining or mineral administration after obtaining a degree or qualification required under clause *(1)* (i) above.

(2) Any person possessing the qualifications and experience as prescribed under sub-rule *(1)* above, may apply to the Director, or an officer authorized by him, for registration as a RQP along with a fee of Rs.1,000/- (Rupees one thousand) only. The Director may, after making such enquiry as deemed appropriate, grant or refuse to grant recognition and where recognition is refused, the Director shall record the reasons therefore in writing and communicate the same to the applicant.

(3) The applicant recognized under sub-rule (2) above shall be so registered for a period of ten years and his registration may be further renewed on application and deposit of the fee as applicable at such time for a further period not exceeding ten years at any one time.

(4) The registration of a person as 'Recognized Qualified Person' may be revoked at any time in the case of any misconduct on the part of such person after giving him a notice and opportunity of hearing. Similarly, the Director may refuse to renew recognition for reasons to be recorded in writing after giving him an opportunity of hearing.

Preparation of a Mining Plan by a Recognized Qualified Person.

50. *(1)* A mining plan shall be prepared by a Recognized Qualified Person (RQP), recognized in this behalf by the Director or an officer authorized by him, or by a person recognized by the Central Government or an officer authorized by the Central Government in this behalf under the provisions of rule 22 B of the Mineral Concession Rules, 1960.

(2) The Director shall specify all such persons who are so recognized by him under sub-rule *(1)* above and keep such a list of persons published and undated on the website of the department.

Officer authorized for approval/ modification of the Mining Plan/ Scheme of mining

51. The Director may authorize any of his officers to approve or modify the Mining Plan/Scheme of mining for mining of Minor Mineral in the State subject to such officer fulfilling the following qualifications -

(i) A degree in mining engineering or post graduate degree in geology from a university established or incorporated by or under a Central Act, a Provisional Act or a State Act, including any institution recognized by the University Grant Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956), or any equivalent qualification granted by any university or institution outside in India; and

(ii) Possesses professional experience of 8 years in case of a Mining Engineer in the field of mining and 12 years in case of a Geologist in the field of mining/ geological survey, after obtaining the basic academic qualification.

Requirements of a Mining Plan

52. *(1)* Every mineral concession holder shall prepare a Mining Plan along with the Mine Closure Plan (Progressive and Final) and shall not commence mining operations in any area except in accordance with such Mining Plan duly approved by an officer authorized by the Director in this behalf. The plan shall also contain the conceptual plan of the mining area and take into consideration the following aspects -

(i) Level of Production;
(ii) Level of Mechanization;
(iii) Type of Machinery used;
(iv) Quantity of diesel/energy fuel consumption;
(v) Number of trees uprooted due to proposed mining operations.

(2) Where the mining operations have already been undertaken

under an existing mineral concession before the commencement of these rules, the holder of such mineral concession shall also submit a Mining Plan along with Mine Closure Plan within a period of ninety days from the commencement of these rules for approval by the authorized officer.

(3) Every mining plan or scheme of mining submitted for approval under these rules shall be accompanied with a non refundable fee of Rs.5,000/- for every square kilometer or part thereof in respect of the mining area covered under the mining plan.

(4) Every mining plan shall contain all plans, sections serially numbered or suitably indexed. The tracings or copies of such plans and sections duly certified for its correctness by the owner, agent, mining engineer or manager or geologist, by the mining engineer/ geologist appointed by the concession holder, shall be kept at the site office of the minor mineral mine/ concession area.

(5) A mining plan shall incorporate the following as a minimum -

(i) The plan under the area under concession delineated on a map with boundaries duly marked along with the positions of boundary pillars with GPS readings;

(ii) The plan of the area under concession showing the nature and extent of the mineral body/spot or spots where the mining operations are proposed to be undertaken;

(iii) The plan of the area showing natural water courses, limits of reserves and other forest areas and density of trees, if any, assessment of impact of mining activity on forest, land surface and environment including air and water pollution i.e. the environment management plan;

(iv) Details of the geology and lithology of the area including the estimated mineral reserves of the area;

(v) Extent of manual mining or mining with the use of machinery and mechanical devices;

(vi) Tentative scheme of mining and annual programme and plan for excavation/production from year to year for a period of five years as part of the Mining Plan;

(vii) Proposed method of mining/development of mines, use of explosives and blasting operations, if any, stacking and disposal of minerals, mine drainage pattern, handling of the overburden, location of electronic weigh bridges, and mineral processing, if any;

(viii) Progressive and final mine closure plan;

(ix) Details of scheme of restoration/rehabilitation of the area through afforestation, land reclamation, use of pollution

control devices and such other measures as may be directed by the State Government from time to time.

(6) In addition to the requirements stipulated under sub-rule (4) above, every mining plan shall delineate the approach in respect of environmental safeguards and restoration and rehabilitation measures of the area with regard to the following, among others -

(i) Precautions for the protection of environment and control of pollution while undertaking mining operations in the area granted on contract lease/control;

(ii) Control of air pollution due to dust, exhaust emissions or fumes during mining or processing operations for minor mineral and related activities and containing the same within permissible limits specified under any environmental laws for the time being in force;

(iii) Precautions to prevent or reduce the discharge of toxic and objectionable liquid effluents from minor mineral quarry, workshop or processing plant within the permissible limits. No such toxic affluent shall be discharged in any water body or in the sub-soil through a bore-hole;

(iv) Abatement of and control over the noise arising out of mining and processing operations for minor minerals so as to keep the same within the permissible limits;

(v) Prevention and containment of any damage to the flora and the area held under concession and the nearby area, scheme of undertaking plantation to compensate for any unavoidable damage and maintenance of the same during the subsistence of the concession period;

(vi) Removal and stacking of any top soil or over burden or waste rock and non-saleable minor mineral excavated/generated during the mining operations and utilization of the same for restoration and rehabilitation of the area;

(vii) Plan for phased restoration, reclamation and rehabilitation of land affected by mining operations.

(7) The mining plan, once approved, shall be valid for the mineral concession period, unless revised and modified and got approved during the concession period.

(8) The owner, agent, mining engineer or manager of every mine shall review the mining plan after every five years and shall submit scheme of mining for the next five years of the concession period for approval.

Modification in the mining Plan or Scheme and other conditions

53. *(1)* Where any modification of the approved mining plan is required during the subsistence of the mineral concession, the concession holder shall get any such modification approved.

(2) The competent authority may, wherever needed, require the mineral concession holder to make such modifications in the mining plan referred to above or impose such conditions, as he may consider necessary by an order in writing if such modification or imposition of condition are considered necessary -

(a) In the light of the experience of operation of mines;

(b) In view of the change in the technological development; and

(c) In the light of any change in legal provisions or orders of any Court.

(3) A mineral concession holder, desirous of seeking modifications in the approved mining plan as are considered expedient in the interest of safe and scientific mining, conservation of minerals, or for the protection of environment, shall apply to the Director, setting forth the intended modifications and also explaining the reasons for the same.

(4) The Director shall approve the mining plan or such modified mining plan or scheme of mining with or without any modification, as deemed appropriate, within a period of forty-five days from the date of receipt or submission of such application for approval of mining plan or modified mining plan or scheme of mining, as the case may be.

(5) Where no decision is conveyed within the aforesaid period of forty-five days, the mining plan or modified mining plan or scheme of mining, as the case may be, shall be deemed to have been provisionally approved, till such time a final decision in the matter is communicated.

(6) The mineral concession holder shall furnish financial assurance amounting to Rs.15,000/- per hectare of the area granted under the mineral concession and put to use for mining and allied activities subject to a minimum of one lakh rupees in the form and manner as defined.

Chapter – 10

Regulation and control of mining operations

Mining to be undertaken in a scientific and systematic manner

54. *(1)* The mining operations shall be undertaken in a scientific and systematic manner i.e. mining operations consistent with the approved Mining Plan/ Scheme of mining, clearances/permissions granted by the concerned authorities.

(2) Any un-scientific operation or contravention of the terms of grant or permission (excepting the conditions relating to

payment of Government dues) to operate by the mineral concession holder shall amount to violation or breach of the grant.

Non-compliance with or violation of the terms and conditions of the mineral concessions

55. *(1)* A mineral concession holder shall be held to be in 'default' of compliance of the conditions of grant of mineral concession in cases where the non-compliance is rectifiable *suo moto* or upon a notice within the period indicated in such notice. Some of the instances of major violations on the part of the mineral concession holder may be in the following areas -

(i) Undertaking mining operations in a unsafe and unscientific manner i.e. without bench formation, non erection or maintenance of boundary pillars, lack of labour safety measures, and the regulations pertaining to the use of explosives;

(ii) Non-installation of the electronic weigh bridges or, the weigh bridges, if installed, are found to be not calibrated properly to ensure correct weighment;

(iii) Non-adherence to the rules with regard to the limits prescribed for stocking of minerals and failure to furnish the prescribed returns in this behalf;

(iv) Dispatch of mineral from the concession area without a valid mineral transit pass;

(v) Non-submission of the prescribed reports and returns as per the time frame prescribed.

(2) Wherever non compliance of terms and conditions of the mineral concession or violation thereof is observed, it shall cause a notice to be served upon the mineral concession holder to rectify the default and take corrective measures within such period as my be specified in such notice.

Breach of terms and conditions and the consequences

56. *(1)* Any failure on the part of the mineral concession holder to rectify any default or take corrective measures under rule 55 above within the period specified, or such violation being irreversible and non-rectifiable, or recurrence of defaults takes place, the same shall amount to a 'breach' of the terms and conditions of grant of the mineral concession.

(2) Wherever a mineral concession holder is observed to be in 'breach' of the conditions of grant, the competent authority shall be competent to take any or all of the following actions -

(i) Suspension of the mining operations and dispatch of mineral from the concession area, withholding the inventory of stocks, duly assessed at the time of suspension of operation, till such time the suspension holder is revoked. The period of suspension may continue up to a period of three months or till such time the breach condition is rectified, whichever is earlier;

(ii) Temporary seizure of the stocks of the mineral excavated in raw or processed from till such time the stocks are reconciled with the records and established to have been accepted from legal sources;

(iii) Termination of the concession with forfeiture of the security in whole or in part and also forfeiture of the mineral lying in the area and its disposal by the competent authority; and

(iv) Debarring the individuals/firms/companies for grant of a fresh mineral concession in the State for a period of upto 5 years.

Procedure for dealing with 'Breach' conditions and the penalties.

57. *(1)* A breach of any of the conditions of grant of a mineral concession or violation of any of the conditions relating to permission or clearance to undertake mining by any authority shall be dealt as under -

(i) The competent authority shall, upon inspection by himself or any officer or on reporting of any violation amounting to breach by any other authority, issue a notice to the mineral concession holder to show cause within the period specified therein as to why the mineral concession be not prematurely terminated along with forfeiture of the amount of security, in full or part thereof, and forfeiture of the mineral already excavated while undertaking said operations;

(ii) On receipt and examination of the reply of the mineral concession holder, the competent authority may, on his satisfaction that the breach was either not entirely due to fault on the part of the concession holder or was beyond his control or the same had actually not been committed, settle the notice with such caution as deemed appropriate with or without any further directions;

(iii) Where the mineral concession holder admits to the breach having been committed on his part and promises to remedy the breach conditions in his reply and requests for grant of time, and the competent authority is satisfied with such promise, he may grant time as deemed proper for implementation of the remedial measures with or without a surety;

(iv) In case the competent authority *prima facie* forms an opinion on examination of the reply of the mineral concession holder that the breach is of a recurring or continuing nature, he may order suspension of the mining operations with immediate effect along with a ban on dispatch of the mineral from the site or any other related activity in the mine;

(v) In case the competent authority is not satisfied with the reply submitted by the mineral concession holder, the competent authority may terminate the mineral concession with or part thereof along with forfeiture of the mineral already excavated

while undertaking said operations. However, no such order shall be passed without affording an opportunity of show cause and representation to the mineral concession holder.

(2) Wherever an order is passed under clause (v) of sub rule *(1)* above against a mineral concession holder, he or the partnership form in which he may be a partner, or the company in which he may be a Director, may be debarred for the grant of a fresh mineral concession for a period of five years from the date of passing such order.

Chapter – 11

Mines and Mineral Development, Restoration and Rehabilitation Fund

Establishment of the Mines and Mineral Development, Restoration and Rehabilitation Fund.

58. A fund known as the 'Mines and Mineral Development, Restoration and Rehabilitation Fund' shall be established under 'Public Account' in the State of Assam under the administrative control of the Department to which rehabilitation charges payable under clause (i) of sub section (1A) of section 15 of the Act shall be credited in order to meet the following objectives -

(i) Funding of the restoration or reclamation or rehabilitation works in the sites affected by mining operations;

(ii) Provision of common facilities for the benefit of community in and around areas where mining activities are undertaken;

(iii) Development of infrastructure facilities for orderly growth of the mining operation and allied activities e.g. roads, water supply etc.;

(iv) Funding of the studies commissioned or activities related to the mining sector e.g. survey, exploration and prospecting of mineral, procurement of equipment and machinery required to support such activities;

(v) Education, awareness and training of the mineral concession holders and the officers through field visits and exposure to the best mining practices;

(vi) Funding of expenditure incurred on implementation of any scheme of incentives that the State Government may frame for recognition and awards for scientific mining undertaken with highest regard to mineral conservation, rehabilitation measures, along with environmental safeguards and other measures;

(vii) Any other objects which the Government may consider expedient to support in the overall interest of the mining sector.

Contributions to the Fund

59. *(1)* An amount equal to ten percent of the dead rent or royalty or contract money paid to the State shall be charged from the mineral concession holder in the nature of 'other charges' for restoration and rehabilitation works and credited to the Fund in addition to the amount payable to the Government on account of such dead rent or royalty or contract money.

(2) The said contribution shall be remitted by the mineral concession holder in installments along with the installments of dead rent or royalty or contract money, as the case may be. Such amount shall be reconciled at the close of the financial year and any differential of the amount due shall be adjusted or paid on reconciliation.

(3) The Department shall maintain complete account of receipts to the Fund and the expenditure there from and shall invest the progressive accumulated corpus in a manner so as to earn secure returns therefrom.

Expenditure out of the Fund

60. The amount available in the Fund shall be utilized strictly for fulfillment of the objectives for which the Fund is being set up and on the terms and conditions as may be stipulated by the Committee constituted under rule 62.

Restoration and Rehabilitation works to remain the first charge on the Fund

61. *(1)* The expenditure on restoration and rehabilitation of the mining sites shall remain the first charge on the fund.

(2) Every mineral concession holder, before undertaking the restoration and rehabilitation works as part of his progressive min closure plan, shall get his estimates of expenditure on such works duly approved from the Director or an officer authorized by him and submits the utilization certificate duly certified by a registered Chartered Account. The mineral concession holder shall be entitled to get the expended amount reimbursed out of the Fund to the extent of actual expenditure subject to such reimbursement being limited to the amount contributed by him. Any expenditure incurred over and above this limit shall have to be borne by the mineral concession holder from his own account.

***Explanatory Note*:** Notwithstanding the expenditure incurred by a mineral concession holder on the measures taken for the progressive mine closure plan, the occasion for

undertaking the complete restoration and rehabilitation works in respect of any mining area arises only when a mine reaches the closure stage. It is likely that the mining operations would have been undertaken by multiple concession holders before reaching the state of closure of a mine. As such, it becomes imperative that the comprehensive measures for restoration and rehabilitation of a mining site are taken up only upon closure of such mine. The responsibility for execution of such plan shall rest with the mineral concession holder operating such area at the time of its closure. Since the contribution to the fund is also made by each of the lessees/ contractors who have operated the area during the intervening period, the financial burden of restoration and rehabilitation measures shall not be borne by the last contractor/lessee alone.

(3) A mineral concession holder operating the mine at the time of its final closure shall be responsible for execution of the restoration and rehabilitation works as per the final mine closure plan. He shall prepare and submit the estimates for implementation of the final restoration and rehabilitation plan to the Director, for approval of the estimates.

(4) The Director, shall approve such estimates, with or without any modifications, and reimburse the expenditure actually incurred on the site by the implementation agency in a phased manner out of the Fund. The amount so reimbursed shall not exceed the total amount received from the mineral concession holders in respect of the site less the expenditure already incurred earlier.

(5) The Director may require the mineral concession holder to engage an independent agency for implementation of the restoration and rehabilitation works and evolve a system of monitoring the deliverables through an independent agency.

Sanction of expenditure from the Fund

62. *(1)* Any or all proposals for expenditure from out of the Fund shall be approved by a committee of officers headed by the Secretary of the Department and consisting of representatives from the Departments of Mines and Minerals, Finance, Environment and Forests, Health, Education, Panchayat and Rural Development and Social Welfare.

(2) The mode and method of collection, remittance, and utilization of these ‘other charges’ shall be notified separately by the Government.

Part – IV
Miscellaneous

Chapter – 12

Illegal or un-authorized Mining and consequences

Illegal or unauthorized Mining

63. Any person undertaking any mining operations without a valid mineral concession granted under the Act and the rules framed thereunder in any area shall be deemed to be indulging in illegal or unauthorized mining and shall be dealt in accordance with the provisions contained in this chapter.

Consequences of illegal or unauthorized mining

64. Any act of illegal or unauthorized mining shall be liable to the following -

(i) For a first time violation, the said mineral shall be liable to be seized along with the impounding of all such tools, equipment, vehicle or any other things used for such unauthorized operation, which may be released only upon realization of the payment of price of the mineral and the applicable royalty for the mineral extracted and, in addition, a fine which shall not be less than Ten Thousand rupees;

(ii) For a second time violation, the said mineral shall be liable to be seized along with the impounding of all such tools, equipments, vehicle or any other things used for such unauthorized operation for a minimum period of seven days, which may be released only upon realization of the payment of price of the mineral and the applicable royalty for the mineral extracted and, in addition, a fine which shall not be less than fifteen thousand rupees;

(iii) Wherever a person is found to be indulging in such offence for the third time or more, the officer concerned shall register and FIR and handover all such tools, equipment, vehicle or any other things used for such unauthorized operation to the Police. Any such offence shall entail (a) confiscation of all such tools, equipments, vehicle or any other thing used for such unauthorized operation for a period of minimum thirty days or more, and (b) pecuniary penalty and punishment for the offence as provided under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957.

Offenses by companies

65. *(1)* If the person committing an offence under these rules is a company registered under the Companies Act, every

person, who at the time when the offence was committee, was in-charge and was responsible to the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub rule shall render any such person liable to any punishment if eh proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Where an offence under these rules has been committed with the consent or connivance of any director, manager, secretary or other authorized representative of the company, such director, manager, secretary or other authorized representative shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Chapter – 13

Delegation, Review and Appeals

Delegation

66. The Government may delegate any powers under these rules, save in the cases of appeals and subject to such restrictions as it may deem appropriate to the competent authority, by an executive order. Similarly, the competent authority, may delegate any of his powers under these rules, save in the case of appeals, and subject to such restrictions as he may deem appropriate, to any of his subordinate officer(s) by an executive order.

Review

67. The Director/Principal Chief Conservator of Forests and Head of Forest Force, Assam may, either on an application from an aggrieved party or on his own motion, review the orders passed by him under these rules in any matter.

Appeals

68. *(1)* Unless otherwise provided, an appeal against an order passed by any subordinate officer shall lie with the Director/Principal Chief Conservator of Forests and Head of Forest Force, Assam as the case may be.

(2) An appeal against the order passed by the Director/ Principal Chief Conservator of Forests and Head of Forest Force, Assam shall lie before the Government in the Power (E), Mines and Minerals Department in respect of minerals under Schedule ‘X’ and the Environment and Forest Department in respect of minerals under Schedule ‘Y’.

(3) No order under these rules shall be passed by the competent authority against any person unless he has been issued a show cause and given a reasonable opportunity to make a representation.

Time allowed for appeals or review

69. *(1)* Any application for review under rule 67 and an appeal under rule 68 *(1)* can be preferred within a period of sixty days of the passing of the impugned order. A delay up to thirty days beyond the permissible appeal period may be condoned by the Director/Principal Chief Conservator of Forests and Head of Forest Force, if found justified.

(2) A second appeal against the orders of the Director/ Principal Chief Conservator of Forests and Head of Forest Force, under rule 68 (2) can be filed within a period 45 days of the passing of the impugned order. A delay for up to thirty days beyond the permissible period may be condoned by the Government, if found justified.

Fee for review or appeal

70. *(1)* Every application for review or appeal shall be accompanied with the fee as prescribed in the Second Schedule appended to these rules.

(2) No application for review or appeal shall be entertained in matters where the applicant is in default of any Government dues, on whatsoever account, unless he deposits at least twenty five percent of such dues before filing such application and the proof for such payment is enclosed with the application or memorandum of appeal.

Chapter – 14

Miscellaneous

Power to rectify inadvertent mistakes

71. *(1)* The competent authority may at any time, within six months, from the date of the order passed under these rules, on its own motion rectify any mistake or error apparent on the fact of the record, and may within the like period rectify any such mistake or error which has been brought to its notice by an applicant for the grant of the minor mineral(s) concession.

(2) No such rectification under sub-rule *(1)* above, as has or purports to have a prejudicial effect on another applicant for the grant of the mining lease, shall be made unless the competent authority has given such applicant(s) notice of its intention so to do, and has allowed him/them a reasonable opportunity to make a representation thereon.

Recovery of Government dues as arrears of land revenue.

72. Any rent, royalty, fee, contract money or other sum due to the Government or penalty imposed under these rules or under the terms and conditions of the mining lease of contract or permit

and remaining unpaid, shall constitute a first charge on the assets of a mineral concession holder or the surety furnished under these rules and shall be recoverable as arrears of Land Revenue.

Unauthorized working

73. *(1)* No person shall undertake any mining operations in any area, except under and in accordance with the terms and conditions of a mineral concession granted under these rules.

(2) Notwithstanding any other punitive measures for any violation provided under the rules, any contravention of sub rule *(1)* shall be subject to the provisions contained in Section 21 of the Act.

Offences cognizable only on written complaint

74. No court shall take cognizance of any offence punishable under these rules except upon a complaint in writing made by the competent authority within three months of the date on which said offence is alleged to have been committed.

Relaxation in special cases

75. The Government may, for reasons to be recorded in writing, relax any provision of these rules in cases where any mineral concession is granted to any Government Department or to a statutory authority set up by the State or Central Government, or a company or a corporation wholly owned or controlled by the State or Central Government.

Commencement of the grant of a mineral concession

76. A mineral concession granted under these rules, in whatever form, shall commence from the date of execution of the agreement or from such date as specified therein.

Concession registration of Lease Deeds/Contract Agreements.

77. All lease deeds or contract agreements effective for a period of 11 months or more shall be duly registered with the Registrar. All expenditure on registration of the lease deed or contract agreement shall be borne by the concession holder.

Applicability of other Statutes.

78. Grant of any mineral concession or other permissions under these rules shall not absolve the holder from the applicability of other statutes.

Repeal and savings

79. *(1)* The Assam Minor Mineral Concessions Rules, 1994 as amended from time to time, in their application to the State of Assam are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or proceedings commenced under the ‘Assam Minor Mineral Concessions Rules, 1994’ as amended from time to tome shall be deemed to have been done, taken or commenced under these rules:

Provided that wherever the terms and conditions of any mineral concession, granted before the commencement of these rules, are inconsistent with or repugnant to these rules, the same shall be deemed to have been modified in accordance with these rules from the date of notification thereof.

Form ML – 1
[see rule 8(5) and 17*(1)*]

Model form for execution of Mining Lease Deed

This indenture made on this _____ day of _____ 201__ between the Governor of Assam action through _____ (hereinafter referred to as the "State Government") which expression shall where the context so admits, included the successors and assigns) as the one part; and

Where the lessee is an individual –

_____ (Name and address of the person) (hereinafter referred to as the "Lessee" which expression shall where the context so admits, includes his heirs, executors, administrator, representatives and permitted assigns).

Where the lessee is more than an individual –

_____ (Name and address of the persons) (hereinafter referred to as the "Lessee" which expression shall where the context so admits, include their respective heirs, executors, administrator, representatives and permitted assigns).

Where the lessee is more than one individual –

_____ (Name and address of the persons) (hereinafter referred to as the "Lessee" which expression shall where the context so admits, include their respective heirs, executors, administrator, representatives and permitted assigns).

Where the lessee is registered firm -

_____ (Name and address of all the partners or members, where the lessee is a firm or society) all carrying on business in partnership under the firm name and style of _____ (Name of the firm and address) registered under Indian Partnership Act, 1932 and having their registered office at _____ (hereinafter referred to as the "Lessee" which expression shall where the context so admits include all partner of the said firm, their representatives, heirs, executors, administrators and permitted assigns).

Where the lessee is registered company -

_____ (Name of the company) a company registered under _____ (Act under which company incorporated) and having its registered office at _____ (address) (hereinafter referred to as the "Lessee" which expression shall where the context as admits, include its successors and permitted assigns) or the other part.

(Where the lessee is granted through competitive bid process under rule 8 or renewed under rule 13)

Whereas the lessee has offered the highest bid of Rs. _____ (in words Rupees _____) in the bid/action held on _____ for obtaining a mining lease for _____ (name of minor minerals) in respect of the lands herein after described in clause 2 and such bid had been accepted by the officer authorized in this behalf and the lessee has deposited with the Government, a sum of Rs. _____ (Rupees_____) as initial bid security (10% of the annual bid amount) and Shri _____, S/o Shri _____, resident of _____ District _____ (referred to as the 'surety' which expression shall where the context so admits, include his heirs, executors, administrators, representatives) has been offered as solvent surety for the aforesaid amount, and whereas the lessee is in possession of a Income Tax Clearance Certificate.

Now, therefore, this deed witnesses and the parties hereby agree as follows:

Liberties and privileges to be exercised and enjoyed by the Lessee(s):

The following liberties, powers and privileges may be exercised and enjoyed by the lessee subject to the provisions.

1. In consideration of the rents and royalties, covenants and agreements hereinafter contained and on the part of the Lessee to be paid, observed and performs, the Government hereby grants and demises unto the lessee all those mines/beds/veins/ seams of _____ (hereinafter referred to as the said minor minerals), situated, lying and being in or under the lands which are referred to in clause (2) together with the liberties, powers and privileges to be executed or enjoyed in connection herewith which are hereinafter mentioned in Part-I subject to the restrictions and conditions as to exercise and enjoyment of such liberties, powers and privileges which are hereinafter mentioned in Part-II and subject to other provisions of this lease.

2. The area of the said lands is as follows:-

All the tract of land situated at village _____ in _____ Sub division _____ District bearing _____ Dag No. _____ and Patta No. _____ containing an area of _____ of thereabouts delineated on the plan thereto annexed and boundary as follows:

On the North by _____;
On the South by _____;
On the East by _____;
On the West by _____;

And (hereinafter referred to as the 'said lands' or the 'leased area').

3. The lessee shall hold the premises hereby granted from the _____ day _____ for the term of _____ years thence next ensuing.

Part – I
Liberties and privileges to be exercised and enjoyed by the Lessee(s)

The following liberties and privileges may be exercised and enjoyed by the lessee subject to the other provisions:

1. To enter upon land and search for win, work, etc.:

Liberty at all times during the term hereby demised to enter upon the said lands and to search for mineral, bore, dig, drill for win, work, dress, process, convent, carry away and dispose of the said minor minersl(s).

2. To sink, drive and make pit, shafts and inclines, etc.:

Liberty for or in connection with any of the purposes mentioned in this clause to sink, drive, make, maintain and use in the said land and pits, shafts, inclines, drifts, levels, waterways, airways and other works and to use, maintain, deepen or extend any existing works of the like nature in the said lands.

3. To bring and use machinery, equipment:

Liberty for or in connection with any of the purposes mentioned in this clause to erect, construct, maintain and use on or under the said lands any engine, machinery, plan, dressing floors, furnaces, coke ovens, brick kilns, workshop, store houses, bunglows, godwns, shed and other buildings and other works and convenience of the like nature on or under the said lands.

4. To use water from streams, etc.:

Liberty for or in connection with any of the purposes mentioned in this clause but subject to the rights of any existing or future lessees and with the written permission of the Collector concerned to appropriate and use water from any streams, water course, springs, or other source in or upon the said lands and to divert, step up or dam any such stream or water course, cultivated land, village buildings or watering places for livestock of a reasonable supply of water as before accustomed nor in any way to foul or pollute any streams or springs:

Provided that the lessee shall not interfere with navigation in any navigable stream nor shall divert such stream without the previous written permission of the Government.

5. To fell undergrowth and utilize timber and trees, etc.:

Liberty for or in connection with any of the purposes mentioned in this lease deed, to clear undergrowth and brush wood. Lessee shall not fell any trees or timber standing or found on the said lands without obtaining prior permission in writing from the Forest Department. In case such permission is granted, he shall pay in advance, the price of the trees/timber to be felled to the said officer at the rates, fixed by him.

6. To get building and roads material, etc:

Liberty for or in connection with any of the purposes mentioned in this lease deed, to quarry and get stones, gravel and other building and road materials and ordinary clay and to use and employ the same and to manufacture such clay into bricks or tiles and to use such bricks, tiles but not to sell any such materials, bricks, tiles.

7. To use land for stacking purpose –

Liberty to enter upon and use a sufficient part of the surface of the said lands for the purpose of stocking, storing or depositing therein any produce of the mines including over burden or waste material and works carried on ad tools, equipment and other materials needed for mining operations.

8. To install fuel pumps or stations for diesel or petrol for self use:

Liberty to use a sufficient part of the land for installing fuel pumps or stations for diesel or petrol for self use or consumption required for mining operations in the lease area, subject to permission of the authority.

9. To construct magazine for explosive and storage sheds:

Liberty to construct magazine for storage of explosive and storage sheds for explosive related substances with permission from licensing authority.

10. Liberty to seek permission for diversion of public roads, overhead electric lines:

Liberty and power to request to the competent authority for diversion of public road, overhead electric lines passing through the concession area at the expenses of the lessee to ensure scientific and systematic mining.

Part – II

Restrictions as to the exercise of the liberties by the lessee

The liabilities and privileges granted under Part-I are subject to the following restrictions and subject to other provisions of this lease:

1. No mining operations within the limit of public works, etc.:

The Lessee shall not carry on, or allow to be carried on any mining operations:

(i) within a distance of 50 meters from the outer periphery of the defined limits of any village, habitation, National Highway, State Highway and other roads, where such excavation does not require use of explosives, unless specifically relaxed and permitted by the competent authority; or

(ii) within a distance of 250 meters from the outer periphery of the defined limits of any village, habitation, National Highway, State Highway and other roads, where use of explosives is required, unless specifically relaxed and permitted by the competent authority or any specific dispensation is obtained from the Director, Mines Safety; or

(iii) within a distance of 500 meters from major structures like R.C.C. bridges, guide bund etc; or

(iv) within a distance of 75 meters from any railway line or bridge except under and in accordance with the written permission of the railway administration concerned. The Railway Administration or the Government may in granting such permission, impose such conditions s it may deem fit.

Explanation: For the purpose of this clause the expression Railway Administration shall have the same meaning as it is defined by sub-section (4) of section 3 of the Indian Railway Act, 1890.

Provided that where the continuance of any mining operations in any area, in the opinion of the Government is likely to endanger the safety of any National or State Highway, road, bridge, drainage, reservoir, tank, canal or other public works, or public or private buildings or in the public interest or in the interest of environment/ecology of the area, the Government may determine the lease after giving 60 days notice to the lessee in this behalf and the lease shall stand terminated on the date mentioned in this notice.

2. Working in sand Zones:

That the lessee in respect of sand zones, shall restrict the quarrying operations to maximum four villages of the one at any point of time during the subsistence of the lease. The lessee shall have a right to change the site any time during the subsistence of the lease on settlement of compensation with the land owners of new site of the zone from where he intends to extract sand but ceiling of maximum four villages shall be adhered to strictly and such change of site shall be intimated to the competent authority.

3. Special conditions for river bed mining:

In case of river bed mining/excavation of minor mineral(s), in order to ensure safety of river beds, structures and the adjoining areas, the following special conditions shall be abide by the lessee:

(a) No mining would be permissible in a river bed up to a distance of five times of the span of a bridge on up stream side and ten times the span of such bridge on down stream side, subject to a minimum of 250 meters on the up stream side and 500 meters on the down stream side;

(b) There shall be maintain an un-mined block of 50 meters width after every block of 1,000 meters over which mining is undertaken or at such distance as may be directed by the competent authority;

(c) The maximum depth of mining in the river bed shall not exceed three meters measured from the un-mined bed level at any point of time with proper bench formation.

(d) Mining shall be restricted within the central $3/4^{th}$ width of the river/rivulet;

(e) No mining shall be permissible in an area up to a width specified by the competent authority from the active edges of embankments;

(f) Any other condition(s) as may be required by the competent authority in public interest.

4. Notice for surface operation in land not already in use:

Before using for surface operations any land which has not already been used for such operation, the lessee shall give notice in advance to the Collector of the District, the competent authority and the officer in-charge _____ in writing along with copy of permission to undertake mining specifying the situation and the extend of the land proposed to be so used and the purpose for which the same is required and the said land shall not be so used, if objection is issued by the Collector.

5. Not to use the land for other purposes:

The lessee shall not cultivate or use the land for any other purpose other than those specified in the lease deed.

6. Disposal of mineral(s) only on issuance of Mineral Transit Pass:

The holder of mining lease shall not sell/dispose off any mineral or mineral products from the concession area without a Mineral Transit Pass.

7. Staking of Mineral(s) inside lease hold area:

The lessee shall not stock the mineral(s) excavated inside the lease hold area at the designated site more than twice the quantity of the average monthly production as per approved mining plan/scheme.

8. Stacking of mineral(s) outside lease hold area:

The lessee shall not stock any miner mineral(s) granted under the lease, outside the lease hold area.

9. Stacking and storage of incidentally extracted major minerals:

In case lessee, while extracting minor mineral(s) given on lease, incidentally extracts any major mineral not given on lease, the same shall be the property of the Government and lessee shall be under an obligation to stock and store it and maintain its proper record in accordance with the direction of the competent authority, who shall also be competent to prescribe the procedure for its disposal.

10. Penalties in case of non compliance of clause (9):

In case it is detected that lessee has disposed off incidentally extracted major mineral referred to in sub-rule (18) of rule 38 in whole or part thereof or failed to maintain the record of stored mineral, he shall be liable to penalties as specified in sub section *(1)*, (4) and (5) of section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 and also premature determination of mining lease in terms of sub rule (19) of rule 39 of the said rules.

11. Restrictions of mining operations above Ground Water Table:

A safety margin of two meters shall be maintained above the ground water table while undertaking mining and no mining operations shall be permissible below this level unless a specific permission is obtained from the competent authority in this behalf.

12. Restriction of surface operations:

No mining operations shall be undertaken in any area prohibited by any authority or by the orders of any Court.

13. No mining operations without requisite clearance:

The lessee shall not undertake any mining operations in the area granted on mining lease without obtaining requisite clearance from the competent authority as required for undertaking mining operations.

Part – III

Covenants of the Lessee

The lessee/lessees hereby covenant(s) with the Government as follows:

1. Rate of Royalty:

The lessee shall pay royalty on the quantity of the said minor mineral dispatched from the leased area at the rates as per First Schedule of the Assam Minor Mineral Concession Rules, 2012 and as may be revised by the State Government from time to time.

2. Surface rent:

The lessee shall pay Surface rent for the surface area occupied by him as per rule 44.

3. Dead rent:

The lessee shall pay for every year dear rent at the rate as fixed by the Government from time to time.

Where the mining lease is granted by competitive bid/action under rule 8 – The highest bid received in the open bid/action at the rate of ……. per annum shall become the 'annual dead rent' amount payable by the lessee. The rate of annual dead rent initially determined on the basis of competitive bids/auctions shall be increased @ 25% on completion of each block of three years.

Explanation: If the initially determined amount of annual dead rent is Rs.100/-, it shall be increased to Rs.125/- with the commencement of the fourth year and to Rs.156.25 with the commencement of the 7th year and so on and so forth for the next each block of three years:

Provided further that if the lease permits the working of more than one minor mineral in the same area, the Government may charge separate dead rent in respect of each minor mineral;

Provided that the mining of one minor mineral does not involve the working of another minor mineral;

Provided further that the lessee/lessees shall be liable to pay the dead rent or royalty in respect of each mineral, whichever be higher but not both;

Provided further that lessee/lessees shall deposit the dead rent at the rates as revised and notified from time to time by the State Government.

4. Security deposit:

25% of the annual bid amount/rate of dead rent. The security amount to be deposited as per follows:-

(i) 10% as initial bid security at the time of action.

(ii) 15% of the annual bid amount before commencement of mining operations or before the expiry of period allowed, which shall not be more than 12 months, whichever is earlier:

Provided on enhancement of the dead rent after expiry of every three year period of lease the lessee shall deposit the balance amount of security so as to upscale the security amount equal to 25% of the revised annual dead rent as applicable for one year with respect to next block of three years.

5. Mode of payment of dead rent/royalty and surface rent:

(a) In case of mining lease granted under rule 8, the lessee shall deposit one advance installment of dead rent before commencement of mining operations or before the expiry of period allowed, which shall not be more than 12 months, whichever is earlier, along with 15% of the balance security amount as per clause 4(a) above.

(b) The lessee during the subsistence of the lease, pay in advance to the Government the installments of the dead rent in respect of the said land given to him/them on mining lease in four quarterly installments on the 1st of April, 1st of June, 1st of September and 1st of December of the year.

Note: The amount of one advance installment deposited at the time of commencement of the mining operations or within time allowed for the

same shall be adjusted in a manner that the subsequent installments are payable for a full calendar month/quarter/year, as the case may be.

(c) The lessee shall be liable to pay the amount of royalty on the mineral excavated and dispatched at the rate specified in the first schedule or dead rent, whichever is more and not both.

(d) Where the amount of royalty payable in respect of a month exceeds the amount of dead rent deposited in advance, the lessee shall deposited such amount of royalty on the mineral extracted and dispatched or consumed by the 7th day of the following month after adjusting the amount of advance dead rent already deposited.

(e) In cases where the lessee has paid the amount of royalty or dead rent during a part of the year, which is equal to or more than the annual dead rent payable for the year, he shall not be required to deposit the advance dead rent for the remaining period of the said year and the royalty for the balance part of the year shall be deposited by the 7th day of the following month.

6. Amount to be deposited on account of Mines and Minerals Development Restoration and Rehabilitation Fund:

Where the lessee is operating the area, he shall also deposit/pay an additional amount, equal to 10% of the due dead rent or royalty, whichever is more along with amount of installments on account of dead rent or royalty, towards the 'Mines and Minerals Development Restoration and Rehabilitation Fund' separately established under these rules.

7. Interest on delayed payments:

In case of any default in payment of the installments of dead rent/contract money/ contribution to the Mines and Minerals Development (Restoration and Rehabilitation) Fund on the due date(s), the amount would be payable along with interest at the following rates:

Sl. No.	Period of delay	Rate of Interest applicable
(i)	If paid within a period of 7 days from the due date	A grace period of upto 7 days is allowed without any interest;
(ii)	If paid after 7 days but upto 30 days of the due date	15% on the amount of default for the period of default including the grace period;
(iii)	If paid after 30 days but within 60 days of the due date	18% on the amount of default for the period of default including the grace period;

(iv)	Delay beyond 60 days of the due date	It would amount to a 'breach' invite action for termination of the lease/contract and the entire outstanding amount would be recoverable along with interest calculated @ 21% for the entire period of default.

8. Working of newly discovered minerals:

If any minor mineral, not specified in the lease, is discovered in the leased area, the lessee shall report the discovery without delay to the competent authority and shall not win or dispose of such minor mineral without obtaining a lease therefore. If he fails to apply for such a lease within six months from the discovery of the minor mineral, the competent authority may give the lease in respect of such mineral, to any other person:

Provided that the grant of such permit may be refused for reasons to be recorded in writing:

9. To commence mining operations within 180 days and carry them on properly:

Unless the competent authority for sufficient cause allows otherwise, the lessee shall commence mining operations 180 days from the date of execution of the lease and shall thereafter conduct such operations in a proper, skilful and workman like manner.

Explanation: For the purpose of this clause, mining operations shall include the erection of machinery laying of a tramway or construction of a road in connection with the working of the mine.

10. To erect and maintain boundary pillars etc.:

The lessee shall at his own expenses, erect and at all times maintain and keep in good repairs boundary marks and pillars according to the plan annexed to the lease. Each of the pillars should be numbered and every pillar shall have GPS reading.

11. Accounts:

The lessee shall keep correct accounts showing the quantity and other particulars of all minerals obtained from the mines and the number of persons employed therein and a complete plan of the mine and shall allow any officer authorized by the Assam Government or the Central Government in that behalf to examine at any time any accounts and records maintained by him, and shall furnish to the Assam Government or competent authority or the Central Government or the competent authority with such information and returns as it may require.

12. To allow facilities to other lessees etc.:

In addition to the concession holders under Rule-5 of the Assam Minor Mineral Concession Rules, 2012, the lessee shall allow existing and future licensees or lease holders/contractors of any land which is comprised in or adjoins or is reached by the land, held by the lessee, reasonable facilities for access thereto.

13. To allow entry to officers:

The lessee shall allow any authorized by the Assam Government and the Central Government or competent authority to enter upon any building, excavation or land comprised in the lease for the purpose of inspecting the mines.

14. Returns:

The lessee shall –

(a) submit a return in form 'MMP1' by the 7th of every month to the competent authority and also to other officer(s) specified giving the total quantity of minor mineral(s) raised and dispatched from the leased area in the preceding calendar month and its value;

(b) also furnish a statement giving information in Form 'MMP2' by the 15th April every year to the competent authority and to other officer(s) specified regarding quantity and value of minor mineral(s) obtained during last financial year, average number of regular labourers employed (men and women separately) number of accidents, compensation paid and number of days worked separately.

15. To strengthen and support the mines:

The lessee shall strengthen and support to the satisfaction of the Railway Administration or the State Government, as the case may be any part of the mine which in its opinion requires such, strengthening or support for the safety of any railway, bridge, national highway, reservoirs, canal, road or any other public work of building.

16. Notice for use of explosives, etc.:

The lessee shall immediately give notice in writing in Form 'IMSE1' to the following –

1. The Controller General, Indian Bureau of Mines, Government of India, Nagpur.
2. The Director General of Mines Safety, Government of India, Dhanbad;
3. The Director, Mines Safety, Government of India, Guwahati.

4. The Regional Controller of Mines, Indian Bureau of Mines, Kolkata;
5. The competent authority;
6. The District Magistrate of the District concerned; and
7. The Officer-in-charge as soon as:
   (a) The working in the mines extend below superjacent ground; or
   (b) The depth of any open cast excavation measured from its highest to the lowest point reaches six meters; or
   (c) The number of persons employed on any day is more than 50;
   Or
   (d) Any explosives are used.

17. Maintenance of Sanitary conditions:

The Lessee shall maintain sanitary conditions in the area held by him under the lease.

18. To pay compensation for damage and indemnify the Government:

The lessee shall make and pay such reasonable satisfaction and compensation for all damage, injury or disturbance which may be done by him in exercise of the powers granted by the lease and shall indemnify the Government against all claims which may be made by third parties in respect of such damage, injury or disturbance.

19. Application of all Acts, Rules and Regulations to this lease:

The lessee shall abide by the provisions of Mines Act, 1952 and the rules framed there under and also the provisions of other labour laws both Central and State as are applicable to the workmen engaged in the mines and quarries relating to the provisions of drinking water, rest shelters, dwelling houses, latrines and first aid and medical facilities in particular and other safety and welfare provisions in general, to the satisfaction of the competent authorities under the aforesaid Acts, Rules and Regulations and also to the satisfaction of the District Magistrate concerned. In case of non compliance of any of the provisions of the enactments as aforesaid, competent authority may terminate the mining lease by giving one month's notice with forfeiture of security deposited:

Provided that the lessee shall carry out mining operations in accordance with all other provisions as applicable for undertaking mining including the provisions of Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986 and the rules made thereunder.

20. To report accident:

The lessee shall without delay report to the Deputy Commissioner of the district concerned and the competent authority or any other officer authorized by him, any accident which may occur at or in the leased area.

21. Delivery of possession of land and mines on the surrender or sooner determination of the lease:

At the end or sooner determination or surrender of the lease the Lessee shall deliver up the said lands and all mines (if any dug there) in a proper and workable state, save in respect of any working as to which the Government might have sanctioned abandonment.

22. To provide electronic weighing machine:

The lessee shall provide and at all times keep at or near the pit-head at which the said mineral shall be brought to bank a properly constructed and efficient electronic weighing machine and shall weigh or caused to be weighed thereon all the said minor minerals from time to time brought to bank, sold, exported and converted products and shall at the close of each day cause the total weights, ascertained by such means of the said minor minerals, ores, products, raised, sold, exported and converted during the previous twenty four hours to be entered in the aforesaid books of accounts. The lessee shall permit the Government at all times during the said term to employ any persons to be present at the weighing of the said minor minerals, as aforesaid and to keep accounts thereof and to check the accounts kept by the lessee. The lessee shall give 15 days previous notice in writing to the Officer-in-charge _____ of every such measuring or weighing in order that he or some officer on his behalf may be present thereat.

23. To secure pits shafts not fill them up:

The lessee shall well and properly secure pits and shafts and will not without permission in writing, willfully close, fill up or close any mine or shaft.

24. Not to enter upon or to commence operations in the Forest land:

The lessee shall not enter upon or commence any mining operations in any forest land comprised in the leased area except after obtaining permission in writing of the Forest Department, Assam.

25. To respect water rights and not injure adjoining property:

The lessee shall not injure or cause to deteriorate any source of water, power or water supply and shall not in any other way render any spring or stream or water unfit to be used or to do anything to injure adjoining land, village or houses.

26. Stocks lying at the end of the lease:

(a) The lessee on expiry of the lease period (successful completion of the lease) shall remove already extracted all of the mineral from the premises of the quarry within a period of seven days. In case any quantity of the already extracted mineral, in the said land is left un-disposed off and is not removed within seven days from the date of expiry of the period of lease the same shall be deemed to be the property of the Government who may dispose it off in any manner it may like without paying anything thereof to the lessee.

(b) The lessee on the termination or sooner determination of the lease shall not remove extracted mineral from the premises of the leased areas. All extracted minerals in the said lands left over un-disposed after the termination or determination of lease shall be deemed to be property of the Government and competent authority, may dispose it off in nay manner it may like without paying anything thereof to the lessee.

27. Payment of taxes:

The lessee shall duly and regularly pay to the appropriate authority all taxes, cesses and local dues in respect of the leased area, said minor minerals or the working of the mines.

28. Payment of additional amount for reclamation/restoration:

The lessee shall also deposit/pay additional amount equal to 10% of the amount of royalty/dead rent along with the payment of royalty or dead rent, whichever is more, by the 7th of every month, to ensure the compliance of the Reclamation and Restoration works. This additional amount shall be refunded after satisfactory Reclamation/ Restoration of the area after mining in accordance with the Mine Closure Plan:

Provided that in case the lessee fails to reclaim/restore the area as per mining plan to the satisfactions of the State Government, the amount deposited shall be forfeited and used for the restoration of the area:

Provided further that in case no rehabilitation position of the mine comes during the tenure of the mining lease, the amount so deposited shall be kept by the State

Government in the mining area development fund for future use as and when the mine reaches to a stage requiring restoration and rehabilitation.

29. Assign sublet or transfer of the lease:

The lessee shall not assign, sublet or transfer the lease to any person without obtaining period permission in writing from the competent authority.

30. Fencing of working place:

If a working place is found to be unsafe all persons shall be withdrawn by the lessee immediately from the dangerous area and all access to such working place except for the purpose of removing the danger or saving life shall be prevented by securely fencing the full width of all entrances to the place, at his own cost.

31. Fencing of excavation after termination or sooner determination of the lease:

The lessee on termination or sooner determination of the lease, shall at his own cost, suitably fence the excavations for safety as competent authority.

32. Felling of trees:

The lessee shall not fell or cut any tree, standing on the land wherein the quarry is located without obtaining prior permission in writing from the Forest Department, Assam and paying its price as fixed.

33. Security deposit shall carry no interest ;

The security deposited by the lessee shall not carry any interest.

34. State Government not responsible for loss the lessee:

The Government shall not be responsible for any kind of loss to the lessee.

Part – IV

Rights of the State Government

1. Suspension or termination of the lease:

The competent authority shall have the right to suspend or prematurely terminate the lease.

(a) If the dead rent or royalty or surface rent or any other amount due to the Government are not paid;

(b) If any of the terms and conditions of the lease dead or conditions of grant or permission to undertake mining by any other statutory authority or competent authority is violated;

(c) If any of the provisions of these rules and other laws both Central and State as are applicable to mines and minerals, are not complied with:

Provided that no orders of suspension or termination of the lease shall be passed by the competent authority without giving reasonable opportunity to show cause and following the procedure prescribed in the Assam Minor Mineral Concession Rules, 2012.

Provided further that the competent authority may also at any time after issuance of the notice for default on account of non payment of dues, enter upon the said premises and detrain all or any of the mineral(s) or movable property therein and may carry away, detain or order the sale of the property so detrained, or so much of it as will suffice for the satisfaction of the rent or royalty or both dues and all costs and expenses occasioned by the non payment thereon and shall give proper receipt of the articles carried away.

2. Determination of lease in public interest:

The Government may by giving 'six months' prior notice in writing determine the lease if the Government consider that the minor mineral under the lease is required for establishing an Industry beneficial to the public:

Provided that in the State of National Emergency or War, the lease may be determined without giving such notice.

3. Right of pre-emption:

The Government shall from time to time and at all times during the terms of lease have the right (to be exercised by notice in writing to the lessee) of pre-emption of the said mineral(s) and all products thereof lying in or upon the said lands hereby demised of elsewhere under the control of the lessee and the lessee shall deliver all minerals or products thereof to the Government at current market rates in such quantities and in the manner at the place specified in the notice exercising the said right.

4. Penalty for not allowing entry to officers:

If the lessee or his transfer or assignee does not allow any entry or inspection under clause (13) of part-III, the competent authority may cancel the lease and forfeit in whole or in part the security deposit paid by the lessee.

5. Settlement of Rent and Compensation Payable to third parties thereof:

In case the occupier(s) or owner(s) of the said land refuses his/their consent to the exercise of the rights and powers reserved to the Government and demised to the lessee under these presents, the lessee shall report the matter to the competent authority who shall request the Collector of the District concerned to direct the occupier(s) or owner(s) to allow the lessee to enter the said lands and to carry out such operations as may be necessary for working the mine, on payment in advance of such rent or compensation to the occupier or owner by the lessee, as may be fixed by the Collector as per the provisions of rules 46 and 47 of the rules.

6. Suspension of mining operations:

The competent authority may order to suspend the mining operations after serving a notice to the lessee, in case, the following violations are noticed –

(a) unsafe and unscientific mining;
(b) non operations of weighbridge;
(c) non providing of safety applications to the workers;
(d) non payment of compensation to the surface owners;
(e) non submissions of monthly returns;

In case of violations of the aforesaid conditions and also my other terms and conditions of the agreement deed and the provisions of the rules, the competent authority may give notice to the lessee to remedy the violations within a period of 15 days from the date of issue of the notice. In case, the violations pointed out through notice, are not remedied within the stipulated period of 15 days, the competent authority may after affording an opportunity of being heard to the lessee, order the suspension of the mining operations till such time, the defaults/defects are removed by the lessee within the time frame (within a maximum period of six months) granted by the competent authority. During the period of suspension of mining operations, the lessee will be allowed only to undertake rectification work for removal of the defects and shall not dispose of the mineral. During the suspension period, the lessee shall be under the obligation to deposit the amount of the dead rent on the due dates.

On satisfactory removal of the defects, the competent authority may revoke the suspension orders with or without any modification. Non removal of the defects/defaults during the suspension period and within the time allowed by the competent authority, shall lead to premature termination of lease.

Part – V

General

1. Cancellation:

The lessee shall be liable to be cancelled by the competent authority if the lessee cease to work the mine for a continued period of six months without obtaining written sanction.

2. Notices:

Every notice by these presents required to be given to the lessee shall be given in writing to such person resident on the said lands as the lessee may appoint for the purpose of receiving such notices and if there shall have been no such appointment then every such notice shall be sent to the lessee by registered post addressed to the lessee at the address recorded in this lease or at such other address in India as the lessee may from time to time in writing to the competent authority designate for the receipt of notices and every such service shall be deemed to be proper and valid service upon the lessee and shall not be questioned or challenged by him.

3. Recovery of Government dues as arrears of land revenue:

Without prejudice to any other mode of recovery authorized by any provision of this lease or by any law, all amounts, falling due hereunder against the lessee may be recovered as arrears of land revenue under the law in force for such recovery.

4. Forfeiture of property left more than three months after expiry or determination of lease:

The lessee should remove his property lying on the said lands within three months after the expiry or sooner determination of the lease or after the date from which any surrender by the lessee of the said lands under relevant rules of the Assam Minor Mineral Concession Rules, 2012 becomes effective, as the case may be, the property left after the aforesaid period shall become the property of the Government and may be sold or disposed of in such manner as the competent authority shall deem fit without liability to pay any compensation therefore, to the lessee.

5. Security and forfeiture thereof:

a. the competent authority may forfeit the whole or any part of the amount deposited as 'Security' under this lease, in case the lessee commits a breach(s) of any convenants to be performed by the lessee under this lease.

b. whenever the said security deposit or any part thereof or any further sum hereafter deposited with the competent authority in replenishment thereof is forfeited under sub clause (a) or applied by the competent authority under this lease (which the Government is hereby authorized to do) the lessee shall immediately deposit with the inappropriate part thereof to bring the amount in deposit with the Government upto the requisite amount of security at that point of time of lease.

c. The rights conferred to the Government by clause (a) shall be without prejudice to the rights conferred on the State Government by any other provision of this lease or by any law.

d. On such date as the competent authority may elect within twelve calendar months after the determination of this lease or any renewal thereof, the amount of security deposit paid in respect of this lease and then remaining in deposit with the Government and not required to be applied to any of the purposes mentioned in this lease shall be refunded to the lessee. No interest shall run on the security deposit.

6. Survey and demarcation of the area:

When a mining lease is granted arrangement shall be made, if necessary, at the expense of the lessee, for the survey and demarcation of the area granted under the lease. The lessee shall have to bear actual expenses of the staff deputed for the work. Actual expenses will include travelling allowances, daily allowances and salary of staff plus 10 percent as instrument charges.

7. Surrender of a mining lease by the lessee:

The Government may accept the request of a lease holder for surrender of a lease or part thereof in cases where it is established that it has not been found feasible to operate the lease grant for whatsoever reasons subject to the condition that the lessee:

(i) has been regular in furnishing the production returns as required in terms of the lease agreement;

(i) has been taking the requisite steps for the progressive mine closure plan as per the conditions of the lease grant;

(iv) is not in default of payment of any dues of the Government as on the date of making such application and undertakes to pay all such dues till the date of expiry of the notice period either in cash in advance or by way of adjustment of the security or both:

Provided that in case the lessee makes an application for surrender of part area of the lease, it shall not result in any prorated reduction of the dead rent and the rate of dead rent payable and applicable for the entire area at the time of such application shall remain intact.

8. Penalty for repeated breaches:

In case of repeated breaches of covenants and agreements by the lessee for which notice has been given by the competent authority in accordance with Sub-rule *(1)* of Rule 55 and/or sub rule *(1)* of rule 56 of the Assam Minor Mineral Concession Rules, 2012 on earlier occasions, the competent authority without giving any further notice, my impose such penalty not exceeding twice the amount of annual dead rent specified in clause 3 of part-III of this form.

9. Obtaining sales tax number:

The lessee shall get himself registered with the commercial Taxes Department of Assam State and shall obtain the Sales Tax Number.

10. Overriding effect:

Unless otherwise specifically provided, it is agreed that this deed shall be governed by the provisions of the Mines and Minerals (Development and Regulation0 Act, 1957 (67 of 1957) and the rules made thereunder. The provisions of the Act and the rules shall prevail over the terms and conditions of the agreement.

IN WITNESS WHEREOF – These presents have been executed in the manner hereunder appearing the day and year first above written.

Signature of the Lessee

For and on behalf of the Government of Assam

Witness –

1. _____ 1. _____

2. _____ 2. _____

Signature of surety

Witness –

1. _____ 2. _____

FORM ML – 2

[See rule 9 *(1)*]

(Register of application for grant/renewal of Mining Lease)

1.	Serial Number
2.	Date of application for grant or renewal of mining lease
3.	Date on which application was received by the Receiving Officer
4.	Name of applicant with full address
5.	Situation of the land applied for viz village and district with details
6.	Estimated area of the land
7.	Particulars of minerals which the applicant intends to mine
8.	Amount of application fee paid
9.	Final disposal of application together with number and date of the order
10.	Remarks
11.	Signatures of the Officer

FORM ML – 3

[See rule 9 (2)]

(Mining Lease Register)

1.	Serial Number	
2.	(a) Date of application	
	(b) Date of receipt of the application	
3.	Name and address of the applicant	
4.	Situation and boundaries of the land	
5.	The mineral granted under mining lease	
6.	The total area	
7.	Number and date of grant of the lease	
8.	Period for which granted	
9.	Date of execution of the lease deed	
10.	Number, date and period renewal	
11.	Amount of security deposited	
12.	Particulars of disposal or refund of security deposit	
13.	Date of assignment of transfer of the lease, if any and fee paid thereof and the names of the parties thereto	
14.	Date of expiry or relinquishment or cancellation	
15.	Date fro which the area is available for re-grant	
16.	Signature of the Officer-in-charge	

FORM ML – 4

[See rule 12 (10)]

(Model Form for transfer of Mining Lease/Mining Contract)

The indenture made this _____ day of _____ 20 __ between _____ (Name of the person with address and occupation) (hereinafter referred to as the 'transferor' which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives and permitted assigns) or

Where the transferors are more than one individuals _____ (Name of the persons with address and occupation) and _____ (Name of the persons with address and occupations) (hereinafter referred to as the 'transferor' which expression shall where the context so admits be deemed to include their heirs, executors, administrators, representatives and their permitted assigns) or

Where the transferor is a registered firm _____ (Name of the persons with address of all the partners) all carrying on business in partnership under the firm name and style of _____ (Name of the firm) registered under the Indian Partnership Act, 1932 (9 of 1932) and having their registered office at _____ (Address) (hereinafter referred to as the 'transferor' which expression shall where the context so admits shall be deemed to include all the said partners, their respective heirs, executors, legal representatives and their permitted assigns) or

Where the transferor is a registered company _____ (Name of company) a company registered under the Companies Act, 1956 and having its registered office at _____ (Address) (hereinafter referred to as the 'transferor' which expression shall where the context so admits be deemed to include its successors and permitted assigns) of the first part.

Where the transferee is an individual _____ (Name of the person with address and occupation) (hereinafter referred to as the 'transferee' which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives and permitted assigns) or

Where the transferor are more than one individuals _____ (Name of the persons with address and occupations) and (Name of the person with address and occupation) (hereinafter referred to as the 'transferee' which expression shall where the context so admits be deemed to include his heirs, executors, administrators, representatives and permitted assigns) or

Where the transferee is a registered firm _____ (Name of the persons with address of all the partners) all carrying on business in partnership under the firm name and style of _____ (Name of the firm) registered under the Indian Partnership Act, 1932 (9 of 1932) and having their registered office at _____ (Address) (hereinafter referred to as the 'transferor' which expression shall where the context so admits shall be deemed to include all the said partners, their respective heirs, executors, legal representatives and their permitted assigns)

Where the transferee is a registered company _____ (Name of company) a company registered under the Companies Act, 1956 and having its registered office at _____ (Address) (hereinafter referred to as the 'transferee' which expression shall where the context so admits be deemed to include its successors and permitted assigns) of the second part.

Where the Governor of Assam (hereinafter referred to as the 'Government' which expression shall where the context so admits be deemed to include successors and assigns) or the third part.

Whereas by virtue of an indenture of lease dated the _____ (dated) (hereinafter referred to as lese0 the original whereof is attached hereto and marked 'A' entered into between the Government (therein called the lessor) and the transferor (therein called the lessee/contractor) is entitled to search for, win and work the, mines and minerals in respect of _____ (Name of minerals) in the land descripted in Schedule thereto and also in Schedule annexed thereto for the term and subject to the payment of rents and royalties and observance and performance of the lessee's/contractor's convenant and conditions in the said deed of lease/contract reserved and contained including a convenant not to assign the lease/contract or any interest there under without the previous sanction of the Government.

Whereas the transferor is now desirous of transferring and assigning the lease/contract to the transferee and the Government has, at the request of the transferor, granted permission to the transferor vide order No. _____ dated _____ to such a transfer and assignment of the lease/contract upon the conditions of the transferees entering into an agreement is and containing the terms and conditions hereinafter set forth.

Now this Deed Witnesseth as follows:

2. The transferee hereby convenants with the Government that from and after the transfer and assignment of the lease/contract, the transferee shall be bound by, and be liable to perform, observe and conform and be subject to all the provisions of the convenants, stipulations and conditions contained in said hereinbefore recited lease in the same manner in all respects as if the

lease/contract had been granted to the transferee as the lessee/contractor there under and he had originally executed it such.

3. It is further hereby agreed and declared by the transferor of the one part and transferee of the other part that –

(i) the transferor and transferee declare that they have ensured that the mineral rights over the area for which the mining lease/contract is being transferred, vest in the Government;

(ii) the transferor hereby declares that he has not assigned subject, mortgaged or any other manner, transferred the mining lease/contract now being transferred and that no other person has any right, title or interest where under in the present mining lease/contract being transferred;

(iii) the transferor further declares that he has not entered into or made any agreement, contract or understanding whereby he has been or in being directly or indirectly financed to a substantial extent by or under which the transferor's operation or understandings were or are being substantially controlled by any person or body of persons other than the transferor;

(v) the transferee hereby declares that he has accepted all the conditions and liabilities which the transferor was having in respect of such mining lease/contract;

(vi) the transferee further declares that he is financially capable of and will directly undertake mining operations;

(vii) the transferee further declares that he has filed an affidavit stating that he has filed up to date income tax returns, paid the income tax accessed as provided in the Income Tax Act, 1961 (43 of 1961);

(viii) the transferor has supplied to the transferee the original or certified copies of all the plans of abandoned workings in the area and in a belt 65 meters width surrounding it;

(ix) the transferee hereby further declares that as a consequence of this transfer, the total area held by him under mineral concession area not in contravention of the provisions of the Rules;

(x) the transferor has paid all the rents, royalties, and other dues towards Government till the date, in respect of this lease.

In witness whereof the parties hereto have signed on the date and year first above written.

Signature of the transferor

For and on behalf of the Government of Assam

Witness –

1. _____ 1. _____

2. _____ 2. _____

Signature of Transferee

Witness –

1. _____

2. _____

****

FORM ML – 5

[See rule 13 (2)]

(Application for renewal of Mining lease)

Received at _____ (Place) at _____ (Hours) on the _____ day of _____

From

_____

_____

To

The _____

_____

Dated the _____ 20

I. I/we hereby apply for renewal of a mining lease for _____ (name of minor mineral(s) for a term of _____ years over _____ hectares of land in the area specified in the Schedule.

II. A sum of Rs. _____ on account of application fee payable under rule 13 of the Assam Minor Mineral Concession Rules, 2012, deposited in the Government Treasury and the receipted Challan thereof Demand Bank Draft No. _____ dated _____ is enclosed.

III. The required particulars are given below –

PARTICULARS

1.	Name of applicant individual/firm/company or society	
2.	Nationality of the individual or place of registration or incorporation of firm, company or society	
3.	Profession or nature of business of individual or firm or company and place of business	
4.	Address of the individual/firm/company or society	
5.	Name of Minor Mineral which the applicant intents to mine	
6.	Period for which the original lease was granted	
7.	Manner in which the Minor Mineral(s) is to be utilized:	
	(a) for manufacture	
	(b) for sale	
	(c) any other purpose	
	In case of manufacture, the industries in connection with which it is required should be specified.	
8.	A description illustrated by a map or plan (in triplicate) showing a accurate as possible the situation, boundaries and area of land in respect of which the lease is required and where the area is un-surveyed the location of the area should be shown by some permanent physical features i.e. road, tanks etc.	
9.	A statement showing all the areas within jurisdiction of the Government -	
	(i) already held by me/us in my/our name/names (and jointly with others) under quarrying leases specifying the names of minor minerals. (ii) already applied for but not yet granted, and (iii) applied for simultaneously or being applied for in the State. Note No application will be held to be complete for the purpose of priority unless it furnishes the particular required by paragraphs (i), (ii) and (iii) and is properly signed and stamped.	
10.	Period for which renewal of mining lease is required	
11.	Whether renewal is applied for the whole or part of the lease held	
12.	In case the renewal applied for is only for part of the lease held -	
	a. The area applied for renewal. b. Description of the area applied for renewal.	

	c. Map (in triplicate) of the lease held with area applied for renewal clearly marked on it (copy of map attached).	
13.	Means by which the minor mineral is to be raised i.e. by hand, labour or mechanical or electric power.	
14.	Year-wise quantity of the mineral(s) excavated along with royalty paid in each year since grant of lease. (attached no due certificate of concerned Officer-in-charge.	
15.	Mineral reserves available.	
16.	Details of explorations undertaken, if any.	
17.	Details of the mined out areas restored/reclaimed/ rehabilitated s epr progressive mine closure plan	
18.	Details of the sites of overburden restored	
19.	Details of the compliance of -	
	(i) Environmental Clearance; (ii) Mining plan/scheme of mining; (iii) Safety provisions as per the Mines Act, 1952 and the rules and regulations framed thereunder; and (iv) other relevant laws terms and conditions applicable on Mines and Minerals	
20.	Details of defaults, if any, in submission of production returns, payment or royalty/deed rent and found wanting in taking adequate measures for labour safety.	
21.	Details of investment made in development of mine, plant and machinery with a long term perspective and optimal benefit of the same could not have derived during the original period of lease.	
22.	Any other particulars which the applicant wishes to furnish.	
	Schedule giving description of the area applied for	
1.	Name of village, Sub-division and District	
2.	In the case of forest land, the name of the range and Division	
3.	Dag and Patta Numbers and area of each field or part thereof	
3.1.	Patta No.	Area
	a) b) ….	a) b) ….
3.2.	Full description of the area applied for with regard to its natural features -	
3.3.	Felling series and working circle, if any	
3.4.	District	

(Signature of applicant)

Place _____
Date _____

N.B. If the application is signed by an authorized agent of the applicant, power of attorney should be attached.

This is not necessary if whole village or a well defined portion thereof is applied for or if the area lies in Government Forest. If all the numbers cannot be entered in this form they should be continued on a separate sheet attached to it and signed. Where a portion of a Patta number only is required the approximate area of such portion will suffice.

****

FORM ML – 6

(See rule 14)

(Acknowledgement of Application for renewal of Mining Lease)

Government of Assam

No. Dated

Received the application with the following enclosures for a mining lease in respect of minor mineral of Shri /M/s _____ at _____ AM/PM on _____ for about _____ hectares of land village _____ sub division _____ district _____ for mining of _____ (Name of the minor mineral)

Signature and Designation of
The Receiving Officer

Place:

Dated:

Enclosures:

FORM MC – 1

[See rule 18 (30 and 22 *(1)*])

(Model Form for execution of mining contract)

This indenture made on this _____ day of _____ 20 between the Governor of Assam acting through _____ (hereinafter referred to as the "State Government" which expression shall where the context so admits, include the successors and assigns) of the one part; and

Where the Contractor is an individual:- _____ (Name and address of the person) (hereinafter referred to as the "Contractor" which expression shall where the context so admits, includes his heirs, executors, administrator, representatives and permitted assigns).

Where the Contractor is more than one individual - _____ (Name and address of persons) (hereinafter referred to as the "Contractor" which expression shall where the context so admits include their respective heirs, executors, administrators, representatives and permitted assigns)

Where the Contractor is registered firm - _____ (Name and address of all the partners or members, where the "Contractor" are a firm or society) all carrying on business in partnership under the firm name and style of _____ (name of the firm and address) registered under Indian Partnership Act, 1932 and having their registered office at _____ (hereinafter referred to as the "Contractor" which expression shall where the context so admits include their respective heirs, executors/ administrators and permitted assigns)

Where the Contractor is a registered company - _____ (Name and address of the company) a company registered under _____ (Act under which company incorporated) and having its registered office at _____ (address) (hereinafter referred to as the "Contractor" which expression shall where the context so admits include its successors and permitted assigns) of the other part.

Whereas the "Contractor" has offered the highest bid of Rs. _____ (in words Rupees _____) in the bid/action held on _____ for obtaining a mining contract for _____ cu.m. (in words _____ cubic metres (name of minor minerals) in respect of the lands hereinafter described in clause 2 and such bid had been accepted by the officer authorized in this behalf and the contractor has deposited with the Government, a sum of Rs. _____ (Rupees _____) as initial bid security (10% of the annual bid amount) and Shri _____ S/o Shri _____ resident of _____ District _____ (referred to as the 'surety' which expression shall where the context

so admits, include his heirs, executors, administrators, representatives) has been offered as solvent surety for the aforesaid amount and whereas the contractor is in possession of a Income Tax Clearance Certificate.

Now, therefore, this deed witnesses and the parties hereby agrees as follows –

Liberties and privileges to be exercised and enjoyed by the Contractor.

The following liberties, powers and privileges may be exercised and enjoyed by the contractor subject to the other provisions of contract –

(1) In consideration of the contract money, convenants and agreements hereinafter contained and on the part of the Contractor to be paid, observed and performed the Government hereby grants and demises unto the contractor all those mines/beds/veins/ seams of _____ (hereinafter referred to as the said minor minerals), situated, lying and being in or under the lands which are referred to in clause (b) together with the liberties, powers and privileges to be executed or enjoyed in connection herewith which are hereinafter mentioned in Part-I subject to the restrictions and conditions as to exercise and enjoyment of such liberties, and privileges which are hereinafter mentioned in Part-II and subject to other provisions of this contract.

(2) All the tract of land situated at village _____ in sub division _____ district _____ bearing Dag and Patta Nos. _____ containing an area of _____ on thereabouts delineated on the plan hereto annexed and bounded as follows:

On the North by _____
On the South by _____
On the East by _____
On the West by _____

and (hereinafter referred to as the 'said lands' or the 'contracted area')

(3) The contractor shall hold the premises hereby granted and demised from the _____ day _____ for the term of _____ years thence next ensuing.

Part – I

Liberties and privileges to be exercised and enjoyed by the Contractor

The following liberties and privileges may be exercised and enjoyed by the contractor subject to the other provision of contract –

i. To enter upon land and search for win, work:

Liberty at all times during the term hereby demised to enter upon the said lands and to search for mineral, bore, dig, drill for win, work, dress, process, convert, carry away and dispose of the said minor mineral9s).

ii. To sink, drive and make pit, shafts and inclines:

Liberty to sink, drive, make, maintain and use in the said land and pits, shafts, inclines, drifts, levels, waterways, airways and other works and to use, maintain, deepen or extend any existing works of the like nature in the said lands.

iii. To bring and use machinery, equipment:

Liberty to erect, construct, maintain and use on or under the said lands any engine, machinery, plan, dressing floors, flrnaces, coke ovens, brick kilns, workshop, stone houses, bungalows, godowns, shed and other building and other works and conveniences of the like nature on or under the said lands.

iv. To use water from streams:

Liberty but subject to the rights of any existing or future contractor and with the written permission of the Collector concerned to appropriate and use water from any streams, water course, springs or other source in or upon the said lands and to divert, step up or dam any such stream or water course and collect or impound any such water and to make, construct and maintain any water course, cultivated land, village buildings or watering places for livestock of a reasonable supply of water as before accustomed nor in any way to foul or pollute any streams or springs; provided that the contractor/ contractors shall not interfere with navigation in any navigable stream nor shall divert such stream without the previous written permission of the Government.

v. To fell undergrowth and utilize timber and trees:

Liberty to clear undergrowth and brush wood, contractor shall not fell any trees or timber standing or found on the said lands without obtaining prior permission in writing from the Forest Department. In case such permission is granted, he shall pay in advance, the price of the trees/timber to be felled to the said Officer at the rates, fixed by him.

vi. To get building and roads material:

Liberty to quarry and get stones, gravel an other building and road materials and ordinary clay and to use and employ the same and to manufacture such clay into bricks or titles and to use such bricks, tiles but not to sell any such material, bricks, tiles.

vii. To use land for stacking purpose:

Liberty to use a sufficient part of the surface of the said lands for the purpose of stocking, storing or depositing therein any produce of the mines including over burden/ waste material and works carried on and tools, equipment and other materials needed for mining operations.

viii. To install fuel pumps or stations for Diesel or Petrol for self use:

Liberty to use a sufficient part of the land for installing fuel pumps or stations for diesel or petrol for self use/consumption required for mining operations in the contract area, subject to permission of the authority.

ix. To construct magazine for explosive and storage sheds:

Liberty to construct magazine for storage of explosive and storage sheds for explosive related substances with permission from licensing authority.

x. Liberty to seek permission for diversion of public roads, overhead electric lines:

Liberty to request to the competent authority for diversion of public road over head electric lines passing through the concession area at the expenses of lessee to ensure scientific and systematic mining.

Part – II
Restrictions as to the Exercise of the Liberties by the contractor

The liberties and privileges granted under Part-I are subject to the following restrictions and subject to other provisions of this contract –

1. No mining operations within the limit of public works:

The contractor shall not carry on, or allow to be carried on any mining operations:

(i) within a distance of 50 meters from the outer periphery of the defined limits of any village habitation, National Highway and other roads where such excavation does not require use of explosives, unless specifically relaxed and permitted by the competent authority; or

(ii) within a distance of 250 meters from the outer periphery of the defined limits of any village habitation , National Highway, State Highway and other rods where use of explosives is required, unless specifically

relaxed and permitted by the competent authority or any specific dispensation is obtained from the Director, Mines Safety; or

(iii) within a distance of 500 meters from major structures like R.C.C. Bridges, Guide bund etc.; or

(iv) within a distance of 75 meters from any railway line or bridge except under and in accordance with the written permission of the railway administration concerned. The Railway Administration or the Government may in granting such permission, impose such conditions as it may deem fit.

Explanation - For the purpose of this clause the expression Railway Administration shall have the same meanings as it is defined by sub section (4) of section 3 of the Indian Railway Act, 1890:

Provided that where the continuance of any mining operations in any area, in the opinion of the Government is likely to endanger the safety of any National or State Highway, road, bridge, drainage, reservoir, tank, canal or other public works, or public or private buildings or in the public interest or in the interest of environment/ ecology of the area, the Government may determine the contract after giving 60 days notice to the contractor in this behalf and the contract shall stand terminated on the date mentioned in the notice.

2. Working in Sand Zones:

That the contractor in respect of sand zones, shall restrict the quarrying operations to maximum four villages of the zone at any point of time during the subsistence of the contract. The contractor shall have a right to change the site at any time during the substance of the contract on settlement of compensation with the land owners of new site of the zone from where he intend to extract and but ceiling of maximum four villages shall be adhered to strictly and such change of site shall be intimated to the competent authority.

3. Special conditions for river bed mining:

In case of river bed mining/excavation of minor mineral(s), in order to ensure safety of riverbeds, structures and the adjoining areas, the following special conditions shall be abide by the contractor –

(a) no mining would be permissible in a river bed up to a distance of five times of the span of a bridge on up stream side and ten times the span of

such bridge on down stream side, subject to a minimum of 250 meters on the up stream side and 500 meters on the downstream side;

(b) there shall be maintained an un mined block of 50 meters width after every block of 1000 meters over which mining is undertaken or at such distance as may be directed by the competent authority;

(c) the maximum depth of mining in the river bed shall not exceed three meters measured from the un mined bed level at any point in time with proper bench formation;

(d) mining shall be restricted within the central $3/4^{th}$ width of the river/rivulet.

(e) no mining shall be permissible in an area up to a width specified by the competent authority from the active edges of embankments;

(f) any other condition(s), as may be required by the competent authority in public interest.

4. Notice for surface operation in land not already in use:

Before using for surface operations any land which has not already been used for such operation, the contractor shall give notice in advance to the Collector of the district, the competent authority and the Officer-in-charge _____ in writing along with copy of permission to undertake mining specifying the situation and the extend of the land proposed to be so used and the purpose for which the same is required and the sand land shall not be so used, if objection is issued by the Collector.

5. Not to use the land for other purposes:

The contractor shall not cultivate or use the land for any other purpose other than those specified in the contract deed.

6. Disposal of mineral(s) only on issuance of Mineral Transit Pass:

The holder of mining contract shall not sell/dispose off any mineral or mineral products from the concession area without a Mineral Transit Pass.

7. Stacking of mineral(s) inside contract hold area:

The contractor shall not stock the mineral(s) excavated inside the contract hold area at the designated site more than twice the quantity of the average monthly production as per approved mining plan/scheme.

8. Stacking of mineral(s) outside contract hold area:

The contractor shall not stock any minor mineral(s) granted under the contract, outside the contract hold area.

9. Stacking and storage of incidentally extracted major minerals:

In case contractor, while extracting minor mineral given on contract, incidentally extracts any major mineral not given on contract, the same shall be the property of the Government and contractor shall be under an obligation to stack and store it and maintain its proper record in accordance with the direction of the competent authority who shall also be competent to prescribe the procedure for its disposal.

10. Penalties in case of non compliance of clause (9):

In case it is detected that contractor has disposed off incidentally extracted major mineral referred to in clause 9 above or in sub rule (18) of rule 38, in whole or part there of or failed to maintain the record of stored mineral, he shall be liable to penalties under the Act and also premature determination of mining contract in terms of sub rule (19) of Rule 39 of the said rules.

11. Restrictions of mining operations above Ground Water Table:

A safety margin of two meters shall be maintained above the ground water table while undertaking mining and no mining operations shall be permissible below this level unless a specific permission is obtained from the competent authority in this behalf.

12. Restrictions of surface operations:

No mining operations shall be undertaken in any area prohibited by any authority or by the orders of any Court.

13. No mining operations without requisite clearance:

The contractor shall not undertake any mining operations in the area granted on mining contract without obtaining requisite clearance from the competent authority as required for undertaking mining operations.

Part – III

Covenants of the contract

The contractor hereby convenant with the Government as follows –

1. Surface rent:

The contractor shall pay for the surface area occupied by him, surface rent at the rare of Rs. _____ (Rupees _____) per annum.

2. Security deposit:

In case of mining contract granted through competitive bid/auction under rule 18:

25% of the annual bid amount/rate of contract money. The security amount to be deposited as per following –

(i) 10% as initial bid security at the time of auction; and
(ii) 15% of the annual bid amount before commencement of mining operation:

Provided on enhancement of the contract money after expiry of every three year period of contract the contractor shall deposit the balance amount of security so as to up scale the security amount equal to 25% of the revised annual contract money as applicable for one year with respect to next block of three years.

3. Mode of payment of contract money and surface rent:

(a) The contractor shall deposit one advance installment of contract money before commencement of mining operations or before the expiry of period allowed along with 15% of the balance security amount as per clause 2 above.

(b) The contractor, during the subsistence of the contract, shall pay in advance to the Government the installments of the contract money in respect of the said land given to him on mining contract in four quarterly installments on the 1st of April, 1st of June, 1st of September and 1st of December of the year.

Note The amount of one advance installment deposited at the time of commencement of the mining operations or within time allowed for the same shall be adjusted in a manner that the subsequent installments are payable for a full calendar month/quarter/year, as the case may be.

4. Amount to be deposited on account of Fund.

Where the contractor is operating the area, he shall also pay an additional amount, equal to 10% of the due contract money along with amount of installments on account of dead rent or royalty, towards the Fund.

5. Interest on delayed payments.

In case of any default in payment of the installments of contract money/ contribution to the Fund on the due date(s), the amount would be payable along with interest at the following rates:

Sl. No.	Period of delay	Rate of Interest applicable
(i)	If paid within period of 7 days from the due date	A grace period of up to 7 days is allowed without any interest
(ii)	If paid after 7 days but upto 30 days of the due date	15% on the amount of default for the period of default including the grace period;
(iii)	If paid after 30 days but within 60 days of the due date	18% on the amount of default for the period of default including the grace period;
(iv)	Delay beyond 60 days of the due date	It would amount to a 'breach' invite action for termination of the contract and the entire outstanding amount would be recoverable along with interest calculated @ 21% for the entire period of default.

6. Working of newly discovered minerals:

If any minor mineral, not specified in the contract, is discovered in the contracted area, the contractor shall report the discovery without delay to the competent authority and shall not win or dispose of such minor mineral without obtaining a separate mineral concession therefore. If he fails to apply for such a mineral concession within 6 months from the discovery of the minor mineral, the competent authority may give the mineral concession in respect of such mineral, to any other person:

Provided that the grant of such permit may be refused for reasons to be recorded in writing.

7. To commence mining operations within 180 days and carry them on properly:

Unless the competent authority for sufficient cause allows otherwise, the contractor shall commence mining operations 180 days from the date of execution of the contract and shall thereafter conduct such operations in a proper, skilful and workman like manner.

Explanation – For the purpose of this clause, mining operations shall include the erection of machinery laying of a tramway or construction of a road in connection with the working of the mine.

8. To erect and maintain boundary pillars:

The contractor shall at his own expenses, erect and at all times maintain and keep in good repairs boundary marks and pillars according to the plan annexed at the contract. Each of the pillars should be numbered and every pillar shall have GPS reading.

9. Accounts:

The contractor shall keep correct accounts showing the quantity and other particulars of all minerals obtained from the mines and the number of persons employed therein and a complete plan of the mine and shall allow any officer authorized by the Government or the Central Government or the competent authority in that behalf to examine at any time any accounts and records maintained by him, and shall furnish to the Government or the Central Government or the competent authority with such information and returns as it may require.

10. To allow facilities to other lessees etc.:

In addition to the concession holders under Rule-5 of the Assam Minor Mineral Concession Rules, 2012, the lessee shall allow existing and future contractor of any land which is comprised in or adjoins or is reached by the land, held by the lessee, reasonable facilities for access thereto.

11. To allow entry to officers:

The contractor shall allow any officer authorized by the Government or the Central Government or the competent authority to enter upon any building, excavation or land comprised in the contract for the purpose of inspecting the mines.

12. Returns:- The contractor shall –

(a) submit a return in form 'MMP1' by the 7th of every month to the competent authority and also to other officer(s) giving the total quantity of minor mineral(s) raised and dispatched from the contracted area in the preceding calendar month and its value;

(b) also furnish a statement giving information in Form 'MMP2' by the 15th April every year to the competent authority and to other officer(s), regarding quantity and value of minor mineral obtained during last

financial year, average number of regular labourers employed (men and women separately) number of accidents, compensation paid and number of days worked separately.

13. To strengthen and support the mines:

The contractor shall strengthen and support to the satisfaction of the Railway Administration or the State Government, as the case may be any part of the mine which in its opinion requires such, strengthening or support for the safety of any railway, bridge, national highway, reservoirs, canal, road and any other public work or building.

14. Notice for use of explosives, etc.:

The contractor shall immediately give notice in writing in Form 'MSE-1' to the following –

1. The Controller General, Indian Bureau of Mines, Government of India, Nagpur.
2. The Director General of Mines Safety, Government of India, Dhanbad.
3. The Director, Mines Safety, Government of India, Guwahati.
4. The Regional Controller of Mines, Indian Bureau of Mines, Kolkata;
5. The competent authority;
6. The District Magistrate of the District concerned; and
7. The officer-in-charge as soon as:

    (a) The working in the mines extends below superjacent ground; or
    (b) The depth of any open case excavation measured from its highest to the lowest point reaches six meter; or
    (c) The number of persons employed on any day is more than 50;
    (d) Any explosives are used.

15. Maintenance of Sanitary conditions:

The Contractor shall maintain sanitary conditions in the area held by him under the contract.

16. To pay compensation for damage and indemnify the Government:

The contractor shall make and pay such reasonable satisfaction and compensation for all damage, injury or disturbance which may be done by him in exercise of the powers granted by the contract and shall indemnify the Government against all claims which may be made by third parties in respect of such damage, injury or disturbance.

17. Application of all Acts, Rules and Regulations to this contract:

The contractor shall abide by the provisions of Mines Act, 1952 and the rules and regulations framed there under and also the provisions of other labour laws both Central and State as are applicable to the workmen engaged in the mines and quarries relating to the provisions of drinking water, rest shelters, dwelling houses, latrines and first-aid and medical facilities in particular and other safety and welfare provisions in general, to the satisfaction of the competent authorities under the aforesaid Acts, Rules and Regulations and also to the satisfaction of the District Magistrate concerned. In case of non compliance of any of the provisions of the enactments as aforesaid, the competent authority may terminate the mining contract by giving one month's notice with forfeiture of security deposited or:

Provided that the contractor shall carry out mining operation in accordance with all other provisions as applicable for undertaking mining including the provisions of Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986 and the rules made thereunder.

18. To report accident:

The contractor shall without delay report to the Deputy Commissioner of the district concerned and the competent authority or any other office authorized by him, any accident which may occur at or in the contract area.

19. Delivery of possession of land and mines on the surrender or sooner determination of the contract:

At the end of sooner determination or surrender of the contract, the contractor shall deliver up the said lands and all mines (if any dug there) in a proper and workable State, save in respect of any working as to which the Government might have sanctioned abandonment.

20. To provide electronic weighing machine:

The contractor shall provide and at all times keep at or near the pit-head at which the said mineral shall be brought to bank a properly constructed and efficient weighing machine and shall weigh or caused to be weighed thereon all the said minor minerals from time to time brought to bank, sold, exported and converted products, and shall at to close of each day cause the total weights, ascertained by such means of the said minor minerals, ores, products, raised sold, exported and converted during the previous twenty four hours to be entered in the aforesaid books of accounts. The contractor shall permit the Government at all times during the said term to employ any persons to be present at the weighing of the said miner minerals, as aforesaid and to keep accounts thereof and to check the accounts kept by him. The contractor shall give 15 days previous notice in writing to the Officer-in-Charge ____ of every such

measuring or weighing in order that he or some officer on his behalf may be present thereat.

21. To secure pits shafts not fill them up:

The contractor shall well and properly secure pits and shafts and will not without permission in writing, will fully close, fill up or close any mine or shaft.

22. Not to enter upon or to commence operations in the reserved or protected Forest.

The contractor shall not enter upon or commence any mining operations in any forest land comprised in the contracted area except after previously obtaining permission in writing of the Forest Department, Assam.

23. To respect water rights and injure adjoining property:

The contractor shall not injure or cause to deteriorate any source of water, power or water supply and shall not in any other way render any spring or stream or water unfit to be used or to do anything to injure adjoining land, villages or houses.

24. Stocks lying at the end of the contract –

(a) The contractor on expiry of the contract period (successful completion of the contract) shall remove already extracted all of the mineral from the premises of the quarry within a period of seven days. In case any quantity of the already extracted mineral, in the said land is left un-disposed off and is not removed within seven days from the date of expiry of the period of contract the same shall be deemed to be the property of the Government and competent authority may dispose it off in any manner it may like without paying anything thereof to the contractor

(b) The contractor on the termination or sooner determination of the contract shall not remove extracted mineral from the premises of the contracted areas. All extracted minerals in the said lands left over un-disposed after the termination or determination of contract shall be deemed to be property of the Government and competent authority may dispose it off in any manner it may like without paying anything thereof to the contractor.

25. Payment of taxes:

The contractor shall duly and regularly pay to the appropriate authority all taxes, cesses and local dues in respect of the contracted area, said minor minerals or the working of the mines.

26. Payment of additional amount for reclamation/restoration:

The contractor shall also deposit/pay additional amount equal to 10% of the amount of contract money by the 7th of every month, to ensure the compliance of the Reclamation and Restoration works. This additional amount shall be refunded after satisfactory Reclamation/Restoration of the after mining in accordance with the Mine Closure Plan:

Provide that in case the contractor fails to reclaim/restore the area as per mining plan to the satisfactions of the Government, the amount deposited shall be forfeited and used for the restoration of the area:

Provided further that in case no rehabilitation position of the mine comes during the tenure of the mining contract, the amount so deposited shall be kept by the Government in the mining area development fund for future use as and when the mine reaches to a stage requiring restoration and rehabilitation.

27. Assign sublet or transfers of the contract:

The contractor shall not assign, sublet or transfer the contract to any person without obtaining prior permission in writing from the competent authority.

28. Fencing of working place:

If a working place is found to be unsafe all persons shall be withdrawn by the contractor immediately from the dangerous area and all access to such working place except for the purpose of removing the danger or saving life shall be prevented by securely fencing the full width of all entrances to the place, at his own cost.

29. Fencing of excavation after termination or sooner determination of the contract:

The contractor on termination or sooner determination of the contract shall at his own cost, suitably fence the excavations for safety as instructed by the competent authority.

30. Felling of trees:

The contractor shall not fell or cut any trees, standing on the land wherein the quarry is located without obtaining prior permission in writing from the Forest Department, Assam and paying its price as fixed.

31. Security deposit shall carry no interest:

The security deposited by the contractor shall not carry any interest.

32. Government not responsible for loss to contractor:

The Government shall not be responsible for any kind of loss to the contractor.

Part – IV

Rights of the State Government

1. Suspension or termination of the contract:

The competent authority shall have the right to prematurely terminate the contract.

(a) If the contract money or surface rent or any other amount due to the Government are not paid;

(b) if any of the terms and conditions of the contract agreement or conditions of grant or permission to undertake mining by any other statutory authority/ competent authority is violated;

(c) if any of the provisions of these rules and other laws both Central and State as are applicable to mines and minerals, are not complied with:

Provided that no orders of suspension/termination of the contract shall be passed by the competent authority without giving reasonable opportunity to show cause and following the procedure prescribed in the Rules:

Provided that in case of default in payment of Government dues such as contract money/surface rent or any other dues payable under these presents, the contract may be terminated by the competent authority without affording hearing to the contractor after serving upon a notice to make good the payment without thirty days:

Provided further that the competent authority may also at any time after issuance of the notice for default on account of non payment of dues, enter upon the said premises and detain all or any of the mineral or movable property therein and may carry away, detain or order the sale of the property so detained, or so much of it as will suffice for the satisfaction of the contract money or rent or royalty or both dues and all costs and expenses occasioned by the non payment thereof.

2. Determination of contract in public interest:

The Government may be giving six months' prior notice in writing determine the contract if the Government consider that the minor mineral under the contract is required for establishing an Industry beneficial to the public:

Provided that in the State of National Emergency or war, the contract may be determined without giving such notice.

3. Right of pre emption:

The Government shall from time to time and at all times during the terms of contract have the right (to be exercised by notice in writing to the contractor) of pre emption of the said mineral(s) and all products thereof lying in or upon the said lands hereby demised or elsewhere under the control of the contractor and the contractor shall deliver all minerals or products thereof to the Government at current market rates in such quantities and in the manner at the place specified in the notice exercising the said right.

4. Penalty for not allowing entry to officers:

If the contractor or his transferee or assignee does not allow any entry or inspection under clause 11 of part-III, the competent authority may cancel the contract and forfeit in whole of in part the security deposit paid by the contractor.

5. Compensation and acquisition of land of third parties thereof:

In case the occupier(s) or owner(s) of the said land refuses his /their consent to the exercise of the rights and powers reserved to the Government and demised to the contractor under these presents, the contractor shall report the matter to the competent authority who shall request the Collector of the district concerned to direct the occupier(s) or owner(s) to allow the contractor to enter the said lands and to carry out such operations as may be necessary for working the mine, on payment in advance of such compensation to the occupier or owner by the contractor, as may be fixed by the Collector under the rule.

6. Suspension of mining operations:

The Director may order to suspend the mining operations after serving a notice to the contractor, in case, the following violations are noticed –

(a) unsafe and unscientific mining;
(b) non operations of weighbridge;
(c) non providing of safety appliances to the workers;
(d) non payment of compensation to the surface owners;
(e) non submissions of monthly returns;

In case of violations of the aforesaid conditions and also any other terms and conditions of the agreement deed and the provisions of the rules, the competent authority may give a notice to the contractor to remedy the violations within a period of 15 days from the date of issue of the notice. In case, the violations pointed out through notice, are not remedied within the stipulated period of 15 days, the competent authority may after affording an opportunity of being heard to the contractor, order the suspension of the mining operations till such time, the defaults/defects are removed by the lessee within the time frame granted by the competent authority. During the period of suspension of mining operations, the contractor will be allowed only to undertake rectification work for removal of the defects and shall not dispose off the mineral. During the suspension period, the contractor shall be under the obligation to deposit the amount of the contract money etc. on the due dates.

On satisfactory removal of the defects, the competent authority may revoke the suspension orders with or without any modification. Non removal of the defects/defaults during the suspension period and within the time allowed by the competent authority, shall lead to premature termination of contract.

Part – V
General

1. Cancellation:

The contract shall be liable to be cancelled by the competent authority if the contractor cease to work the mine for a continued period of 180 days without obtaining written sanction.

2. Notices:

Every notice by these presents required to be given to the contractor shall be given in writing to such person resident on the said lands as the contractor may appoint for the purpose of receiving such notices and if there shall have been no such appointment then every such notice shall be sent to the contractor by registered post

addressed to the contractor at the address recorded in this contract or at such other address in India as the contractor may from time to time in writing to the competent authority designate for the receipt of notices and every such service shall be deemed to be proper and valid service upon the contractor sand shall not be questioned or challenged by him.

3. Recovery of Government dues as arrears of land revenue:

Without prejudice to any other mode of recovery authorized by any provision of this contract or by any law, all amounts, falling due hereunder against the contractor may be recovered as arrears of land revenue under the law in force for such recovery.

4. Forfeiture of property left more than three months after expiry or determination of contract:

The contractor should remove his property lying on the said lands, within three months after the expiry or sooner determination of the contract or after the date from which any surrender by the contractor of the said lands becomes effective, as the case may be, the property left after the aforesaid period shall become the property of the Government and may be sold disposed of in such manner as the competent authority shall deem fit without liability to pay any compensation therefore, to the contractor.

5. Security and forfeiture thereof:

(a) the competent authority may forfeit the whole or any part of the amount deposited as security under this contract, in case the contractor commits a breach of any convenants to be performed by the contractor under the contract.

(b) Whenever the said security deposit or any part thereof or any further sum hereinafter deposited with the Government in replenishment thereof is forfeited under sub clause (a) or applied by the competent authority under the contract (which the competent authority is hereby authorized to do) the contractor shall immediately deposit the deficient amount to bring the amount in deposit with the Government up to the requisite amount of security at that point of time of contract.

(c) The rights conferred to the Director by clause (a) shall be without prejudice to the rights conferred on the Government by any other provision of this contract or by any law.

(d) On such date as the competent authority may decide within twelve calendar months after the determination of the contract or refusal of any renewal thereof, the amount of security deposit paid in respect of this contract in case is the same is otherwise not forfeited or is not required

to be detained for any other purposes mentioned in this contract shall be refunded to the contractor. No interest shall run on the security deposit.

6. Survey and demarcation of the area:

When a mining contract is granted, arrangement shall be made, if necessary, at the expense of the contractor, for the survey and demarcation of the area granted under the contract. The contractor shall have to bear actual expenses of the staff deputed for the work. Actual expenses will include travelling allowances, daily allowances and salary of staff plus 10 percent as instrument charges.

7. Surrender of a mining contract by the contractor:

The Government may accept the request of the contractor for surrender of a contract or part thereof in cases where it is established that it has not been found feasible to operate the contract grant for whatsoever reasons subject to the condition that the contractor:

(i) has been regular in furnishing the production returns as required in terms of the contract agreement;

(ii) has been taking the requisite steps for the progressive mine closure plan as per the conditions of the contract grant;

(iii) is not in default of payment of any dues of the Government as on the date of making such application and undertakes to pay all such dues till the date of expiry of the notice period either in cash in advance or by way of adjustment of the security or both:

Provided that in case the contractor makes an application for surrender of part area of the contract, it shall not result in any prorated reduction of the contract money and the rate of contract money payable and applicable for the entire area at the time of such application shall remain intact.

8. Penalty for repeated breaches:

In case of repeated breaches of convents and agreements by the contractor for which notice has been given by the competent authority in accordance with sub-rule *(1)* of rule 55 and/or sub rule *(1)* of rule 56 on earlier occasions, the competent authority without giving any further notice, may impose such penalty not exceeding twice the amount of security deposited.

9. Obtaining Sale Tax number:

The contractor shall get himself registered with the Taxation Department of Assam and shall obtain the Sales Tax number.

10. Overriding effect:

Unless otherwise specifically provided, it is agreed that this deed shall be governed by the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and the rules made thereunder. The provisions of the Act and the rules shall prevail over the terms and conditions of the agreement.

Signature of the Contractor

For and on behalf of the Governor of Assam

Witness –

1. _____ 1. _____

2. _____ 2. _____

Signature of surety

Witness –

1. _____

2. _____

Form MC – 2
{see rule 19 *(1)* }

(Application for renewal of Mining Contract)

From

_____
_____
_____

To

The _____
_____
_____

Dated the _____ 20

1. I hereby apply for renewal of a mining contract for _____ (name of minor mineral(s) for a term of _____ years over _____ hectares of land in the area specified in the Schedule.

2. A sum of Rs._____ on account of application fee payable under rule 20, deposited in the Government Treasury and the receipted Challan thereof Demand Bank Draft No. _____ dated _____ is enclosed.

3. The required particulars are given below –

PARTICULARS

(i)	Name of applicant individual/firm/company or society	
(ii)	Nationality of the individual or place of registration or incorporation of firm, company or society	
(iii)	Profession or nature of business of individual or firm or company and place of business	
(iv)	Address of the individual/firm/company or society	
(v)	Name of Minor Mineral which the applicant intents to mine	
(vi)	Period for which the original lease was granted	
(vii)	Manner in which the Minor Mineral(s) is to be utilized:	
	(a) for manufacture	

	(b) for sale	
	(c) any other purpose	
	In case of manufacture, the industries in connection with which it is required should be specified.	
(viii)	A description illustrated by a map or plan (in triplicate) showing a accurate as possible the situation, boundaries and area of land in respect of which the lease is required and where the area is un-surveyed the location of the area should be shown by some permanent physical features i.e. road, tanks etc.	
(ix)	A statement showing all the areas within jurisdiction of the Government -	
	(i) already held by me/us in my/our name/names (and jointly with others) under quarrying leases specifying the names of minor minerals. (ii) already applied for but not yet granted, and (iii) applied for simultaneously or being applied for in the State. Note No application will be held to be complete for the purpose of priority unless it furnishes the particular required by paragraphs (i), (ii) and (iii) and is properly signed and stamped.	
(x)	Period for which renewal of mining lease is required	
(xi)	Whether renewal is applied for the whole or part of the lease held	
(xii)	In case the renewal applied for is only for part of the lease held -	
	(a) The area applied for renewal. (b) Description of the area applied for renewal. (c) Map (in triplicate) of the lease held with area applied for renewal clearly marked on it (copy of map attached).	
(xiii)	Means by which the minor mineral is to be raised i.e. by hand, labour or mechanical or electric power.	
(xiv)	Year-wise quantity of the mineral(s) excavated along with royalty paid in each year since grant of lease. (attached no due certificate of concerned Officer-in-charge.	
(xv)	Mineral reserves available.	
(xvi)	Details of explorations undertaken, if any.	
(xvii)	Details of the mined out areas restored/reclaimed/ rehabilitated as per progressive mine closure plan	
(xviii)	Details of the sites of overburden restored	
19.	Details of the compliance of -	
	(i) Environmental Clearance; (ii) Mining plan/scheme of mining; (iii) Safety provisions as per the Mines Act, 1952 and the rules and regulations framed thereunder; and	

	(iv) other relevant laws terms and conditions applicable on Mines and Minerals	
(xx)	Details of defaults, if any, in submission of production returns, payment or royalty/deed rent and found wanting in taking adequate measures for labour safety.	
(xxi)	Details of investment made in development of mine, plant and machinery with a long term perspective and optimal benefit of the same could not have derived during the original period of contract.	
(xxii)	Any other particulars which the applicant wishes to furnish.	
(xxiii)	Schedule giving description of the area applied for	
a.	Name of village	
b.	In the case of forest land, the name of the range and Division	
c.	Dag and Patta Numbers and area of each field or part thereof	
	Dag and Patta No.	Area
	a) b) ….	a) b) ….
d.	Full description of the area applied for with regard to its natural features -	
e.	Felling series and working circle, if any	
f.	District	

(Signature of applicant)

Place _____

Date _____

N.B. If the application is signed by an authorized agent of the applicant, power of attorney should be attached.

Form ML – 1
[see rule 24 (4)]

Model Form for execution of permit granted for area less than five hectares

This indenture made on this _____ day of _____ 20__ between the Governor of Assam action through _____ (hereinafter referred to as the "State Government") which expression shall where the context so admits, included the successors and assigns) as the one part; and

Where the permit holder is an individual –

_____ (Name and address of the person) (hereinafter referred to as the "permit holder" which expression shall where the context so admits, includes his heirs, executors, administrator, representatives and permitted assigns).

Where the permit holder is more than one individual –

_____ (Name and address of the persons) (hereinafter referred to as the "permit holder" which expression shall where the context so admits, include their respective heirs, executors, administrator, representatives and permitted assigns).

Where the permit holder is registered firm–

_____ (Name and address of all the partners, where the "permit holder" are a firm or society) all carrying on business in partnership under the firm name and style of _____ (name of the firm and address) registered under Indian Partnership Act, 1932 and having their registered office at _____ (hereinafter referred to as the "permit holder" which expression shall where the context so admits, include their respective heirs, executors, administrator, representatives and permitted assigns).

Where the permit holder is a registered company -

_____ (Name of the company) a company registered under _____ (Act under which company incorporated) and having its registered office at _____ (address) (hereinafter referred to as the "permit holder" which expression shall where the context so admits, include its successors and permitted assigns) of the other part.

Whereas the "permit holder" has offered the highest bid of Rs. _____ (in words Rupees _____) in the bid/action held on _____ for obtaining a mining contract for _____ cu. m. (in words Rupees _____ in the bid/auction held on _____ for obtaining a

mining contract for _____ (name of minor minerals) in respect of the lands herein after described in clause 2 and such bid had been accepted by the officer authorized in this behalf and the permit holder has deposited with the Government, a sum of Rs. _____ (Rupees_____) as initial bid security (10% of the annual bid amount) and Shri _____, S/o Shri _____, resident of _____ District _____ (referred to as the 'surety' which expression shall where the context so admits, include his heirs, executors, administrators, representatives) has been offered as solvent surety for the aforesaid amount, and whereas the lessee is in possession of a Income Tax Clearance Certificate.

Now, therefore, this deed witnesses and the parties hereby agree as follows:

(1) In consideration of the permit money, covenants and agreements hereinafter contained and on the part of the permit holder to be paid, observed and performs, the Government hereby grants and demises unto the lessee all those mines/beds/veins/ seams of _____ (hereinafter referred to as the said minor minerals), situated, lying and being in or under the lands which are referred to in clause 2 together with the liberties, powers and privileges to be executed or enjoyed in connection herewith which are hereinafter mentioned in Part-I subject to the restrictions and conditions as to exercise and enjoyment of such liberties, powers and privileges which are hereinafter mentioned in Part-II and subject to other provisions of this permit.

(2) All the tract of land situated at village _____ in _____ Sub division _____ District _____ bearing Dag and Patta Numbers _____ containing an area of _____ of thereabouts delineated on the plan thereto annexed and boundary as follows:

On the North by _____ ;
On the South by _____;
On the East by _____;
On the West by _____;
And (hereinafter referred to as the 'said lands' or the 'permit area').

(3) The permit holder shall hold the premises hereby granted from the _____ day _____ for the term of _____ years thence next ensuing.

Part – I
Liberties and privileges

The following liberties and privileges may be exercised and enjoyed by the permit holder subject to the other provisions of permit:

1. To enter upon land and search for win, work, etc.:

Liberty at all times during the term hereby demised to enter upon the said lands and to search for mineral, bore, dig, drill for win, work, dress, process, convent, carry away and dispose of the said minor minersl(s).

2. To sink, drive and make pit, shafts and inclines:

Liberty to sink, drive, make, maintain and use in the said land and pits, shafts, inclines, drifts, levels, waterways, airways and other works and to use, maintain, deepen or extend any existing works of the like nature in the said lands.

3. To bring and use machinery, equipment:

Liberty to erect, construct, maintain and use on or under the said lands any engine, machinery, plan, dressing floors, furnaces, coke ovens, brick kilns, workshop, store houses, bunglows, godwns, shed and other buildings and other works and convenience of the like nature on or under the said lands.

4. To use water from streams:

Liberty but subject to the rights of any existing or future lessees and with the written permission of the Collector concerned to appropriate and use water from any streams, water course, springs, or other source in or upon the said lands and to divert, step up or dam any such stream or water course, cultivated land, village buildings or watering places for livestock of a reasonable supply of water as before accustomed nor in any way to foul or pollute any streams or springs:

Provided that the lessee shall not interfere with navigation in any navigable stream nor shall divert such stream without the previous written permission of the Government.

5. To fell undergrowth and utilize timber and trees:

Liberty to clear undergrowth and brush wood. Lessee shall not fell any trees or timber standing or found on the said lands without obtaining prior permission in writing from the Forest Department. In case such permission is granted, he shall pay in advance, the price of the trees/timber to be felled to the said officer at the rates, fixed by him.

6. To get building and roads material:

Liberty to quarry and get stones, gravel and other building and road materials and ordinary clay and to use and employ the same and to manufacture such clay into

bricks or tiles and to use such bricks, tiles but not to sell any such materials, bricks, tiles.

7. To use land for stacking purpose –

Liberty to use a sufficient part of the surface of the said lands for the purpose of stocking, storing or depositing therein any produce of the mines including over burden or waste material and works carried on ad tools, equipment and other materials needed for mining operations.

8. To install fuel pumps or stations for diesel or petrol for self use:

Liberty to use a sufficient part of the land for installing fuel pumps or stations for diesel or petrol for self use or consumption required for mining operations in the lease area, subject to permission of the authority.

9. To construct magazine for explosive and storage sheds:

Liberty to construct magazine for storage of explosive and storage sheds for explosive related substances with permission from licensing authority.

10. Liberty to seek permission for diversion of public roads, overhead electric lines:

Liberty to request to the competent authority for diversion of public road, overhead electric lines passing through the concession area at the expenses of the lessee to ensure scientific and systematic mining.

Part – II

Restrictions

The liabilities, powers and privileges granted under Part-I are subject to the following restrictions and subject to other provisions of this permit:

1. No mining operations within the limit of public works:

The permit holder shall not carry on, or allow to be carried on any mining operations:

(i) within a distance of fifty meters from the outer periphery of the defined limits of any village, habitation, National Highway, State Highway and other roads, where such excavation does not require use of explosives, unless specifically relaxed and permitted by the competent authority; or

(ii) within a distance of two hundred fifty meters from the outer periphery of the defined limits of any village, habitation, National Highway, State Highway and other roads, where use of explosives is required, unless specifically relaxed and permitted by the competent authority or any specific dispensation is obtained from the Director, Mines Safety; or

(iii) within a distance of 500 meters from major structures like R.C.C. bridges, guide bund etc; or

(iv) within a distance of seventy meters from any railway line or bridge except under and in accordance with the written permission of the railway administration concerned. The Railway Administration or the Government may in granting such permission, impose such conditions s it may deem fit.

Explanation: For the purpose of this clause the expression Railway Administration shall have the same meaning as it is defined by sub-section (4) of section 3 of the Indian Railway Act, 1890.

Provided that where the continuance of any mining operations in any area, in the opinion of the Government is likely to endanger the safety of any National or State Highway, road, bridge, drainage, reservoir, tank, canal or other public works, or public or private buildings or in the public interest or in the interest of environment/ecology of the area, the Government may determine the lease after giving 60 days notice to the lessee in this behalf and the lease shall stand terminated on the date mentioned in this notice.

Provided further that in the State of National Emergency or war, the permit may be determined without giving such notice.

2. Working in sand Zones:

That the lessee in respect of sand zones, shall restrict the quarrying operations to maximum four villages of the one at any point of time during the subsistence of the lease. The lessee shall have a right to change the site any time during the subsistence of the lease on settlement of compensation with the land owners of new site of the zone from where he intends to extract sand but ceiling of maximum four villages shall be adhered to strictly and such change of site shall be intimated to the competent authority.

3. Special conditions for river bed mining:

In case of river bed mining/excavation of minor mineral(s), in order to ensure safety of river beds, structures and the adjoining areas, the following special conditions shall be abide by the permit holder:

(a) No mining would be permissible in a river bed up to a distance of five times of the span of a bridge on up stream side and ten times the span of such bridge on down stream side, subject to a minimum of 250 meters on the up stream side and 500 meters on the down stream side;

(b) There shall be maintain an un-mined block of 50 meters width after every block of 1,000 meters over which mining is undertaken or at such distance as may be directed by the competent authority;

(c) The maximum depth of mining in the river bed shall not exceed three meters measured from the un-mined bed level at any point of time with proper bench formation.

(d) Mining shall be restricted within the central $3/4^{th}$ width of the river/rivulet;

(e) No mining shall be permissible in an area up to a width specified by the competent authority from the active edges of embankments;

(f) Any other condition(s) as may be required by the competent authority in public interest.

4. Notice for surface operation in land not already in use:

Before using for surface operations any land which has not already been used for such operation, the lessee shall give notice in advance to the Collector of the District, the competent authority and the officer in-charge _____ in writing along with copy of permission to undertake mining specifying the situation and the extend of the land proposed to be so used and the purpose for which the same is required and the said land shall not be so used, if objection is issued by the Collector.

5. Not to use the land for other purposes:

The permit holder shall not cultivate or use the land for any other purpose other than those specified in the lease deed.

6. Disposal of mineral(s) only on issuance of Mineral Transit Pass:

The holder of mining lease shall not sell/dispose off any mineral or mineral products from the concession area without a Mineral Transit Pass.

7. Staking of Mineral(s) inside lease hold area:

The permit holder shall not stock the mineral(s) excavated inside the lease hold area at the designated site more than twice the quantity of the average monthly production as per approved mining plan/scheme.

8. Stacking of mineral(s) outside lease hold area:

The permit holder shall not stock any miner mineral(s) granted under the lease, outside the lease hold area.

9. Stacking and storage of incidentally extracted major minerals:

In case permit holder, while extracting minor mineral given on permit, incidentally extracts any major mineral not given on lease, the same shall be the property of the Government and lessee shall be under an obligation to stock and store it and maintain its proper record in accordance with the direction of the competent authority, who shall also be competent to prescribe the procedure for its disposal and in case it is detected that permit holder has disposed off incidentally extracted major mineral in this clause or in the rule, in whole or part there of or failed to maintain the record of stored mineral, he shall be liable to penalties under the Act and also premature determination of mining permit in terms of the rules.

10. Restrictions of mining operations above Ground Water Table:

A safety margin of two meters shall be maintained above the ground water table while undertaking mining and no mining operations shall be permissible below this level unless a specific permission is obtained from the competent authority in this behalf.

11. Restriction of surface operations:

No mining operations shall be undertaken in any area prohibited by any authority or by the orders of any Court.

12. No mining operations without requisite clearance:

The permit holder shall not undertake any mining operations in the area granted on mining lease without obtaining requisite clearance from the competent authority as required for undertaking mining operations.

Part – III

Covenants of the permit

The permit holder hereby convenant with the Government as follows –

1. Surface rent:

The permit holder shall pay for the surface area occupied by him, surface rent at the rate of Rs. _____ (Rupees _____) only.

2. Security deposit:

The permit holder shall deposit twenty five percent of the annual bid amount or rate of permit money as Security. The security amount shall be deposited as per following-

(i) ten percent as initial bid security at the time of auction; and
(ii) fifteen percent of the annual bid amount before commencement of mining operations or before the expiry of period allowed;

3. Mode of payment of permit money and surface rent.

(a) The permit holder shall deposit one advance installment of permit money before commencement of mining operations or before the expiry of period allowed along with fifteen percent of the balance security amount as per clause 2 above.

(b) The permit holder, during the subsistence of the permit, shall pay in advance to the Government the installments of the permit money in respect of the said land given to him on mining permit in four quarterly installment on the 1st of April, 1st of June, 1st of September and 1st of December.

Note The amount of one advance installment deposited at the time of commencement of the mining operations or within time allowed for the same shall be adjusted in a manner that the subsequent installments are payable for a full calendar month or quarter or year, as the case may be.

4. Amount to be deposited on account of Fund.

Where the Permit holder is operating the area, he shall also pay an additional amount, equal to 10% of the due permit money along with amount of installments on account of dead rent or royalty, towards the Fund.

5. Interest on delayed payments:

In case of any default in payment of the installments of permit money/contribution to the Fund on the due date(s), the amount would be payable along with interest at the following rates:

Sl. No.	Period of delay	Rate of Interest applicable
(i)	If paid within a period of 7 days from the due date	A grace period of upto 7 days is allowed without any interest;
(ii)	If paid after 7 days but upto 30 days of the due date	15% on the amount of default for the period of default including the grace period;
(iii)	If paid after 30 days but within 60 days of the due date	18% on the amount of default for the period of default including the grace period;
(iv)	Delay beyond 60 days of the due date	It would amount to a 'breach' invite action for termination of the lease/contract and the entire outstanding amount would be recoverable along with interest calculated @ 21% for the entire period of default.

6. Working of newly discovered minerals:

If any minor mineral not specified in the permit, is discovered in the permit area, the Permit holder shall report the discovery without delay to the competent authority and shall not win or dispose of such minor mineral without obtaining a separate mineral concession/lease for such mineral. If he fails to apply for such a mineral concession within six months from the discovery of the minor mineral, the competent authority may give the mineral concession in respect of such mineral, to any other person:

Provided that the grant of such permit may be refused for reasons to be recorded in writing.

7. The commence mining operations within one hundred eighty days and carry them on properly.

Unless the competent authority for sufficient cause otherwise, the permit holder shall commence mining operations one hundred eighty days from the date of execution of the permit and shall thereafter conduct such operations in a proper, skilful and workman like manner.

Explanation For the purpose of this clause, mining operations shall include the erection of machinery laying of a tramway or construction of a road in connection with the working of the mine.

8. To erect and maintain boundary pillars:

The permit holder shall at his own expenses, erect and at all times maintain and keep in good repairs boundary marks and pillars according to the plan annexed to the permit. Each of the pillars should be numbered and every pillar shall have GPS reading.

9. Accounts:

The permit holder shall keep correct accounts showing the quantity and other particulars of all minerals obtained from the mines and the number of persons employed therein and a compete plan of the mine and shall allow any officer authorized by the Government or the Central Government or the competent authority in that behalf to examine at any time any accounts and records maintained by him, and shall furnish to the Government or the Central Government of the competent authority with such information and returns as it may require.

10. To allow facilities to other concession holders:

The permit holder shall allow existing and future concession holders of any land which is comprised in or adjoins or is reached by the land, held by the lessee, reasonable facilities for access thereto.

11. To allow entry to officers:

The permit holder shall allow any officer authorized by the Government or the Central Government or the competent authority to enter upon any building, excavation or land comprised in the permit area for the purpose of inspecting the mines.

12. Returns:

The permit holder shall –

(a) submit a return in form 'MMP1' by the 7th of every month to the competent authority and also to other officer(s) specified giving the total quantity of minor mineral(s) raised and dispatched from the leased area in the preceding calendar month and its value;

(b) also furnish a statement giving information in Form 'MMP2' by the 15th April every year to the competent authority and to other officer(s) specified regarding quantity and value of minor mineral(s) obtained during last financial year, average number of regular labourers employed

(men and women separately) number of accidents, compensation paid and number of days worked separately.

13. To strengthen and support the mines:

The permit holder shall strengthen and support to the satisfaction of the Railway Administration or the State Government, as the case may be any part of the mine which in its opinion requires such, strengthening or support for the safety of any railway, bridge, national highway, reservoirs, canal, road or any other public work of building.

14. Notice for use of explosives, etc.:

The permit holder shall immediately inform in writing in Form MSE1 in case of (a) working in the mines extends below superjacent ground; or (b) depth of any open cast excavation measured from its highest to the lowest point reaches six meters; or (c) number of persons employed on any day is more than 50; or (d) any explosives are used, to the following –

(i) The Controller General, Indian Bureau of Mines, Government of India, Nagpur.
(ii) The Director General of Mines Safety, Government of India, Dhanbad;
(iii) The Director, Mines Safety, Government of India, Guwahati.
(iv) The Regional Controller of Mines, Indian Bureau of Mines, Kolkata;
(v) The competent authority;
(vi) The District Magistrate of the District concerned; and
(vii) The Officer-in-charge.

15. Maintenance of Sanitary conditions:

The permit holder shall maintain sanitary conditions in the area held by him under the permit.

16. To pay compensation for damage and indemnify the Government:

The permit holder shall make and pay such reasonable satisfaction and compensation for all damage, injury or disturbance which may be done by him in exercise of the powers granted by the lease and shall indemnify the Government against all claims which may be made by third parties in respect of such damage, injury or disturbance.

17. Application of all Acts, Rules and Regulations to this lease:

The permit holder shall abide by the provisions of Mines Act, 1952 and the rules framed there under and also the provisions of other labour laws both Central and State as are applicable to the workmen engaged in the mines and quarries relating to the

provisions of drinking water, rest shelters, dwelling houses, latrines and first aid and medical facilities in particular and other safety and welfare provisions in general, to the satisfaction of the competent authorities under the aforesaid Acts, Rules and Regulations and also to the satisfaction of the District Magistrate concerned. In case of non compliance of any of the provisions of the enactments as aforesaid, competent authority may terminate the mining lease by giving one month's notice with forfeiture of security deposited:

Provided that the permit holder shall carry out mining operations in accordance with all other provisions as applicable for undertaking mining including the provisions of Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986 and the rules made there under.

18. To report accident:

The permit holder shall without delay report to the Deputy Commissioner of the district concerned and the competent authority or any other officer authorized by him, any accident which may occur at or in the permit area.

19. Delivery of possession of land and mines on the surrender or sooner determination of the permit:

At the end or sooner determination or surrender of the permit, the permit holder shall deliver up the said lands and all mines (if any dug there) in a proper and workable state, save in respect of any working as to which the Government might have sanctioned abandonment.

20. To secure pits/shafts and not fill them up:

The permit holder shall well and properly secure pits and shafts and will not without permission in writing, willfully close, fill up or close any mine or shaft.

21. Not to enter upon or to commence operations in the reserved or protected forest:

The permit holder shall not enter upon or commence any mining operations in any forest land comprised in the leased area except after obtaining permission in writing of the Forest Department.

22. To respect water rights and not injure adjoining property:

The permit holder shall not injure or cause to deteriorate any source of water, power or water supply and shall not in any other way render any spring or stream or water unfit to be used or to do anything to injure adjoining land, village or houses.

23. Stocks lying at the end of the permit:

(a) The permit holder on expiry of the lease period (successful completion of the lease) shall remove already extracted all of the mineral from the premises of the quarry within a period of seven days. In case any quantity of the already extracted mineral, in the said land is left un-disposed off and is not removed within seven days from the date of expiry of the period of lease the same shall be deemed to be the property of the Government who may dispose it off in any manner it may like without paying anything thereof to the permit holder.

(b) The permit holder on the termination or sooner determination of the lease shall not remove extracted mineral from the premises of the leased areas. All extracted minerals in the said lands left over un-disposed after the termination or determination of lease shall be deemed to be property of the Government and competent authority, may dispose it off in nay manner it may like without paying anything thereof to the permit holder.

24. Payment of taxes:

The permit holder shall duly and regularly pay to the appropriate authority all taxes, cesses and local dues in respect of the leased area, said minor minerals or the working of the mines.

25. Payment of additional amount for reclamation/restoration:

The permit holder shall also deposit/pay additional amount equal to 10% of the amount of royalty/dead rent along with the payment of royalty or dead rent, whichever is more, by the 7th of every month, to ensure the compliance of the Reclamation and Restoration works. This additional amount shall be refunded after satisfactory Reclamation/ Restoration of the area after mining in accordance with the Mine Closure Plan:

Provided that in case the permit holder fails to reclaim/restore the area as per mining plan to the satisfactions of the State Government, the amount deposited shall be forfeited and used for the restoration of the area:

Provided further that in case no rehabilitation position of the mine comes during the tenure of the mining lease, the amount so deposited shall be kept by the State Government in the mining area development fund for future use as and when the mine reaches to a stage requiring restoration and rehabilitation.

26. Assign sublet or transfer of the permit area:

The permit holder shall not assign, sublet or transfer the lease to any person without obtaining period permission in writing from the competent authority.

27. Fencing of working place:

If a working place is found to be unsafe all persons shall be withdrawn by the lessee immediately from the dangerous area and all access to such working place except for the purpose of removing the danger or saving life shall be prevented by securely fencing the full width of all entrances to the place, at his own cost.

28. Fencing of excavation after termination or sooner determination of the permit:

The permit holder on termination or sooner determination of the lease, shall at his own cost, suitably fence the excavations for safety as competent authority.

29. Felling of trees:

The permit holder shall not fell or cut any tree, standing on the land wherein the quarry is located without obtaining prior permission in writing from the Forest Department, Assam and paying its price as fixed.

30. Security deposit shall carry no interest ;

The security deposited by the permit holder shall not carry any interest. It shall be refunded to the permit holder within three months from the date of expiry or sooner determination of the permit in case the same is otherwise not forfeited or is not required to be detained for any other purpose.

31. Government not responsible for loss to permit holder:

The Government shall not be responsible for any kind of loss to the permit holder.

Part – IV

Rights of the State Government

1. The Suspension or Termination of the permit – The competent authority shall have the right to suspend or prematurely terminate the permit.

(a) If the permit money or royalty or surface rent or any other amount due to the Government are not paid;

(b) if any of the terms and conditions of the permit agreement or conditions of grant or permission to undertake mining by any other statutory authority or competent authority is violated;

(c) if any of the provisions of these rules and other laws both Central and State as are applicable to mines and minerals, are not complied with:

Provided that no orders of suspension or termination of the lease shall be passed by the competent authority without giving reasonable opportunity to show cause and following the procedure prescribed in the Rules:

Provided further that in case of default in payment of Government dues such as permit money, royalty, dead rent or any other dues payable under these pre3sents, the permit may be terminated by the competent authority without affording hearing to the permit after serving upon a notice to make good the payment within thirty days:

Provided further that the competent authority may also at any time after issuance of the notice for default on account of non payment of dues, enter upon the said premises and detrain all or any of the mineral(s) or movable property therein and may carry away, detain or order the sale of the property so detrained, or so much of it as will suffice for the satisfaction of the rent or royalty or both dues and all costs and expenses occasioned by the non payment thereof.

2. Determination of permit area in public interest:

The Government may by giving 'six months' prior notice in writing determine the lease if the Government consider that the minor mineral under the lease is required for establishing an Industry beneficial to the public:

Provided that in the State of National Emergency or War, the lease may be determined without giving such notice.

3. Right of pre-emption:

The Government shall from time to time and at all times during the terms of lease have the right (to be exercised by notice in writing to the permit holder) of pre-emption of the said mineral(s) and all products thereof lying in or upon the said lands hereby demised of elsewhere under the control of the lessee and the lessee shall deliver all minerals or products thereof to the Government at current market rates in such quantities and in the manner at the place specified in the notice exercising the said right.

4. Penalty for not allowing entry to officers:

If the permit holder or his transferee or assignee does not allow any entry or inspection under clause (13) of part-III, the competent authority may cancel the permit and forfeit in whole or in part the security deposit paid by the permit holder.

5. Compensation and acquisition of land of third parties thereof:

In case the occupier(s) or owner(s) of the said land refuses his/their consent to the exercise of the rights and powers reserved to the Government and demised to the lessee under these presents, the lessee shall report the matter to the competent authority who shall request the Collector of the District concerned to direct the occupier(s) or owner(s) to allow the lessee to enter the said lands and to carry out such operations as may be necessary for working the mine, on payment in advance of such rent or compensation to the occupier or owner by the lessee, as may be fixed by the Collector as per the provisions of rules 46 and 47 of the rules.

6. Suspension of mining operations:

The Director may order to suspend the mining operations after serving a notice to the lessee, in case, the following violations are noticed –

(a) unsafe and unscientific mining; or
(b) non providing of safety applications to the workers; or
(c) non payment of compensation to the surface owners; or
(d) non submissions of monthly returns;

In case of violations of the aforesaid conditions and also my other terms and conditions of the agreement deed and the provisions of the rules, the competent authority may give notice to the permit holder to remedy the violations within a period of fifteen days from the date of issue of the notice. In case, the violations pointed out through notice, are not remedied within the stipulated period of fifteen days, the competent authority may after affording an opportunity of being heard to the lessee, order the suspension of the mining operations till such time, the defaults/defects are removed by the lessee within the time frame (within a maximum period of six months) granted by the competent authority. During the period of suspension of mining operations, the lessee will be allowed only to undertake rectification work for removal of the defects and shall not dispose of the mineral. During the suspension period, the lessee shall be under the obligation to deposit the amount of the dead rent on the due dates.

On satisfactory removal of the defects, the competent authority may revoke the suspension orders with or without any modification. Non removal of the defects/defaults during the suspension period and within the time allowed by the competent authority, shall lead to premature termination of permit.

Part – V

General

1. Cancellation:

The Permit holder shall be liable to be cancelled by the competent authority if the lessee cease to work the mine for a continued period of six months without obtaining written sanction.

2. Notices:

Every notice by these presents required to be given to the lessee shall be given in writing to such person resident on the said lands as the lessee may appoint for the purpose of receiving such notices and if there shall have been no such appointment then every such notice shall be sent to the lessee by registered post addressed to the lessee at the address recorded in this lease or at such other address in India as the lessee may from time to time in writing to the competent authority designate for the receipt of notices and every such service shall be deemed to be proper and valid service upon the lessee and shall not be questioned or challenged by him.

3. Recovery of Government dues as arrears of land revenue:

Without prejudice to any other mode of recovery authorized by any provision of this lease or by any law, all amounts, falling due hereunder against the lessee may be recovered as arrears of land revenue under the law in force for such recovery.

4. Forfeiture of property left more than three months after expiry or determination of permit:

The permit holder should remove his property lying on the said lands within three months after the expiry or sooner determination of the lease or after the date from which any surrender by the lessee of the said lands under relevant rules of the Assam Minor Mineral Concession Rules, 2012 becomes effective, as the case may be, the property left after the aforesaid period shall become the property of the Government and may be sold or disposed of in such manner as the competent authority shall deem fit without liability to pay any compensation therefore, to the permit holder.

5. Security and forfeiture thereof:

(a) the competent authority may forfeit the whole or any part of the amount deposited as 'Security' under this lease, in case the lessee commits a breach(s) of any convenants to be performed by the lessee under the permit.

(b) whenever the said security deposit or any part thereof or any further sum hereafter deposited with the competent authority in replenishment thereof is forfeited under sub clause (a) or applied by the competent authority under this lease (which the Government is hereby authorized to do) the lessee shall immediately deposit with the inappropriate part thereof to bring the amount in deposit with the Government upto the requisite amount of security at that point of time of permit.

(c) The rights conferred to the Government by clause (a) shall be without prejudice to the rights conferred on the State Government by any other provision of this lease or by any law.

(d) On such date as the competent authority may elect within twelve calendar months after the determination of this lease or any renewal thereof, the amount of security deposit paid in respect of this lease and then remaining in deposit with the Government and not required to be applied to any of the purposes mentioned in this lease shall be refunded to the lessee. No interest shall run on the security deposit.

6. Survey and demarcation of the area:

When a mining lease is granted arrangement shall be made, if necessary, at the expense of the lessee, for the survey and demarcation of the area granted under the lease. The lessee shall have to bear actual expenses of the staff deputed for the work. Actual expenses will include travelling allowances, daily allowances and salary of staff plus 10 percent as instrument charges.

7. Surrender of a mining lease by the permit holder:

The Government may accept the request of a lease holder for surrender of a lease or part thereof in cases where it is established that it has not been found feasible to operate the lease grant for whatsoever reasons subject to the condition that the permit holder:

(i) has been regular in furnishing the production returns as required in terms of the lease agreement;

(i) has been taking the requisite steps for the progressive mine closure plan as per the conditions of the lease grant;

(iii) is not in default of payment of any dues of the Government as on the date of making such application and undertakes to pay all such dues till the date of expiry of the notice period either in cash in advance or by way of adjustment of the security or both:

Provided that in case the lessee makes an application for surrender of part area of the permit, it shall not result in any prorated reduction of the dead rent and the rate of permit money payable and applicable for the entire area at the time of such application shall remain intact.

8. Penalty for repeated breaches:

In case of repeated breaches of covenants and agreements by the lessee for which notice has been given by the competent authority in accordance with Sub-rule *(1)* of Rule 55 and/or sub rule *(1)* of rule 56 on earlier occasions, the Director without giving any further notice, may impose such penalty not exceeding twice the amount of annual permit money.

9. Obtaining Sale Tax number:

The permit holder shall get himself registered with the commercial Taxes Department of Assam State and shall obtain the Sales Tax Number.

10. Overriding effect:

Unless otherwise specifically provided, it is agreed that this deed shall be governed by the provisions of the Mines and Minerals (Development and Regulation0 Act, 1957 (67 of 1957) and the rules made thereunder. The provisions of the Act and the rules shall prevail over the terms and conditions of the agreement.

Signature of the Permit holder

For and on behalf of the Governor of Assam

Witness –

1. _____ 1. _____

2. _____ 2. _____

Signature of surety

Witness –

1. _____

2. _____

FORM MPS-2

[see rule 25(3)]

(Model form for execution deed for permit of Saltpeter)

This indenture made on this _____ day of _____ 20__ between the Governor of Assam acting through _____ (hereinafter called the "Government" which expression shall where the context so admits be deemed to include his successors in office and assigns of the first part, and Shri _____ son of Shri _____ resident of _____ district _____ (hereinafter referred to as "Permit holder" which expression shall, where the context so admits include his heirs, executors, administrators, representatives and permitted assigns) of the second part and Shri _____ son of Shri _____ resident of _____ district _____ (hereinafter referred to as "the surety", which expression shall, where the context so admits, include his heirs, executors, administrators, representatives and permitted assigns) of the third part;

And whereas the permit holder has offered the highest bid for the period of _____ cu.m. (in words _____ cubic meter _____ (name of the quarry) (hereinafter referred to as the "said lands") in Sub-Divisions _____ district _____ and whereas the permit holder has paid Rs. _____ (Rupees _____) only as security (equal to 25% of the bid amount) for the due fulfillment of the terms and covenants hereinafter mentioned and the Government has agreed to grant him the aforesaid permit.

Now these presents witnesses as follows:

1. Amount and mode of payment of permit money:

The permit holder shall during the subsistence of the permit pay in advance to the Government, the following permit money in respect of the said lands given to him on permit for the period from _____ to _____ on the dates mentioned below.

Sl. No.	Value of annual permit money	Periodicity of payment
(i)	Upto Rs.10.00 lakhs	Rs. _____ (full amount of permit money in lump-sum to be deposited at the time of auction along with the security amount).
(ii)	Above Rs.10.0 lakhs	Rs. _____ (In two installments, one at the time of auction and another by 15th of May of the year to which the permit pertains).

2. Amount to be deposited on account of Mines and Mineral Development, Restoration and Rehabilitation Fund (hereinafter referred to as "Fund")

Where the permit holder is operating the area, he shall also pay an additional amount, equal to 10% of the due contract money along with amount of installments on account of dead rent or royalty, towards the Fund.

3. Interest on delayed payments.

In case of any default in payment of the installments of contract money/ contribution to the Fund on the due date(s), the amount would be payable along with interest at the following rates:

Sl. No.	Period of delay	Rate of Interest applicable
(i)	If paid within period of 7 days from the due date	A grace period of up to 7 days is allowed without any interest
(ii)	If paid after 7 days but upto 30 days of the due date	15% on the amount of default for the period of default including the grace period;
(iii)	If paid after 30 days but within 60 days of the due date	18% on the amount of default for the period of default including the grace period;
(iv)	Delay beyond 60 days of the due date	It would amount to a 'breach' invite action for termination of the contract and the entire outstanding amount would be recoverable along with interest calculated @ 21% for the entire period of default.

4. No quarrying operations in certain areas:

No quarrying operations or working shall be carried on or permitted to be carried on by the permit holder in or under the said lands or to any point within a distance of ten meters from any railway line, bridge, national highway, reservoir, tank, canal or other public road or buildings etc.:

Provided that where the continuance of any mining operations in any area, in the opinion of the Government is likely to endanger the safety of any National or State Highway, road, bridge, drainage, reservoir, tank, canal or other public works, or public or private buildings the competent authority may terminate the permit after giving one month's notice to the permit holder in this behalf. The permit shall stand terminated on the date mentioned in the notice. In such an event the permit holder shall be refunded the permit money proportionate to the unexpired portion of the permit paid by him in advance if any.

5. To allow entry to Central Government and State Government Officers for inspection:

The permit holder shall at all reasonable times allow the competent authority and any other officer authorized by the Central Government or by the State Government in that behalf to inspect the said lands and the buildings and plant erected thereon and the permit holder shall assist such person in conducting the inspection and afford them all information they may reasonably require and shall conform to and observe all orders which the Central or the State Government or the competent authority, as a result of such inspection or otherwise may from time to time pass.

6. Assign sublet or transfer of the permit:

The permit holder shall not assign, sublet or transfer the lease to any person without obtaining period permission in writing from the competent authority.

7. To pay compensation for damage and indemnify the Government:

The permit holder shall make and pay such reasonable satisfaction and compensation for all damage, injury or disturbance which may be done by him in exercise of the powers granted by the lease and shall indemnify the Government against all claims which may be made by third parties in respect of such damage, injury or disturbance.

8. Not to carry on surface operation in prohibited areas:

The permit holder shall not carry on surface operation in any area prohibited by any authority, without obtaining prior permission in writing from the concerned authority.

9. Not to enter and work in reserved and protected forest areas:

The permit holder shall not enter and work in any forest land without obtaining prior permission in writing from the Forest Department.

10. Application of all Acts, Rules and Regulations to this permit:

The permit holder shall abide by the provisions of Mines Act, 1952 and the rules framed there under and also the provisions of other labour laws both Central and State as are applicable to the workmen engaged in the mines and quarries relating to the provisions of drinking water, rest shelters, dwelling houses, latrines and first aid and medical facilities in particular and other safety and welfare provisions in general, to the satisfaction of the competent authorities under the aforesaid Acts, Rules and Regulations and also to the satisfaction of the District Magistrate concerned. In case of non compliance of any of the provisions of the enactments as aforesaid, competent

authority may terminate the mining lease by giving one month's notice with forfeiture of security deposited:

Provided that the permit holder shall carry out mining operations in accordance with all other provisions as applicable for undertaking mining including the provisions of Forest (Conservation) Act, 1980 and Environment (Protection) Act, 1986 and the rules made there under.

11. Disposal of mineral(s) only on issuance of Mineral Transit Pass:

The holder of mining lease shall not sell/dispose off any mineral or mineral products from the concession area without a Mineral Transit Pass.

12. Security deposit shall carry no interest ;

The security deposited by the lessee shall not carry any interest. It shall be refunded to the permit holder within three months from the date of expiry or sooner determination of the permit in case the same is not forfeited or required to be detained for any other purposes under this deed.

13. Penalty for default:

In case of default in the due observance of the terms and conditions of the permit or in payment of the permit money on the due date, the permit may be terminated by the competent authority by giving one month's notice. In such an event, the competent authority shall be at liberty to forfeit the security deposited and also the installments, paid in advance, if any the permit holder shall deliver the possession of the quarry to the officer- in-charge, concerned within seven days of the receipt of the order of termination of permit.

14. Termination of permit by Government in public interest:

The permit may be terminated by the Government if considered by it to be in public interest, by giving one month's notice:

Provided that in the State of National emergency or War, the permit may be terminated without giving such notice.

15. Recovery of permit money as arrears of land revenue:

Any sum due from the permit holder on account of permit money in respect of the permit shall be recoverable from him as arrears of land revenue.

16. To submit reports:

The permit holder shall furnish such reports and returns relating to output, labourers employed and other matters, as the competent authority may prescribe from time to time.

17. Returns:

The permit holder shall submit a monthly return in form 'MMP1' by the 10th day of each month to the competent authority and to the officer-in-charge concerned giving the total quantity of minor mineral(s) raised and dispatched from the specific area out of the area under permit in the preceding calendar month, and its value and such other information relating to the permit as may be called for by the competent authority.

18. State Government not responsible for loss to permit holder:

The Government shall not be responsible for any kind of loss to the permit holder for any reason what-so-ever.

19. Notices:

Every notice by these presents required to be given to the lessee shall be given in writing to such person resident on the said lands as the lessee may appoint for the purpose of receiving such notices and if there shall have been no such appointment then every such notice shall be sent to the lessee by registered post addressed to the lessee at the address recorded in this lease or at such other address in India as the lessee may from time to time in writing to the competent authority designate for the receipt of notices and every such service shall be deemed to be proper and valid service upon the lessee and shall not be questioned or challenged by him.

20. Compensation and acquisition of land of third parties thereof:

In case the occupier(s) or owner(s) of the said land refuses his /their consent to the exercise of the rights and powers reserved to the Government and demised to the contractor under these presents, the contractor shall report the matter to the competent authority who shall request the Collector of the district concerned to direct the occupier(s) or owner(s) to allow the contractor to enter the said lands and to carry out such operations as may be necessary for working the mine, on payment in advance of such compensation to the occupier or owner by the contractor, as may be fixed by the Collector under the rule.

21. Suspension of mining operations:

The competent authority may order to suspend the mining operations after serving a notice to the permit holder, in case of the following;

(a) unsafe and unscientific mining;
(b) non providing of safety appliances to the workers;
(c) non payment of compensation to the surface owners;
(d) non submissions of monthly returns;

In case of violations of the aforesaid conditions and also any other terms and conditions of the agreement deed and the provisions of the rules, the competent authority may give a notice to the contractor to remedy the violations within a period of 15 days from the date of issue of the notice. In case, the violations pointed out through notice, are not remedied within the stipulated period of 15 days, the competent authority may after affording an opportunity of being heard to the contractor, order the suspension of the mining operations till such time, the defaults/defects are removed by the lessee within the time frame granted by the competent authority. During the period of suspension of mining operations, the contractor will be allowed only to undertake rectification work for removal of the defects and shall not dispose off the mineral. During the suspension period, the contractor shall be under the obligation to deposit the amount of the contract money etc. on the due dates.

On satisfactory removal of the defects, the competent authority may revoke the suspension orders with or without any modification. Non removal of the defects/defaults during the suspension period and within the time allowed by the competent authority, shall lead to premature termination of permit holder.

22. Stocks lying at the end of the permit:

(a) The permit holder on expiry of the lease period (successful completion of the lease) shall remove already extracted all of the mineral from the premises of the quarry within a period of seven days. In case any quantity of the already extracted mineral, in the said land is left un-disposed off and is not removed within seven days from the date of expiry of the period of lease the same shall be deemed to be the property of the Government who may dispose it off in any manner it may like without paying anything thereof to the permit holder.

(b) The permit holder on the termination or sooner determination of the lease shall not remove extracted mineral from the premises of the leased areas. All extracted minerals in the said lands left over un-disposed after the termination or determination of lease shall be deemed to be property of the Government and competent authority, may dispose it off in nay manner it may like without paying anything thereof to the permit holder.

23. Recovery of Government dues as arrears of land revenue:

This indenture further witnesses that in further pursuance of the agreement and convenants referred to above, the permit holder and the surety further covenant that if the permit holder shall make default in the payment of the permit money under these presents including any interest thereon, on the date or dates on which the same shall be or become payable then the whole of the outstanding permit money and interest shall be payable by the permit holder and the surety jointly and severally. The Government shall be at liberty to recover the same from the permit holder or the surety irrespective of the fact whether Government shall have pursued all or any of its remedies against the permit holder.

24. Permit holder shall get himself registered with the Taxation Department of Assam and shall obtain the Sales Tax number.

25. Overrriding effect:

Unless otherwise specifically provided, it is agreed that this deed shall be governed by the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and the rules made thereunder. The provisions of the Act and the rules shall prevail over the terms and conditions of the agreement.

IN WITNESS WHEREOF these presents have been executed in the manner hereunder appearing the day and year above written.

Signature of the Permit holder

In the presence of –

1. _____
Address _____

2. _____
Address _____

For and on behalf of the Governor of Assam.

In the presence of –

1. _____
Address _____

2. _____
Address _____

Signature of the surety

In the presence of -

1. _____
Address _____

2. _____
Address _____

FORM PIM – 1

[See rule 26 (4)]

Application for the grant of permit for excavation of Brick Earth by the Brick Kiln Owners

To

……..

……..

Dear Sir,

Undersigned intends to install a brick kiln or is the owner of …… (Name and address of the Brick Kiln), and for manufacturing of the bricks requires the minor mineral namely "Brick Earth". The application fee of Rs.500/- (non refundable) in the form of bank draft/treasury challan bearing number …… dated …… is enclosed.

2. The details of the area for which permission is being sought, if given as under –
   a) location of Brick Kiln (village/sub division/district)
   b) category of the Brick Kiln
   c) extent of the land from which brick earth is to be excavated (Dag No., Patta No. etc.)
   d) lay out plan of the area applied for permit.
   e) existing status of the land as compared to general ground level of the area
   f) quantity of brick kiln required to be removed.
   g) advance amount of permit fee/royalty
   h) security (refundable).

3. Applicant further submits that;

a) royalty at the rates prescribed under First Schedule to the Assam Minor Mineral Concession Rules, 2012 shall be paid for the brick earth to be removed from the area under permit.
b) area is free from plantation or is not forest land.
c) digging of the earth at the site is otherwise not prohibited by any court of law or any authority.
d) brick earth will be used only for manufacturing of the bricks.
e) he will abide by all relevant provisions for excavation of earth.
f) a compensation has been settled with land owner mutually and a copy of the agreement signed between the applicant and the landowner qua mutual settlement of the compensation is attached (in case land is owned by the applicant himself, the proof thereof).
g) in case of renewal of permit copy of last permit, along with proof of payment towards applicable permit money or royalty.

Dated: (Name and address of the applicant)

Encls: As above

FORM PIM – 4

[See Rule 27 (6)]

Standard form for excavation of ordinary clay or earth

Whereas Shri/Messers ……. Has applied for the grant of a permit under Rule 27 of the Assam Minor Mineral Concession Rules, 2012 for excavation of ……. Tones/cubic meter/quintals of ……. Ordinary clay/earth, a minor minerals for excavation /removal from ……. (details of area). The applicant has/have paid royalty in advance amounting to ……. And Rs. ……. On account of Mines and Mineral Development, Rehabilitation and Restoration Fund (10% of the amount of royalty) and Rs. ……. On account security (50% of the amount of royalty)

The permission is hereby granted for disposal of the mineral ……. (name of minor minerals) tones/cubic meter/quintals excavated/removed from the aforesaid area for the period from ……. To ……. Subject to following conditions:

1. The holder of the permits shall keep the Government indemnified from third party claim relating to the extraction of brick earth from the land for which quarrying permit is given.

2. The holder of the permit shall excavate the brick earth in such a manner that the same shall not disturb or damage any road, public ways, buildings, premises of public grounds.

3. That the holder of the permit shall not fell any tree standing on the land without obtaining prior permission in writing from the competent authority in the Forest Department. In case such permission has been granted, he shall abide by the terms and conditions stipulated in such permission.

4. The permit holder shall not carry on surface operations in any area prohibited by any authority, without obtaining prior permission in writing from the concerned authority.

5. The permit holder shall not enter and work in any Forest without obtaining prior written permission of the Forest Department.

6. The permit holder shall report immediately all accidents to the Deputy Commissioner and the competent authority concerned.

7. The depth of the pit below surface shall not exceed nine feet and in case where sand deposits are found, the depth of the pit below surface shall not exceed three feet.

8. The permit holder shall not excavate any other mineral than that of ordinary clay/earth found in the area. Any breach in this regard will entail immediate suspension of the workings and followed by termination of permit along with forfeiture of security amount, after affording opportunity of show cause. In case any mineral is illegally disposed off, the officer-in-charge shall also recover amount of penalty in accordance with the provisions of Mines and Mineral (Development and Regulation) Act, 1957 and Rules framed thereunder.

9. The permit holder shall ensure that any mining operations below a depth of 1.5 meters shall necessarily be undertaken by formation of benches for safe mining. The benches would be formed in a manner that the width of the bench is not lesser than the height of the bench or as permitted by the Director, Mines Safety, Government of India.

10. The permit holder shall transport/dispose of the ordinary clay/earth from the site of the excavation, only by issuing a Mineral Transit Pass.

11. The permit holder shall restore and rehabilitate the area of excavation with in fifteen days from the date of expiry of the permit and shall submit compliance report to the Officer-in-charge.

12. In case of any default in due observance of the terms and conditions of this permit or in payment of the installment on due date, the permit may be cancelled by the competent authority by giving one month notice where the remaining period of permit is more than sixty days. In other cases the period of permit is less than sixty days, notice of ten days shall be given before taking decision on cancellation of permit.

13. The amount of security deposit shall entail no interest. The security amount shall be refunded within a period of three months in case of the same is not forfeited or required to be detained for any other purpose under this permit.

14. Any sum due from the permit holder shall be recovered from him as an arrear of land Revenue.

The permission shall be valid up to _____

Signature _____

Designation _____

FORM MMP – 1

[See rule 24, 25 and 38 (15)(i)]

Monthly return for the month of _____ (to be furnished by the mining lessee/ contractor/permit holder

1.	Name of the Mine		3.	Name and address of lessee	
2.	Location of the Mine (a) Village (b) District (c) State		4.	Name of Minor Mineral(s) for which lease has been granted	

Name of mineral(s)	Closing stock brought forward from the previous month (Tone/Cu.M)	Production during the month (Tonne/Cu.m)	Dispatched during the month (in Tonne/Cu.M.)				Closing stock (Tonne/ Cu.M)
5	6	7	8				9
			By truck	By railway	By other means of transport	Total	

Average daily No. of labourer or employees				Wages paid			
Male	Female	Adolescent	Total	Male	Female	Adolescent	Total
6A	6B	6C	6D	7A	7B	7C	7D

Signature of the lessee/contractor/
Permit holder or his authorized agent.

Dated _____

N.B. *(1)* Please furnish on the reverse of this form reasons for rise or fall in production, dispatches and labour employed, etc. as compared with the previous month.

(2) Please send this report to -

(a) The competent authority;
(b) The Officer-in-charge concerned by the 10th of the month following the month under report.

FORM MMP – 2
[see rule 38(15)(ii)]

Annual return to be furnished by the mining lessee/contractor

Annual statement of Minor Minerals obtained, labourer employed, etc. for the Financial Year ending _____ 20 ____

Name of the lessee _____

Area of the lease _____

Village_____

Sub-Division_____

District_____

Name of the minor mineral	Output	Value	Average number of persons employed daily		
1	2	3	4		
			Male	Female	Total

Average No. of days worked	No. of accidents	Compensation paid (in Rs.)	No. of days worked	Remarks
5	6	7	8	9

Signature of the lessee/contractor/
Permit holder or his authorized agent.

Dated _____

N.B. This return is to be submitted by the 15th of April of each year for the preceding financial year, i.e. from First of April to 31st March to the:

(a) The competent authority.

(b) The Officer-in –Charge concerned.

FORM MSE – 1

[See rule 38(21)]

Notice for explosive, etc. by the lessee

1.	Name of mine	
2.	Name of minor mineral(s) excavated	
3.	Situation of mine (village, Police Station, Sub-Division, District	
4.	The date when works were first started.	
5.	Name and postal address of present owner9s)	
6.	Name and postal address of agency, if any	
7.	Name and postal address of Manager, if any	
	Age	
	Qualification	
	Experience in mining	
8.	Whether workings are likely to be extended below; superjacent ground	
9.	Maximum depth of open cast excavation measured from its lowest point	
10.	Nature, amount and kind of explosives used, if any	
11.	Date when explosives were first used	
12.	Date(s) on which the number of persons employed on any day exceeded 50	

Signature of Owner/Agent/Manager

Date _____

To be sent to:

1. The Controller General, Indian Bureau of Mines, Government of India, Nagpur.
2. The Director General of Mines Safety, Government of India, Dhanbad;
3. The Director, Mines Safety, Government of India, Guwahati.
4. The Regional Controller of Mines, Indian Bureau of Mines, Kolkata;
5. The Competent Authority;
6. The District Magistrate of the concerned District and
7. The Officer-in-charge concerned.

LIST OF MINOR MINERALS

(As defined under S.3(e) of MMDR Act, 1957 and further declared as such from time to time under the Act)

1. Building stones,
2. Gravel,
3. Ordinary clay,
4. Ordinary sand other than sand used for prescribed purposes.

Mineral Concession Rules, 1960: Rule 70: Sand not to be treated as minor mineral when used for certain purposes. Sand shall not be treated as minor mineral when used for any of the following purposes:

(i) purposes of refractory and manufacture of ceramic;
(ii) metallurgical purposes;
(iii) optical purposes;
(iv) purposes of stowing in coal mines;
(v) for manufacture of silvicrete cement;
(vi) for manufacture of Sodium silicate;
(vii) for manufacture of pottery and glass.

5. Boulder.
6. Shingle.
7. Chalcedony or impure quartz pebbles used for ball mill purposes or filing for bore wells or for decorative purposes in buildings,
8. Limeshell,
9. Kankar and
10. Limestone

   When used in kilns for manufacture of lime used as building material

11. Murram,
12. Brick-earth,
13. Fuller's earth,
14. Bentonite,
15. Road metal,
16. Reh-matti
17. Slate and
18. Shale
19. Marble

    When used for building material

20. Stones used for making household utensils,
21. Quartzite and sandstone, when used for purposes of building or for making road metal and house hold utensils,
22. Salt-petre,

SCHEDULE – 'X'
[Under Rule 3 *(1)*]

Minor Minerals for industrial and specific uses:

1.	Building stone including Granite:	When mined for the purpose of manufacture of polished tiles, slabs and other decorative and architectural purposes Or When mined in large scale for export of the stone in the form of cubes, slabs, boulder or gravel and for construction of dams, dykes, bridges, etc.
2.	Marble	
3.	Fuller's earth	
4.	Bentonite	
5.	Lime Shell	When used in kilns for manufacturing of lime used as building materials
6.	Kankar	
7.	Lime stone of any grade	
8.	Brick earth	When used in mechanized brick plants
9.	Quartzite and Sand Stone	When used in cement manufacturing or any other manufacturing industry.
10.	Ordinary clay	When used in cement manufacturing or in any industry other than Cottage Industry
11.	Shale	

SCHEDULE 'Y'

[Under Rule 3(2)]

Minor minerals for uses other than in Industry-

(1)	Gravel	When used in construction of roads and buildings other than mined in large scale for export and for construction of dams, dykes, bridges, etc.
(2)	Ordinary clay	Other than used in cement manufacturing or in any industry except cottage industry
(3)	Ordinary Sand	Other than sand used for prescribed purposes.

Mineral Concession Rule 1960: Rule 70 – Sand not to be treated as minor mineral when used for certain purposes sand shall not be treated as minor mineral when used for any of the following purposes:

(i) purposes of refractory and manufacture of ceramic;
(ii) optical purposes;
(iii) metallurgical purposes;
(iv) purposes of stowing in coal mines;
(v) for manufacture of silvicrete cement;
(vi) for manufacture of Sodium silicate;
(vii) for manufacture of pottery and glass.

(4)	Boulder	When used in construction of roads and buildings other than mines in large scale for export and for construction of dams, dykes and bridges, etc.
(5)	Shingle	
(6)	Chalecedony or impure quartz pebbles	When used for ball mill purposes for filling for bore wells or for decorative purposes in buildings.
(7)	Murram	Other than brick-earth used in mechanized brick plants
(8)	Brick-earth	
(9)	Road metal	
(10)	Reh matti	
(11)	Slate and Shale	When used as building material and other than used in cement or other industry except Cottage Industry.
(12)	Stones	When used for making household utensils
(13)	Quartzite and Sandstone	When used for purposes of building or for making road metal and household utensils other than used in cement manufacturing or in any other manufacturing industry
(14)	Salt-petre	
(15)	Ordinary Earth	

First Schedule

Rates of royalty

(see rule 8(6), 26(6) and 27(4)

Sl No.	Name of Minor Mineral		Rate of Royalty (in Rs.)
1.	Building Stone (excluding Granite)		100.00/ Cu.M
2.	Gravel		100.0/ Cu.M
3.	Ordinary Clay		15.00/ Cu.M
4.	Ordinary sand other than sand used for prescribed purposes		70.00 /Cu.M
5.	Boulder		100.00/ Cu.M
6.	Shingle		75.00/ Cu.M
7.	Chalcedony or Impure quartz pebbles		90.00 /Cu.M
8.	Lime Shell	When used in kilns for manufacture of lime used as building materials	80.00 //Cu.M
9.	Kankar		
10.	Lime Stone		
11.	Murram		--
12.	Brick Earth		15.00 /Cu.M
13.	Fuller's Earth		20.00 /Cu.M
14.	Bentonitc		30.00 /Cu.M
15.	Road metal		--
16.	Rchmatti		--
17.	Slate		--
18.	Shale		--
19.	Marble		--
20.	Stone used for making household utensils		--
21.	Quartzite and Sandstone		80.00 /Cu.M
22.	Salt petre		--
23.	Granite		70.00 /Cu.M
24.	Ordinary Earth		--

Second Schedule

Fee for review and appeal

[See rule 71 *(1)*]

An appeal before Controlling Officer against the orders of Subordinate Officer	Rs.2,000/-
An application before the Director/Principal Chief Conservator of Forests and Head of Forest Force for review of orders passed by him	Rs.2,000/-
An appeal before the Government against the orders of Director/Principal Chief Conservator of Forests and Head of Forest Force	Rs.3,000/-

(R. T. JINDAL)
Principal Secretary to the Government of Assam
Power (E), Mines and Minerals Department
Dispur, Guwahati – 6

Assam State level Environment Impact Assessment Authority (SEIAA)

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 30th April, 2013

S.O. 1094 (E) – In exercise of the powers conferred by sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and in pursuance of the notification of the Government of India in the Ministry of Environment and Forests, number S.O. 1533 (E), dated the 14th September, 2006 (hereinafter referred to as the said Gazette notification), the Central Government hereby constitutes the State level Environment Impact Assessment Authority (SEIAA), Assam (hereinafter referred to as the Authority, Assam comprising of the following Members, namely –

1.	Prof. Sashin Kumar Borthakur Department of Botany, Gauhati University, Guwahati – 781 014, Assam	Chairman
2.	Dr. Khargeswar Bhuyan, (Retired Pcincipal) Near Khutikata SBI, Haiborgaon, Nagaon, Assam	Member
3.	Secretary, Environmen & Forests, Government of Assam	Member Secretary

2. The Chairman and Members of the Authority, Assam shall hold office for a term of three years from the date of publication of this notification in the Official Gazette.

3. The Authority, Assam shall exercise such powers and follow such procedures as enumerated in the said Gazette notification.

4. The Authority, Assam shall base its decision on the recommendations of the State Level Expert Appraisal Committee (SEAC) constituted for the State of Assam by this notification.

5. To assist the Authority, Assam, the Central Government in consultation with the State Government of Assam, hereby constitutes the State Level Expert Appraisal Committee, Assam (hereinafter referred to as SEAC, Assam) comprising of the following Chairman and Members, namely -

1.	Dr. Aparajita Borkotoki Department of Zoology, Gauhati University Gopinath Bordoloi Nagar, Guwahati – 781 014, Assam	Chairman
2.	Dr. Bimla Prasad Baruah, Scientist and Head Coal Chemistry Division, North East Institute of Science and Technology (CSIR), Jorhat – 785 006	Member

3.	Dr. Khagendra Kumar Nath Associate Professor, Department of Botany, Mangaldai College Mangaldoi – 784 001, Assam	Member
4.	Dr. Sarat Borkataki Associate Professor, Department of Botany, Nowgong College Nagaon – 782 001, Assam	Member
5.	Shri Md. Bilal Haque Retired Chief Engineer, Public Health Engineering Department Nayanpur, Bye-land-3, house No.8, Ganeshguri, Guwahati-5	Member
6.	Dr. Deepak Kumar Baruah Additional Chief Environmental Scientist Pollution Control Board, Assam, Bamunimaidam, Guwahati-21.	Member
7.	Shri Alok Goswami B.M. Road, Amolapatty, PO and District, Nagaon-781 001, Assam	Member
8.	Member Secretary, Assam Pollution Control Board, Assam	Secretary

6. The Chairman and Members of the SEAC, Assam shall hold office for a term of three years from the date of publication of this notification in the Official Gazette.

7. The SEAC, Assam shall exercise such powers and follow such procedures as enumerated in the said Gazette notification.

8. The SEAC, Assam shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.

9. The State Government of Assam shall notify an agency to act as Secretariat for the Authority, Assam and the SEAC, Assam and shall provide all financial and logistic support including accommodation, transportation and such other facilities in respect of all its statutory functions.

10. The sitting fee, travelling allowance and dearness allowance to the Chairman and Member of the Authority, Assam and the Chairman and Members of the SEAC, Assam shall be paid in accordance with the existing rules of the State Government of Assam.

[No.J-11013/3/2007-IA.II (I)]
Ajay Tyagi, Joint Secretary.

District Level Environment Impact Assessment Authority (DEIAA)

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE NOTIFICATION

New Delhi, the 15th January, 2016

S.O. 141(E) —Whereas in exercise of the powers conferred by sub-section *(1)* and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), a draft notification for making certain amendments in the Environment Impact Assessment Notification, 2006, issued vide number S.O. 1533(E), dated the 14th September 2006, was published under sub-rule (3) of rule (5) of the Environment (Protection) Rules, 1986, vide number S.O. 2588(E), dated 22nd September, 2015, inviting objections and suggestions from all persons likely to be affected thereby, within a period of sixty days from the date of publication on which copies of Gazette containing the said notification were available to the public;

And whereas, copies of said notification were made available to the public on 22nd September 2015;

And whereas, all objections and suggestions received in response to the above mentioned draft notification have been duly considered by the Central Government;

And whereas, in pursuance to the order of Hon'ble Supreme Court dated the 27th February, 2012 in I.A. No.1213 of 2011 in Special Leave Petition (C) No.19628-19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc., prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease;

And whereas, as a result of the above said Order of Hon'ble Supreme Court, the number of cases which are now required to obtain prior environmental clearance has increased substantially; And whereas, the Hon'ble National Green Tribunal, vide its order dated the 13th January, 2015 in the matter regarding sand mining has directed for making a policy on environmental clearance for mining leases in cluster for minor minerals;

And whereas, the State Governments have represented for streamlining the process of environmental clearance for mining of minor mineral;

And whereas, the Ministry of Environment, Forest and Climate Change in consultation with State Governments has prepared Guidelines on Sustainable Sand Mining detailing the provisions on environmental clearance for cluster, creation of District Environment Impact Assessment Authority and proper monitoring of sand mining using information technology and information technology enabled services to track the mined out material from source to destination;

Now, therefore, in exercise of the powers conferred by sub-section *(1)* and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:-

In the said notification,-

(a) in paragraph 2, after the words "in the said Schedule", the following words shall be inserted, namely:- "and at District level, the District Environment Impact Assessment Authority (DEIAA) for matters falling under Category 'B2' for mining of minor minerals in the said Schedule";

(b) after paragraph 3, the following paragraph shall be inserted, namely:-

"3 A. **District Level Environment Impact Assessment Authority**:-

(1) A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.

(2) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.

(3) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.

(4) The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.

(5) The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be ex-officio members except the expert member.

(6) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.

(7) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.

(8) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.

(9) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be, shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.

(10) The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be ex-officio members except the expert members.

(11) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.

(12) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.

(13) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail. ";

(c) in paragraph 4, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:-"(iv) The 'B2' Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification.";

(d) for paragraph 5, the following paragraph shall be substituted, namely:-

"5. **Screening, Scoping and Appraisal Committees**:-

The same Expert Appraisal Committees (EACs) at the Central Government, SEACs at the State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category 'A', 'B1 and B2' and 'B2' projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs shall meet at least once every month.

(a) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3 A.

(b) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost.

(c) The EAC and SEAC shall be reconstituted after every three years.

(d) The authorised members of the EAC, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental clearance is sought for the purpose of screening or scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

(e) The EAC, SEACs and DEACs shall function on the principle of collective responsibility. The Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached the view of the majority shall prevail.";

(e) for paragraph 6, the following paragraph shall be substituted, namely:-

"6. **Application for Prior Environmental Clearance** (EC):- An application seeking prior environmental clearance in all cases shall be made by the project proponent in the prescribed Form 1 annexed herewith and Supplementary Form 1A, if applicable, as given in Appendix II after the identification of prospective site (s) for the project and/or activities to which the application relates; and in Form 1M for mining of minor minerals up to five

hectare under Category 'B2' projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent. The project proponent shall furnish along with the application, a copy of the pre-feasibility project report, in addition to Form 1, Form 1A, and Form 1M; and in case of construction projects or activities (item 8 of the Schedule), a copy of the conceptual plan shall be provided instead of pre-feasibility report.";

(f) in paragraph 7,-

(i) in sub-paragraph (i), under the heading "I. Stage *(1)* - Screening:", the existing sub-paragraph shall be lettered as sub-paragraph "(A)" and after sub-paragraph as so lettered, the following sub-paragraph shall be inserted, namely:- "(B) The cases as specified in Appendix IX shall be exempted from prior environmental clearance." ;

(ii) after sub-paragraph 7 (ii), the following sub-paragraph shall be inserted, namely:-

"7 (iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals:

(a) The prescribed procedure for preparation of District Survey Report for sand mining or river bed mining and mining of other minor minerals is given in Appendix X.

(b) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.";

(g) in paragraph 8,-

(i) for the letters and word "EAC or SEAC", the words and letters "EAC or SEAC or DEAC" shall be substituted;

(ii) for the words "Expert Appraisal Committee or State Level Expert Appraisal Committee" wherever they occur, the words "Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee" shall be substituted;

(h) in paragraph 9, in sub-paragraph (i),- for the words "Expert Appraisal Committee or State Level Expert Appraisal Committee", the words "Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee" shall be substituted;

(i) in paragraph 10, after sub-paragraph (iii), the following sub-paragraph shall be inserted, namely:- "(iv) The prescribed procedure for sand mining or river bed mining and monitoring is given in Appendix XII.";

(j) in paragraph 11, - for the words "Expert Appraisal Committee or State Level Expert Appraisal Committee", the words "Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee" shall be substituted;

(k) in the Schedule,- (i) for item 1 (a) and the entries relating thereto, the following item and entries shall be substituted, namely:-

(1)	**(2)**	**(3)**	**(4)**	**(5)**
"1 (a)	(i) Mining of minerals	≥50 ha of mining lease area in respect of non-coal mine lease >150 ha of mining lease area in respect of coal mine lease Asbestos mining irrespective of mining area	<50 ha of mining lease area in respect of non-coal mine lease ≤150 ha of mining lease area in respect of coal mine lease	General Conditions shall apply except: (i) for project or activity of mining of minor minerals of Category 'B2' (up to 25 ha of mining lease area); (iii) River bed mining projects on account of inter-state boundary.
	(ii) Slurry pipeines (coal lignite and other ores) passing through national parks or sanctuaries or coral reefs, ecologically sensitive area	All projects		**Note**: (1) Mineral prospecting is exempted. ''; (2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI."; (3) The mining leases which have obtained environmental clearance under Environment Impact Assessment Notification, 1994 and Environment Impact Assessment Notification, 2006 shall not require fresh environmental clearance during renewal provided the project has valid and subsisting environmental clearance.

(l) after Appendix VI, the following appendices shall be inserted, namely:-

APPENDIX VII

(See paragraph 3 A)

Qualifications and terms for the Experts in DEIAA and DEAC

1. **Qualification**: The person should have at least (i) 5 years of formal University training in the concerned discipline leading to a MA or M Sc Degree or (ii) in case of Engineering/ Technology/ Architectural discipline, 4 years formal training course together with prescribed practical training in the field leading to a B. Tech/ B.E./ B. Arch. Degree, or (iii) Other professional degree (e.g. MBA etc.) involving a total of 5 years of formal University training and prescribed practical training, or (iv) Prescribed apprenticeship/ article ship and pass examinations conducted by the concerned professional associations (e.g. Chartered Accountancy) or (v) a University degree, followed by two years of formal training in a University or Service Academy (e.g. MBA/MPA etc.). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

2. **Expert**: A professional fulfilling the above eligibility criteria with at least 10 years of relevant experience in the field or with an advanced degree (e.g. Ph. D) in a concerned field with at least 5 years of relevant experience.

3. **Age**: Below 70 years. However, in the event of non-availability of paucity of experts in a given field, the maximum age of a member may be allowed up to 75 years.

4. **Fields**: Experts in Mining, Geology, Hydrology, Remote Sensing, Environment Quality, Environment Impact Assessment Process, Risk Assessment, Life Sciences, Marine Sciences, Forestry and Wildlife, Environmental Economics, Bio-diversity, and River Ecology.

5. **Tenure**: The maximum tenure of expert members shall be for two terms of three years each.

6. The Expert Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

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APPENDIX VIII

(See paragraph 6)

FORM 1 M

APPLICATION FOR MINING OF MINOR MINERALS UNDER CATEGORY 'B2' FOR LESS THAN AND EQUAL TO FIVE HECTARE

(II) Basic Information
(viii) Name of the Mining Lease site:
(ix) Location / site (GPS Co-ordinates):

(x) Size of the Mining Lease (Hectare):
(xi) Capacity of Mining Lease (TPA):
(xii) Period of Mining Lease:
(xiii) Expected cost of the Project:
(xiv) Contact Information:

Environmental Sensitivity

Sl. No.	Areas	Distance in kilometer / Details
1.	Distance of project site from nearest rail or road bridge over the concerned River, Rivulet, Nallah etc.	
2.	Distance from infrastructural facilities Railway line National Highway State Highway Major District Road Any Other Road Electric transmission line pole or tower Canal or check dam or reservoirs or lake or ponds In-take for drinking water pump house Intake for Irrigation canal pumps	
3.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	
4.	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	
5.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	
6.	Inland, coastal, marine or underground waters	
7.	State, National boundaries	
8.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	
9.	Defence installations	
10.	Densely populated or built-up area, distance from nearest human habitation	
11.	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	
12.	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	
13.	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	
14.	Areas susceptible to natural hazard which could cause the	

	project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	
15.	Is proposed mining site located over or near fissure / fracture for ground water recharge	
16.	Whether the proposal involves approval or clearance under the following Regulations or Acts, namely:- (a) The Forest (Conservation) Act, 1980; (b) The Wildlife (Protection) Act, 1972; (c) The Coastal Regulation Zone Notification, 2011. If yes, details of the same and their status to be given.	
17.	Forest land involved (hectares)	
18.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (a) Name of the Court (b) Case No. (c) Orders or directions of the Court, if any, and its relevance with the proposed project.	

(Signature of Project Proponent along with name and address)

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APPENDIX – IX

[See paragraph 7(i) (B)]

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require prior environmental clearance, namely:-

1. Extraction of ordinary clay or sand, manually, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc. as per their customs.
2. Extraction of ordinary clay or sand, manually, by earthen tile makers who prepare earthen tiles.
3. Removal of sand deposits on agricultural field after flood by farmers.
4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.
5. Community works like de-silting of village ponds or tanks, construction of village roads, ponds, bunds undertaken in Mahatama Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes, and community efforts.
6. Dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management.
7. Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/ MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.
8. Digging of well for irrigation or drinking water.
9. Digging of foundation for buildings not requiring prior environmental clearance.

10. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nala, drain, water body, etc., to deal with any disaster or flood like situation upon orders of District Collector or District Magistrate.
11. Activities declared by State Government under legislations or rules as non-mining activity with concurrence of the Ministry of Environment, Forest and Climate Change, Government of India.

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APPENDIX - X

[See paragraph 7 (iii) (a)]

PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT

The main objective of the preparation of District Survey Report (as per the Sustainable Sand Mining Guideline) is to ensure the following:

Identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

The report shall have the following structure:

1. Introduction
2. Overview of Mining Activity in the District
3. The List of Mining Leases in the District with location, area and period of validity
4. Details of Royalty or Revenue received in last three years
5. Detail of Production of Sand or Bajari or minor mineral in last three years
6. Process of Deposition of Sediments in the rivers of the District
7. General Profile of the District
8. Land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining etc.
9. Physiography of the District
10. Rainfall: month-wise
11. Geology and Mineral Wealth

In addition to the above, the report shall contain the following:

(a) District wise detail of river or stream and other sand source.

(b) District wise availability of sand or gravel or aggregate resources.

(c) District wise detail of existing mining leases of sand and aggregates.

A survey shall be carried out by the DEIAA with the assistance of Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department etc. in the district.

Drainage system with description of main rivers

S. No.	Name of the River	Area drained (Sq. Km)	% Area drained in the District

Salient Features of Important Rivers and Streams:

S. No.	Name of the River or Stream	Total Length in the District (in Km)	Place of origin	Altitude at Origin

Portion of the River or Stream Recommended for Mineral Concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)

Mineral Potential

Boulder (MT)	Bajari (MT)	Sand (MT)	Total Mineable Mineral Potential (MT)
Annual Deposition			

S. No.	**River or Stream**	**Portion of the River or Stream Recommended for Mineral Concession**	**Length of area recommended for mineral concession (in kilometer)**	**Average width of area recommended for mineral concession (in meters)**	**Area recommended for mineral concession (in square meter)**	**Mineable mineral potential (in metric tonne) (60% of total mineral potential)**
Total for the District						

A Sub-Divisional Committee comprising of Sub-Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.

Methodology adopted for calculation of Mineral Potential:

The mineral potential is calculated based on field investigation and geology of the catchment area of the river or streams. As per the site conditions and location, depth of minable mineral is defined. The area for removal of the mineral in a river or stream can be decided depending on geo-morphology and other factors, it can be 50 % to 60 % of the area of a particular river or stream. For example in some hill States mineral constituents like

boulders, river born Bajri, sand up to a depth of one meter are considered as resource mineral. Other constituents like clay and silt are excluded as waste while calculating the mineral potential of particular river or stream.

The District Survey Report shall be prepared for each minor mineral in the district separately and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on district's website for twenty one days. The comments received shall be considered and if found fit, shall be incorporated in the final Report to be finalised within six months by the DEIAA.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years.

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APPENDIX - XI

[See paragraph 7 (iii) (b)]

PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR MINING OF MINOR MINERALS INCLUDING CLUSTER

The following policy shall be followed for environmental clearance of mining of minor minerals including cluster situation:-

(1) The data provided by the States (Sustainable Sand Mining Guidelines) shows that most of the mining leases for minor minerals are of lease area less than 5 hectare. It is also reported that in hill States getting a stretch in river with area more than 5 hectare is very uncommon. So the size of lease for minor minerals including river sand mining will be determined by the States as per their circumstances.

(2) The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.

(3) There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.

(4) Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change.

(5) The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and DEAC, SEAC, and EAC shall ensure that the mitigative measures emanating from the Environment Impact Assessment or Environment Management Plan study are fully reflected as environmental clearance conditions in the environmental clearance's of individual project proponents in that cluster.

(6) A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area.

(7) Form 1M, Pre-Feasibility Report and mine plan for Category 'B2' projects for mining of minor minerals shall be prepared by the Registered Qualified Person or Accredited Consultants of Quality Council of India, National Accreditation Board for Education and Training. The Environment Impact Assessment or Environment Management Plan for Category 'A' and Category 'B1' projects shall be prepared by the accredited consultants of Quality Council of India, National Accreditation Board for Education and Training.

(8) The SEIAAs shall have supervisory jurisdiction over the DEIAAs and decisions of DEIAA shall be reviewed by the SEIAA without prejudice to any provisions under any existing law.

Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation

Area of Lease (Hectare)	Category of Project	Requirement of EIA / EMP	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								
0 – 5ha	'B2'	Form –1M, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
> 5 ha and < 25 ha	'B2'	Form –1M, PFR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	SEAC / SEIAA	
≥ 25ha and < 50ha	'B1'	Yes	Yes	Yes	Project Proponent	Project Proponent	SEAC / SEIAA	
≥ 50 ha	'A'	Yes	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases up to 5 ha	'B2'	Form –1M, PFR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < 25 ha with no individual lease > 5 ha	'B2'	Form –I, PFR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA	
Cluster of mine leases of area ≥ 25 hectares with individual lease size < 50ha	'B1	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA	
Cluster of any size with any of the individual lease ≥ 50ha	'A'	Yes	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA	

APPENDIX - XII

[See paragraph 10 (iv)]

PROCEDURE FOR MONITORING OF SAND MINING OR RIVER BED MINING

1. The security feature of Transport Permit shall be as under:
   (a) Printed on Indian Banks' Association (IBA) approved Magnetic Ink Character Recognition (MICR) Code paper.
   (b) Unique Barcode.
   (c) Unique Quick Response (QR) code.
   (d) Fugitive Ink Background.
   (e) Invisible Ink Mark.
   (f) Void Pantograph.
   (g) Watermark.

2. Requirement at Mine Lease Site:
   (a) Small Size Plot (Up to 5 hectare): Android Based Smart Phone.
   (b) Large Size Plots (More than 5 hectare): CCTV camera, Personal Computer (PC), Internet Connection, Power Back up.
   (c) Access control of mine lease site.
   (d) Arrangement for weight or approximation of weight of mined out mineral on basis of volume of the trailer of vehicle used.

4. Scanning of Transport Permit or Receipt and Uploading on Server:
   (a) Website: Scanning of receipt on mining site can be done through barcode scanner and computer using the software;
   (b) Android Application: Scanning on mining site can be done using Android Application using smart phone. It will require internet availability on SIM card;
   (c) SMS: Transport Permit or Receipt shall be uploaded on server even by sending SMS through mobile. Once Transport Permit or Receipt get uploaded, an unique invoice code gets generated with its validity period.

4. Proposed working of the system:

   The State Mining Department should print the Transport Permit or Receipt with security features enumerated at Paragraph 1 above and issue them to the mine lease holder through the District Collector. Once these Transport Permits or Receipts are issued, they would be uploaded on the server against that mine lease area. Each receipt should be preferably with pre-fixed quantity, so the total quantity gets determined for the receipts issued.

   When the Transport Permit or Receipt barcode gets scanned and invoice is generated, that particular barcode gets used and its validity time is recorded on the server. So all the details of transporting of mined out material can be captured on the server and the Transport Permit or Receipt cannot be reused.

5. Checking On Route:

The staff deployed for the purpose of checking of vehicles carrying mined mineral should be in a position to check the validity of Transport Permit or Receipt by scanning them using website, Android Application and SMS.

6. Breakdown of Vehicle:

In case the Vehicle breakdown, the validity of Transport Permit or Receipt shall be extended by sending SMS by driver in specific format to report breakdown of vehicle. The server will register this information and register the breakdown. The State can also establish a call centre, which can register breakdowns of such vehicles and extend the validity period. The subsequent restart of the vehicle also should be similarly reported to the server or call centre.

7. Tracking of Vehicles:

The route of vehicle from source to destination can be tracked through the system using check points, RFID Tags, and GPS tracking.

8. Alerts or Report Generation and Action Review:

The system will enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation, and total lifting. The system can be used to generate auto mails or SMS. This will enable the District Collector or District Magistrate to get all the relevant details and shall enable the authority to block the scanning facility of any site found to be indulged in irregularity. Whenever any authority intercepts any vehicle transporting illegal sand, it shall get registered on the server and shall be mandatory for the officer to fill in the report on action taken. Every intercepted vehicle shall be tracked.

The monitoring of mined out mineral, environmental clearance conditions and enforcement of Environment Management Plan will be ensured by the DEIAA, SEIAA and the State Pollution Control Board or Committee. The monitoring arrangements envisaged above shall be put in place not later than three months. The monitoring of enforcement of environmental clearance conditions shall be done by the Central Pollution Control Board, Ministry of Environment, Forest and Climate Change and the agency nominated by the Ministry for the purpose."

[No. Z-11013/98/2014-IA-II (M)]
MANOJ KUMAR SINGH, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 1533 (E), dated the 14th September, 2006 and subsequently amended vide the following numbers :-

1. S.O. 1737 (E) dated the 11th October, 2007;
2. S.O. 3067 (E) dated the 1st December, 2009;
3. S.O. 695 (E) dated the 4th April, 2011;

4. S.O. 2896 (E) dated the 13th December, 2012;
5. S.O. 674 (E) dated the 13th March, 2013;
6. S.O. 2204 (E) dated the 19th July 2013;
7. S.O. 2555 (E) dated the 21st August, 2013;
8. S.O. 2559 (E) dated the 22nd August, 2013;
9. S.O. 2731 (E) dated the 9th September, 2013;
10. S.O. 562 (E) dated the 26th February, 2014;
11. S.O. 637 (E) dated the 28th February, 2014;
12. S.O. 1599 (E) dated the 25th June, 2014;
13. S.O. 2601 (E) dated the 7th October, 2014;
14. S.O. 2600 (E) dated the 9th October, 2014
15. S.O. 3252 (E) dated the 22nd December, 2014;
16. S.O. 382 (E) dated the 3rd. February, 2015;
17. S.O. 811 (E) dated the 23rd March, 2015;
18. S.O. 996 (E) dated the 10th April, 2015;
19. S.O. 1142 (E) dated the 17th April, 2015;
20. S.O. 1141 (E) dated the 29th April, 2015;
21. S.O. 1834 (E) dated the 6th July, 2015.

District Level Environment Impact Assessment Authority (DEIAA)

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
NOTIFICATION

New Delhi, the 20th January, 2016

S.O.190(E).—In exercise of the powers conferred by sub-section (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and in pursuance of the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533 (E), dated the 14th September 2006 (hereinafter referred to as the said notification), the Central Government hereby constitutes the District Level Environment Impact Assessment Authority (DEIAA), for grant of environmental clearance for Category 'B2' Projects for mining of minor minerals, for all the districts in the country (hereinafter referred to as Authority for the districts) comprising of the following members, namely:

1.	District Magistrate or District Collector of the district	—Chairperson
2.	Senior most Divisional Forest Officer in the district	—Member
3.	An expert member to be nominated by the Divisional Commissioner or Chief Conservator of the Forest	—Member
4.	Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter	—Member-Secretary

2. The Chairperson and official members of the Authority for the districts shall hold office during their tenure in the district on said posts and the expert member shall hold office for a period of three years from the date of nomination by the competent authority.

3. The Authority for the districts shall exercise such powers and follow the procedures as specified in the said notification.

4. The Authority for the districts shall base its decision on the recommendations of the District Level Expert Apprisal Committee (DEAC) constituted under paragraph 5 of this notification.

5. Appraisal Committee constituted under paragraph 5 of this notification. For the purposes of assisting the Authority for the districts, the Central Government hereby constitutes the District Level Expert Appraisal Committee for all the districts of the country (hereinafter referred to as DEAC for the district) comprising of the following members, namely:-

1.	Senior most Executive Engineer, Irrigation Department	--Chairperson
2.	Senior most Sub-Divisional Officer (Forest)	--Member
3.	A representative of Remote Sensing Department or Geology Department or State Ground Water Department to be nominated by the District Magistrate or District Collector	--Member
4.	Occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector	--Member
5.	Engineer from Zila Parishad	--Member
6.	A representative of State Pollution Control Board or Committee	--Member
7.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	--Member
8.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	--Member
9.	An expert to be nominated by the Divisional Commissioner or Chief Conservator of Forest	--Member
10.	Senior most Assistant Engineer, Public Works Department	--Member
11.	Assistant Director or Deputy Director or District Mines Officer or Geologist in the district in that order	--Member-Secretary

6. The Chairperson and the official members of the DEAC shall hold office during their tenure in the district and the non-official members shall hold office for three years from the date of their nomination by the competent authority.
7. The DEAC shall exercise the powers and follow the procedures as specified in the said notification.
8. The DEAC shall function on the principles of collective responsibility and the Chairperson shall endeavor to reach a consensus in each case, and if consensus cannot be reached, the view of the majority shall prevail.
9. The District Magistrate or District Collector of the district shall notify an agency to act as Secretariat for the Authority for the districts and DEAC. The agency shall provide all logistic support including transportation, accommodation, and such other facilities in respect of all its statutory functions.
10. The non-official members of the Authority for districts and the DEAC shall be entitled to such sitting fees, travelling allowance and dearness allowance which shall be paid in accordance with the concerned rules of the respective State Governments.

[No. Z-11013/98/2014-IA-II (M)]
MANOJ KUMAR SINGH, Jt. Secy.

THE BIOLOGICAL DIVERSITY ACT, 2002

No. 18 OF 2003

(5th February, 2003)

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

Whereas India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

And whereas India is a party to the United Nations Convention on Biological Diversity signed at Rio Janerio on the 5th day of June, 1992;

And whereas the said Convention came into force on the 29th December, 1993;

And whereas the said Convention reaffirms the sovereign rights of the States over their biological resources;

And whereas the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilization of genetic resources;

And whereas it is considered necessary to provide for conservation, sustainable utilization and equitable sharing of the benefits arising out of utilization of genetic resources and also to give effect to the said Convention;

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

1. *(1)* This Act may be called the Biological Diversity Act, 2002.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires:-

(a) "benefit claimers" means the conservers of biological resources, their by products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;

(b) "biological diversity" means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;

(c) "biological resources" means plants, animals and micro-organisms or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material;

(d) "bio-survey and bio-utilization" means survey or collection of species, sub-species, genes, components and extracts of biological resource for any purpose and includes characterization, inventorisation and bioassay;

(e) "Chairperson" means the Chairperson of the national Biodiversity Authority or, as the case may be, of the State Biodiversity Board;

(f) "commercial utilization" means end uses of biological resources for commercial utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping;

(g) "fair and equitable sharing" means sharing of benefits as determined by the National Biodiversity Authority under section 21;

(h) "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause *(1)* article 243B and clause *(1)* of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act;

(i) "member" means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;

(j) "National Biodiversity Authority" means the National Biodiversity Authority established under section 8;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "regulations" means regulations made under this Act;

(m) "research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;

(n) "State Biodiversity Board" means the State Biodiversity Board established under section 22;

(o) "sustainable use" means the use of components of biological diversity in such manner and at such rate that does not lead to the decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations;
(p) "value added products" means products which may contain portions or extracts of plants and animals in unrecognizable and physical inseparable form.

CHAPTER II

Regulation of Access to Biological Diversity

3.*(1)* No person referred to in sub-section (2) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilization.

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section *(1)* are the following, namely:-

(a) a person who is not a citizen of India;
(b) a citizen of India; who is a non-resident as defined in clause (30) of section 243 of 1961of the Income-tax Act, 1961;
(c) a body corporate, association or organization –
(i) not incorporated or registered in India; or
(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

4. No person shall, without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring in, or obtained from, India for monetary consideration or otherwise to any person who is not a citizen of India who is non-resident as defined in clause (30) of the Income-tax Act, 1961 or a body corporate or organization which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management.

Explanation – For the purposes of this section, "transfer" does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.

5. *(1)* The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government sponsored

institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).

(2) All collaborative research projects, other than those referred to in sub-section *(1)* which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub- section (3), be void:

(3) For the purposes of sub-section *(1)*, collaborative research projects shall –

(a) conform to the policy guidelines issued by the Central Government in this behalf;

(b) be approved by the Central Government

6. *(1)* No person shall apply for any intellectual property right, by whatever name called, in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application:

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned;

Provided further that the National Biodiversity shall dispose of the application for permission made to it within a period of ninety days from the date of receipt thereof.

(2) The National Biodiversity Authority may, while granting the approval under this section, impose benefit sharing fee or royalty or both or impose conditions including the sharing of financial benefits arising out of the commercial utilization of such rights.

(3) The provisions of this section shall not apply to any person making an application for any right under any law relating to protection of plant varieties enacted by Parliament.

(4) Where any right is granted under law referred to in sub-section (3), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

7. No person, who is a citizen of India or a body corporate, association or organization which is registered in India, shall obtain any biological resource for commercial utilization, or bio-survey and bio-utilization for commercial utilization except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and *vaids* and *hakims,* who have been practicing indigenous medicine.

CHATER III
NATIONAL BIODIVERSITY AUTHORITY

8. *(1)* With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established by the Central Government for the purposes of this Act, a body to be called the National Biodiversity Authority.

(2) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the National Biodiversity Authority shall be at Chennai and the National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.

(4) The National Biodiversity Authority shall consist of the following members, namely:-

(a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government;

(b) there *ex officio* members to be appointed by the Central Government, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests of whom one shall be the Additional Director General of Forests or the Director General of Forests;

(c) seven *ex officio* members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with –

(i) Agriculture Research and Education;
(ii) Biotechnology;
(iii) Ocean Development;
(iv) Agriculture and Cooperation;
(v) Indian Systems of Medicine and Homeopathy;
(vi) Science and Technology;
(vii) Scientific and Industrial Research;

(d) five non-official members to be appointed from amongst specialists and scientists having special knowledge of, or experience in, matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge-holders of biological resources.

9. The term of office and conditions of service of the Chairperson and the other members other than ex officio members of the National Biodiversity Authority shall be such as may be prescribed by the Central Government.

10. The Chairperson shall be the Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties, as may be prescribed.

11. The Central Government may remove from the National Biodiversity Authority any member who, in its opinion, has –
    (a) been adjudged as an insolvent; or
    (b) been convicted of an offence which involves moral turpitude; or
    (c) become physically or mentally incapable of acting as a member; or
    (d) so abused his position as to render his continuance in office detrimental to the public interest; or
    (e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

12.*(1)* The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.
(2) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority.
(3) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority, any member of the National Biodiversity Authority chosen by the members present at the meeting shall preside at the meeting.
(4) All questions which come before any meeting of the National Biodiversity Authority shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.
(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.
(6) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of –
    (a) any vacancy in, or any defect in the constitution of, the National Biodiversity Authority; or
    (b) any vacancy in, or any defect in the constitution of, any defect in the appointment of a person acting as a member; or
    (c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

13. *(1)* The National Biodiversity Authority may constitute a committee to deal with agro-biodiversity.

Explanation – For the purposes of this sub-section, "agro-biodiversity" means biological diversity of agriculture related species and their wild relatives.

(2) Without prejudice to the provisions of sub-section *(1)*, the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its function under this Act.

(3) A committee constituted under this section shall-co-opt such number of persons, who are not the members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(4) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

14. *(1)* The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.

15. All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson or any other member authorized by the National Biodiversity Authority in this behalf and all other instruments executed by the National Biodiversity Authority shall be authenticated by the signature of an officer of the National Biodiversity Authority authorized by it in this behalf.

16. The National Biodiversity Authority may, be general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under this Act (except the power to prefer an appeal under section 50 and the power to make regulations under section 64 as it may deem necessary.

17. The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

CHAPTER IV
FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

18.

(1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in section 3, 4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing.

(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in section 3, 4 and 6.

(3) The National Biodiversity Authority may –

a. advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources;
b. advise the State Governments in the selection of areas of biodiversity importance to be notified under sub-section *(1)* of section 37 as heritage sites and measures for the management of such heritage sites;
c. perform such other functions as may be necessary to carry out the provisions of this Act.

(4) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

CHATER V
APPROVAL BY THE NATIONAL BIODIVERSITY AUTHORITY

19. *(1)* Any person referred to in sub-section (2) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilization or transfer the results of any research relating to biological resources occurring in, or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

(2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India referred to in sub-section *(1)* of section 6, may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section *(1)* or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this

behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application.

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

20. *(1)* No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto which is the subject matter of the said approval except with the permission of the National Biodiversity Authority.

(2) Any person who intends to transfer any biological resource or knowledge associated thereto referred to in sub-section *(1)* shall make an application in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee for this purpose, by order, grant approval subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

21. *(1)* The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefits claimers.

(2) The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which shall be given effect in all or any of the following manner, namely:-

(a) grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;

(b) transfer of technology;

(c) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(d) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation;
(e) setting up of venture capital fund for aiding the cause of benefit claimers;
(f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

(3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund:
Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organizations, the National Biodiversity Authority may direct the amount to be paid directly to such individual or group of individuals or organizations in accordance with the terms of any agreement and in such manner as it deems fit.

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, bi regulations, frame guidelines.

CHAPTER VI
STATE BIODIVERSITY BOARD

22. *(1)* With effect from such dates as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established by that Government for the purposes of this Act, a Board for the State to be known as the _____(name of the State) Biodiversity Board.

(2) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union Territory; the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:
Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons as the Central Government may specify.

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(4) The Board shall consist of the following members, namely:-
(a) a Chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the State Government;

(b) not more than five *ex officio* members to be appointed by the State Government to represent the concerned Departments of the State Government;

(c) not more than five members to be appointed from among the experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.

(5) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official Gazette, specify.

23. The functions of the State Biodiversity Board shall be to –

(a) advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilization of biological resources;

(b) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilisation of any biological resource by Indians;

(c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

24. *(1)* Any citizen of India or a body corporate, organization or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation is such form as may be prescribed by the State Government to the State Biodiversity Board.

(2) On receipt of an intimation under sub-section *(1)*, the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquiries as it may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity:

Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

(3) Any information given in the form referred to in sub-section *(1)* for prior intimation shall be kept confidential and shall be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

25. The provisions of sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the following modifications, namely:-

(a) references to the Central Government shall be construed as references to the State Government:

(b) references to the National Biodiversity Authority shall be construed as references to the State Biodiversity Board:

(c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

CHAPTER VII
FINANCE, ACCOUNTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

26. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

27. *(1)* There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto –

(a) any grants and loans made to the National Biodiversity Authority under section 26;

(b) all charges and royalties received by the National Biodiversity Authority under this Act; and

(c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for –

(a) channeling benefits to the benefit claimers;

(b) conservation and promotion of biological resources and development of areas from where such biological resources or knowledge associated thereto has been accessed;

(c) socio-economic development of areas referred to in clause (b) in consultation with the local bodies concerned.

28. The National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

29.*(1)* The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in

connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority.

(4) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

30. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII
FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

31. The State Government may, after due appropriation made by the State Legislature by law in this behalf, as the State Government may think to fit for being utilized for the purposes of this Act.

32. *(1)* There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto;

(a) any grants and loans made to the State Biodiversity Board under section 31;

(b) any grants or loans made by the National Biodiversity Authority;

(c) all sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government

(2) The State Biodiversity Fund shall be applied for –

(a) the management and conservation of heritage sites;

(b) compensating or rehabilitating any section of the people economically affected by notification under sub-section *(1)* of section 37;

(c) conservation and promotion of biological resources;

(d) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any order made under section 24, in consultation with the local bodies concerned;

(e) meeting the expenses incurred for the purposes authorized by this Act

33. The State Biodiversity Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

34. The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the State Biodiversity Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

35. The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature.

CHAPTER IX
DUTIES OF THE CENTRAL AND THE STATE GOVERNMENTS

36. *(1)* The Central Government shall develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of in situ, and ex situ, conservation of biological resources, incentives for research, training and public education to increase awareness with respect to biodiversity.

(2) Where the Central Government has reason to believe that any rich in biological diversity, biological resources and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures; offering such State Government any technical and other assistance that is possible to be provided or needed.

(3) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

(4) The Central Government shall undertake measures, -

(i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimize such effects and where appropriate provide for public participation in such assessment;

(ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological diversity and human health.

(5) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including sui generic system.

Explanation – For the purposes of this section,-

(a) "ex situ conservation" means the conservation of biological diversity outside their natural habitats;

(b) "in situ conservation" means the conservation of ecosystems and natural habitat and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

37. *(1)* Without prejudice to any other law for the time being in force, the State Government may, from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.

(2) The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

38. Without prejudice to the provisions of any other law for the time being in force, the Central Government, in consultation with the concerned State Government, may from time to time notify any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

39. *(1)* The Central Government may, in consultation with the National Biodiversity Authority, designate institutions as repositories under this Act for different categories of biological resources.

(2) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.

(3) Any new taxon discovered by any person shall be notified to the repositories or any institution designated for this purpose and he shall deposit the voucher specimens with such repository or institution.

40. Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities.

CHAPTER X
BIODIVERSITY MANAGEMENT COMMITTEES

41. *(1)* Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro organisms and chronicling of knowledge relating to biological diversity.

Explanation – For the purposes of this sub-section,

(a) "cultivar" means a variety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;

(b) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;
(c) "landrace" means primitive cultivar that was grown by ancient farmers and their successors.

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(3) The Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resources for commercial purposes from areas falling within its territorial jurisdiction.

CHAPTER XI
LOCAL BIODIVERSITY FUND

42. The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

43. *(1)* There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto –
(a) any grants and loans made under section 42;
(b) any grants or loans made by the National Biodiversity Authority;
(c) any grants or loans made by the State Biodiversity Boards;
(d) fees referred to in sub-section (3) of section 41 received by the Biodiversity Management Committees;
(e) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government

44. *(1)* Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied, be in the manner as may be prescribed by the State Government.

(2) The Fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.

45. The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its

annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the concerned local body.

46. The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the concerned local body, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

47. Every local body constitution a Biodiversity Management Committee under sub- section *(1)* of section 41, shall cause, the annual report and audited copy of accounts relating to such Committee to be submitted to the District Magistrate having jurisdiction over the area of the local body.

CHAPTER XII
MISCELANEOUS

48. *(1)* Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall, in the discharge of its functions and duties under this Act, be writing to it from rime to time:
Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.
(2) The decision of the Central Government whether a question is one of policy or not shall be final.

49. *(1)* Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government may give in writing to it from time to time:
Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.
(2) The decision of the State Government whether a question is one of policy or not shall be final.

50. *(1)* If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government within such time as may be prescribed.
(2) Every appeal made under sub-section *(1)* shall be in such form as may be prescribed by the Central Government.
(3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government;

Provided that before disposing of an appeal, the parties shall be given a reasonable opportunity of being heard.

(4) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.

(5) While adjudicating any dispute sub-section (4), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(6) The National Biodiversity Authority shall have, for the purpose of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavits;
(d) issuing commissions for the examination of witness or documents;
(e) reviewing its decisions;
(f) dismissing an application for default or deciding it *ex parte*;
(g) setting aside any order of dismissal of any application or any order passed by it *ex parte;*
(h) any other matter which may be prescribed.

(7) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

51. All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

52. Any person, aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, may file am appeal to the High Court within thirty days from the date of communication to him, of the determination or order of the National Biodiversity Authority or the State Biodiversity Board, as the case may be:
Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

53. Every determination of benefit sharing or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court in any appeal against any determination or order of the National Biodiversity Authority or a State Biodiversity Board shall, on a

certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court, in the same manner as a decree of that court.

Explanation – For the purposes of this section and section 52, the expression "State Biodiversity Board" includes the person or group of persons to whom the powers or functions under sub-section (2) of section 22 have been delegated under the proviso to that sub-section and the certificate relating to such person or group of persons under this section shall be issued by such person or group of persons, as the case may be.

54. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made there under:

55. *(1)* Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

56. If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine may extend to two lakh rupees everyday during which the default continues.

57. *(1)* Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention was committed without the knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in this sub-section *(1)*, where an offence or contravention under this Act has been committed by a company and it is proved

that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purposes of this section, -

(a) "company" means any body corporate and includes a firm or other association of individuals: and

(b) "director" in relation to a firm, means a partner in the firm

58. The offences under this Act shall be cognizable and non-bailable.

59. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to forests or wildlife.

60. The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or any rule or regulation or order made thereunder.

61. No Court shall take cognizance of any offence under this Act except on a complaint made by –

(a) the Central Government or any authority or officer authorized in this behalf by that Government; or

(b) any benefit claimer who has given notice of not less than thirty days in the prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.

62. *(1)* The Central Government may, by notification in the Official Gazette, 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) terms and conditions of service of the Chairperson and members under section 9;

(b) powers and duties of the Chairperson under section 10;

(c) procedure under sub-section *(1)* of section 12 in regard to transaction of business at meetings;

(d) form of application and payment of fees for undertaking certain activities under sub-section *(1)* of section 19;

(e) the form and manner of making an application under sub-section (2) of section 19;

(f) form of application and the manner for transfer of biological resource or knowledge under sub-section (2) of section 20;

(g) form in which, and the time of each financial year at which, the annual report of the National Biodiversity Authority shall be prepared and the date before which its audited copy of accounts together with auditor's report thereon shall be furnished under section 28;
(h) form in which the annual statement of account shall be prepared under sub-section *(1)* of section 29;
(i) the time within which and the form in which, an appeal may be preferred, the procedure for disposing of an appeal and the procedure for adjudication, under section 50;
(j) the additional matter in which the National Biodiversity Authority may exercise powers of the civil court under clause (h) of sub-section (6) of section 50;
(k) the manner of giving notice under clause (b) of section 61;
(l) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

63. *(1)* The State Government may, by notification in the Official Gazette, 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) the other functions to be performed by the State Biodiversity Board under clause (c) of section 23;
(b) the form in which the prior intimation shall be given under sub-section *(1)* of section 24;
(c) the form in which, and the time of each financial year at which, the annual report shall be prepared under section 33;
(d) the manner of maintaining and auditing the accounts of the State Biodiversity Board and the data before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 34;
(e) management and conservation of national heritage sites under section 37;

(f) the manner of management and custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied under sub-section *(1)* of section 44;

(g) the form of annual report and the time at which such report shall be prepared during each financial year under section 45;

(h) the manner of maintaining and auditing the accounts of the Local Biodiversity Fund and the date before which its audited copy of the accounts together with auditor's report thereon shall be furnished under section 46;

(i) any other matter which is to be, or may be, specified.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

64. The National Biodiversity Authority shall, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

65. *(1)* If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty;

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Assam Biodiversity Rules, 2010

GOVERNMENT OF ASSAM
ENVIRONMENT AND FOREST DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

No. FRN.57/2005/187 **Dated 24-02-2010**

In exercise of the powers conferred by Section 63 of the Biological Diversity Act, 2002 (Central Act 18 of 2003), the Government of Assam hereby makes the following rules, namely:-

1. **Short Title and Commencement:**

(1) These rules may be called the **"Assam Biodiversity Rules, 2010"**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions:**

In the rules, unless the context otherwise requires,

a) 'Act' means the Biological Diversity Act, 2002 (Central Act 18 of 2003) of the Government of India;
b) 'Authority' means the National Biodiversity Authority constituted under section 8 of the Act;
c) 'Board' means the Assam Biodiversity Board established under section 22 of the Act;
d) 'Biodiversity Management Committee' means the committee constituted by the local bodies under sub-section *(1)* of section 41 of the Act;
e) 'Chairperson' means the Chairperson of the Assam Biodiversity Board;
f) 'Fee' means any fee stipulated in the Schedules to these rules;
g) 'Form' means the formats appended to the Assam Biodiversity Rules, 2010;
h) 'Government' means the Government of Assam;
i) 'Member' means a member of the Assam Biodiversity Board and includes the Chairperson of the Board;
j) 'Section' means sections of the Act;
k) 'Rule' means the Assam Biodiversity Rules, 2010;
l) 'Secretary' means the full time Secretary of the Assam Biodiversity Board;
m) 'Schedule' means the schedule appended to the Rules;
n) 'Year' means the financial year commencing from the first day of April;
o) Words and expressions used but not defined in these rules and defined in the Act shall have the meaning respectively assigned to them in the Act;

3. **Manner of Selection and Appointment of the Chairperson**:

1. The Chairperson of the Board shall appointed by the Government of Assam.
2. Every appointment of Chairperson under sub-rule-*(1)* shall be made either on deputation from other services or from outside service. In case the appointment is through deputation, the applicant should not be below the rank of Additional Chief Secretary to the Government of Assam. In case, the appointment is from out side service, the Chairperson shall be an eminent scientist having adequate knowledge and experience in the conservation and sustainable use of bio-diversity and in matters relating to equitable sharing of the benefits. The appointment shall be done on the recommendation of a three member search committee, headed by the Chief Secretary to the Government of Assam.

4. **Term of Office of the Chairperson:**

1. The Chairperson of the board shall hold the office for a term of three years and shall be eligible for re-appointment.

   Provided that no Chairperson shall hold office after he attains the age of 65 years.

2. The Chairperson may resign from his office by giving least one month's notice in writing to the Government of Assam.

5. Pay, Allowances and other conditions of service of the Chairperson:

1. A Chairperson shall be entitled to a fixed pay as may be determined by the Government of Assam from time to time. In case, a retired person is appointment as Chairperson, his pay and allowance shall be fixed in accordance with orders of the Government of Assam as applicable to such persons.
2. A Chairperson shall be entitled to such allowances, leave, provident fund, residential accommodation and other perquisites, etc. as may be determined by the Government of Assam from time to time.

6. **Nomination, Term of office, Allowances, etc. of the Non-official Members:**

1. The Board shall have 5 (five) non-official Members;
2. The non-official members from amongst the experts in different fields of biology as concerned with the matters relating to conservation of biological diversity, sustainable use of biological resources and equitable

sharing of benefits arising out of the use of biological resources shall be nominated by the Government of Assam.

3. Every non-official member of Board shall hold office for a term not exceeding three years at a time from the date of publication of his appointment in the official Gazette.
4. Every non-official member of Board shall be entitled to sitting allowance at the end rate of Rs.500/- per day and travelling allowances and such other allowances as admissible to Class-I officers of the State Government.

7. **Filling up of Vacancies of Non- official Members:**

1. A non- official member in the Board may resign his office at any time by giving a notice in writing under his hand to the Government and shall continue in office until his resignation is accepted by the Government;
2. Any casual vacancy in the Board shall be filled up by fresh appointment and the person so appointed shall hold office only for the remaining portion of the term of the member in whose place he is appointed.

8. **Removal of Members of the Board:**

No member of the Board shall be removed from the office on the grounds enumerated in section 11 of the Act without due and proper enquiry by the Government and without giving him a reasonable opportunity of being heard.

9. Appointment of Ex-officio Members and Special Invitees:

(a) Ex-officio members:

Five ex-officio members shall be appointed by the Government of Assam to represent the concerned departments of the State Government:

1. The Principal Secretary/Commissioner & Secretary to the Government of Assam, Environment and Forest Department
2. The Principal Secretary/Commissioner & Secretary to the Government of Assam, Agriculture Department
3. The Chief Conservator of Forests, Biodiversity, Government of Assam
4. The Director, Agriculture Department, Government of Assam
5. The Director, Fisheries Department, Government of Assam

(b) Special Invitees:

The following special invitees to the meeting of the Board would be nominated by the State Government:

1. The Principal Secretary/Commissioner & Secretary to the Government of Assam, Finance Department,
2. The Commissioner & Secretary to the Government of Assam, Animal Husbandry & Veterinary Department.

10. Head office of the Board:

The Head office of the Board shall be located in Guwahati.

11. Secretary of the Board:

1. There shall be a Secretary to the Board in the rank of Chief Conservator of Forests in the State Forest Department who shall be appointed by the Board on deputation with prior approval of the Government;
2. The Secretary shall be responsible for efficient discharge of the functions of the Board, convening meetings, maintaining records of the proceedings, etc.;
3. The Secretary shall be responsible for implementation of various activities under different programmes of the Board under the guidance of the Chairperson of the Board;
4. The Secretary shall exercise such powers and perform such other functions as may be assigned to him from time to time by the Board;
5. The terms and conditions of service of the Secretary shall be determined by the Government by regulation.

12. Meetings of the Board:

1. The Board shall meet at least four times in a year with an interval of three months at the Head office of the Board or at such place as may be decided by the Chairperson;
2. The Chairperson shall, upon a written request from not less than five Members of the Board or upon direction of the Government of Assam, call a special meeting of the Board;
3. The meeting shall be called by notice under the signature of the Chairperson or any other officer authorized by him in this behalf, who shall cause notice to the delivered safely to each member of the Board at his last known place of residence or business either through messenger or by registered post or in such other manner as the Chairperson may, in the circumstances of the case, think fit;
4. The members shall be given at least fifteen days notice for holding an ordinary meeting and three days notice for holidays a special meeting, specifying the purpose, the time and the venue at which such meeting is to be held;
5. Every meeting shall be presided over by the Chairperson and in his/her absence themselves;

6. The decision of the Board in a meeting shall, if necessary, be taken by a simple majority of the Members present and voting and the Chairperson or in his/her absence the Member presiding shall have a second or casting vote.
7. Each member shall have one vote;
8. The quorum at every meeting of the Board shall be five;
9. No Member shall be entitled to bring forward for the consideration of a meeting any matter of which he/she has not given ten days' notice in writing unless the Chairperson in his/her discretion permits him/her to do so.

13. Disposal of urgent matters by circulation:

The Board may dispose of urgent matters by circulation of papers if so desired by the Chairperson. All resolutions and decisions thus made shall be reported at the next meeting of the Board for ratification.

14. Functions of the Assam Biodiversity Board:

Without prejudice to the provisions of the Act in general, the Board may perform the following particular functions, viz.

(i) lay down procedure and guidelines to govern the activities under section 23 of the Act;
(ii) advise the government on any matter concerning conservation of biological diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge;
(iii) provide technical assistance and guidance to the departments of the State Government;
(iv) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indian Nationals;
(v) facilitate in updating and implementation of State Biodiversity Strategy and Action Plan;
(vi) constitute expert committee consisting of experts and persons having local knowledge, commission studies and sponsor investigation and research;
(vii) bio conservation and preservation of unknown potential of every gene in every species of eco- system;
(viii) engage consultants for specific period, not exceeding three years, for providing technical assistance to the Board in the effective discharge of its functions:

Provided that if it is necessary and expedient to engage any consultant beyond three years, the Board shall seek prior approval of the Government for such an engagement;

(ix) collect, compile and publish technical and statistical data, manuals, codes and guidelines relating to conservation of biological diversity, sustainable

use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and knowledge;

(x) inventorisation, cataloguing of biodiversity, monitoring the rate of depletion, awareness creation in public, decision makers and planners and initiating scientific, administrative, legal and socio-economic measures for the protection of biodiversity;

(xi) compile a complete database on the biodiversity resources in the State;

(xii) development of statewide strategy for implementing biodiversity programmes;

(xiii) identify the natural habitat of useful biological communities by enlisting the services of the locality available experts;

(xiv) preparation of an exhaustive inventory of the species available in the natural habitat of useful biological communities and take steps to preserve them;

(xv) take steps to build up database and to create information and documentation system for biological resources and associated traditional knowledge through biodiversity registers and electronic database to ensure effective management, promotion and sustainable uses;

(xvi) devise method to ensure protection of rights including intellectual property rights over biological resources and associated knowledge including systems of maintaining confidentiality of such as appropriate including protection of information recorded in People's Biodiversity Register;

(xvii) ensure that biodiversity and biodiversity dependent livelihoods are integrated into all sectors of planning and management and at all levels of planning from local to state to enable such sectors and administrative levels to contribute effectively for conservation and sustainable use;

(xviii) plan and organize training programmes for personnel engaged or likely to be engaged in programmes for the conservation of biological biodiversity and sustainable use of its components;

(xix) organize through mass media a comprehensive programme regarding conservation of biological diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge;

(xx) setting up sufficient infrastructure and strengthening technology base in biochemistry and biotechnology including systematize;

(xxi) preparation of annual budget of the Board incorporating its own receipts as also devolution from the Central and State Governments and the National Biodiversity Authority;

(xxii) recommend creation of posts to the Government for the effective discharge of functions by the Board and to create such posts;

Provided that no such post of any nature, whether temporary or permanent, shall be created without the prior approval of the Government;

(xxiii) approve the method of recruitment to such posts;

(xxiv) co-ordinate the activities of the Biodiversity Management Committees;

(xxv) give directions to Biodiversity Management Committees in writing and through appropriate oral means for effective implementation of the Act and

to facilitate their meaningful participation in all measures relating to conservation, sustainable use and equitable benefit sharing;

(xxvi) report to the Government and the National Biodiversity Authority about the functioning of the Board and implementation of Act;

(xxvii) recommend, prescribe or modify collection fee of biological resources from time to time;

(xxviii) sanction grants-in-aid and grants to the Biodiversity Management Committees for specific purposes;

(xxix) undertake physical inspection of any area within its jurisdiction in connection with the implementation of the Act;

(xxx) do such other functions as may be directed by the State Government from time to time.

15. Power and responsibilities of the Chairperson:

(1) The Chairperson shall have the overall control of the day to day activities of the Board.

(2) Apart from the general duties and responsibilities specified in the Act and such other powers and duties that may be developed by the Government over the management of affairs and finances of the Board, the Chairperson shall have the powers of general superintendence over the officers and staff of the Board and the Chairperson may issue necessary directions for the conduct and management of the affairs of the Board.

(3) The Chairperson shall be in charge of all confidential papers and records of the Board and shall be responsible for their safe custody.

(4) All orders and instructions to be issued by the Board shall be under the signature of the Chairperson or of any other Officer authorized in the behalf by the Chairperson.

(5) The Chairperson, either himself or through an Officer authorized by him for the purpose, may sanction, draw and disburse all payments by against approved budget outlay.

(6) The Chairperson shall have full powers for granting administrative and technical sanction to all estimates subject to ratification by the Board subsequent meetings.

(7) The Chairperson shall convene and preside over all the meetings of the Board and shall ensure that all decisions of the Board are implemented proper manner.

(8) The Chairperson shall have powers to delegate any or all specific powers enumerated above for a specific period to the Secretary or any other Officer of the Board.

(9) The Chairperson shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board.

16. Employees of the Board, conditions of their services, etc:

The Board may appoint such officers and other employees as determined by the State Government Rules.

17. Application and operation of State Bio-Diversity Fund:

(1) The State Biodiversity Fund shall be deposited in a Nationalized Bank approved by the Board in the name of the Board and operate the same in accordance with the decision of the Board and such other bye-laws as may be framed.

(2) The State biodiversity Fund shall be operated by the Chairperson of the Board under his seal and signature or by such other Officer of the Board as may be authorized in this behalf.

(3) The Board shall have powers to receive funds from national and international donor agencies duly complying with the provisions of Foreign Contribution (Regulation) Act, 1976. The Secretary shall have the power to prepare and submit such proposals and also execute such projects after approval of the Board.

(4) The Board will frame guidelines on ways to ensure that decisions regarding the management and use of the fund are transparent and accountable to the public.

(5) The State Biodiversity Fund shall have separate heads of accounts for receipts from:-

i. The Central government,
ii. The National Biodiversity Authority,
iii. The State Government and
iv. Fee, license fee, royalty and such other receipts.

18. Procedure for access to / collection of biological resources for certain purpose:

(1) Any citizen of India or a body corporate, association or organization registered in India seeking permission of the Board for access to/collection of biological resource for commercial utilization or bio-survey and per Format –I to the Board. Every application shall be accompanied by a fee as may be fixed and notified by the Board in the form of Demand Draft drawn in favour of the Chairperson and payable at the head office of the Board.

(2) The Board, on due consideration of the application and in consultation with the Biodiversity Management Committee(s) concerned and after collecting such other additional information as it may deem necessary, shall take decision on the application as far as possible within a period of three months of the receipt of the application.

(3) On being satisfied with the merit of the application the Board may grant permission subject to such terms and conditions as it may deem necessary to impose.

(4) The permission shall be in the form of a written agreement duly signed by the Chairperson or a duly authorized Officer of the Board on the one part and the applicant on the other part. The form of agreement shall be prescribed by the Board and shall contain such terms and conditions as the Board may consider necessary to protect the biological diversity of the state.

(5) The form of agreement referred to in sub-rule (4) shall be laid down by the Board and shall include the following:-

(a) general objectives and purpose of the application for seeking approval;
(b) description of the biological resources and traditional knowledge including accompanying information;
(c) intended use of the biological resources and (research , breeding, commercial, utilization etc.) ;
(d) conditions under which the applicant may seek intellectual property rights;
(e) a commitment to enter into a fresh agreement particularly in case if the biological material is taken for research purposes and later on sought to be used for commercial purposes and also in case of any change in use thereof subsequently;
(f) restriction to transfer the accessed biological resources and traditional knowledge to any third party without prior approval of the Board;
(g) to adhere to a limit set by the Board on the quantity and specification of the quality of the biological resources for which the applicant is seeking access;
(h) guarantee to deposit a reference sample of the biological material sought to be accessed with the repositories identified in Section 39 of the Act;
(i) commitment of submitting to the Board a regular status report of research and other developments;
(j) commitment to abide with the provisions of the Act and roles and other related legislations in force in the country;
(k) commitment to facilitate measures for conservation and sustainable use of biological resources accessed;
(m) commitment to minimize environmental impact of collecting activities;
(n) legal provisions such as duration of the agreement, notice to terminate the agreement, independent enforceability of individual clauses, provision to the extent that obligations in benefit sharing clauses survive the termination of the agreement, events limiting liability (natural calamities etc.), arbitration and confidentiality clause.

(6) The agreement shall provide measures specifically for the conservation and protection of the biological resources.

(7) The Board shall have the full right to reject any application for good and sufficient reasons to be recorded in writing but before rejecting any application it shall give the applicant a reasonable opportunity of being heard.

(8) Any information given in the Format-I referred in to the sub rule *(1)* shall be kept confidential and shall not be disclosed either intentionally or unintentionally to any person not concerned there to.

19. Revocation of permission:

(1) The Board may, either *suo-moto* or on the basis of any complaint; withdraw any permission granted for access under rule 18 and revoke the written agreement in the circumstances specified below, namely:-

(a) on the ground of reasonable apprehension that the person to whom the permission was granted has violated any of the provisions of the Act or the conditions on which the permission was granted or he has failed to comply with any of the terms of the written agreement and conditions of permission granted;
(b) in the interest of public cause or for the protection of environment and conservation of biological diversity.

(2) The revocation order shall be made only after making such enquiries as required after giving the person so affected and opportunity of being heard.

(3) The Board shall communicate a copy of such withdrawal or revocation order to the Biodiversity Management Committee(s) and the local body concerned for prohibiting the person concerned from accessing and utilizing the biological and resources and also to assess the damage, if any, caused and to recover the damages.

20. Restriction on Activities related to access to Biological resources:

The Board, if it deems necessary and appropriate, shall take steps to restrict or prohibit the request for access to biological resources for the following reasons; namely:-

(a) the request for access is for any endangered taxa;
(b) the request for access is for any endemic and rare species;
(c) the request for access may likely to result in adverse effect on the livelihood of local people;
(d) the request for access may result in adverse environmental impact which may be difficult to control and mitigate;
(e) the request for access may cause genetic erosion or affect the ecosystem functions;
(f) use of resources for purposes contrary to national interest, other related international agreements entered into by India and interest of the State of Assam

21. Procedure for third party transfer of biological resources or knowledge:

Whereas as per Section 20 of the Biological Diversity Act, 2002, no person who has been granted approval to access any biological resource or knowledge shall transfer the biological resource or knowledge associated thereto which is a subject matter of the said approval, to any other person or party except with the prior permission, the following procedures are being laid down for third party transfer of biological resource or knowledge.

(1) The person(s) who have been granted approval for access to biological resources and associated knowledge by the Board intends to transfer the accessed biological resources or knowledge to any other person or organization shall make an application to the Board in Format-II appended to this rule.

(2) Every application under sub-rule *(1)* shall be accompanied by a fee of ten thousand rupees in the form of a Demand Draft or Banker's Cheque drawn in favour of the Board.

(3) The Board shall after collecting any additional information, decide upon the application as far as possible within a period of six months of receipt of the request.

(4) On being satisfied that the applicant has fulfilled all the necessary requirements the Board may grant approval for third party transfer subject requirement the Board may grant approval for third party transfer subject to such terms and conditions it may deem fit to impose in each case.

(5) The approval as may be granted under sub-rule (4) shall be in the form of a written agreement duly signed by an authorized officer of the Board, the applicant and third party to which access is being transferred. The form of the agreement shall be such as may be decided by the Board.

(6) The Board may for reasons to be recorded in writing reject the application if it considers that the request cannot be acceded to:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

22. Criteria for Equitable Benefit Sharing:

Whereas as per Section 21 of the Biological Diversity Act,2002, it should be ensured that the terms and conditions subject to which approval of access to biological resources and associated knowledge is granted secure equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person(s) applying for such approval, local bodies concerned and the benefit claimers, following criteria for equitable sharing are laid down:-

(1) The Board shall by notification in the Official Gazette formulate the guidelines and describe the benefit sharing formula.

(2) The guideline shall provide for monetary and other benefits such as royalty; joint ventures; technology transfer; product development; education and awareness raising activities; institutional capacity building and venture capital fund.

(3) The formula for benefit sharing shall be determined on case-by-case basis.

(4) The Board while granting approval to any person(s) for access or for third party transfer of the accessed biological resource and associated knowledge may impose terms and conditions for ensuring equitable sharing of the benefits arising out of the use of accessed biological material and associated knowledge.

(5) The quantum of benefits shall be mutually agreed upon between the persons applying for such approval and the Board in consultation with the local bodies and benefit claimers and may be decided in due regard to the defined parameters of access, the extent of use, the sustainability aspect, impact and expected outcome levels including measures ensuring conservation and sustainable use of biological diversity.

(6) Depending upon each case, the Board shall stipulate the time frame for assessing benefit sharing on short, medium and long term benefits.

(7) The Board shall stipulate that benefits shall ensure conservation and sustainable use of biological diversity.

(8) Where biological resources or knowledge is accessed from a specific individual or a group of individuals or organizations the Board may take steps to ensure that the agreed amount is paid directly to them through the District Administration .Where such individuals or group of individuals or organizations cannot be identified the monetary benefits shall be deposited in he State Biodiversity Fund.

(9) Five per cent of the assessed benefits shall be earmarked for the Board towards administrative and service charges.

(10) The Board shall monitor the flow of benefits as determined under sub-rule (4) in a manner determined by it.

23. Annual Report and Annual Statement of Accounts:

(1) The Board shall prepare its annual report for each year giving detailed account of its plan of action, activities, achievements and such other details as it may consider appropriate and necessary and the annual statement of accounts and submit a copy thereof to the Government.

(2) The accounts of the Board shall be audited by the Accountant General of the State and the expenditure, if any, towards it shall be borne by the Board.

(3) The Board shall submit the annual report together with the audited statement of accounts for each year to the Government by the 30th of the month of September following so as to enable the Government to lay them before the Legislative Assembly.

24. Establishment and Management of Biodiversity Heritage Sites:

(1) The Board shall in consultation with the local bodies and other key stakeholders take necessary steps to facilitate setting up of areas of significant biodiversity values as Heritage Sites. Following recommendation from the Board and after consultation with the Central Government the State Government shall issue notification to this effect.

(2) The Board shall frame guidelines on the selection, management and other aspects of Heritage Sites ensuring that these provide decision making role for concerned Biodiversity Management Committees.

25. **Constitution of Bio-diversity Management Committees:**

(1) Every local body shall constitute a Biodiversity Management Committee (BMC) within its area of jurisdiction. Accordingly Biodiversity Management Committees are to be constituted at Zila Parishad and Gaon Panchayat levels as well as Municipality and Municipal Corporation level.

(2) If the local body is satisfied that the function of the BMC can be discharged by the general assembly of the local body or by one of its existing committees the same should be recorded as resolution passed by such local body following due procedure.

(3) The Biodiversity Management Committees constituted under sub rule*(1)* shall have seven persons nominated by the local body of whom not less than one third shall be women. Seven local knowledgeable persons being so nominated should be drawn from amongst the herbalists, agriculturalists, Non Timber Forest Produce collectors/traders, fisher folk, representatives of user associations, community workers, academicians and any person/representative of organization whom the local body trusts that he can significantly contribute to the mandate of the Biodiversity Management Committee. The proportion of members belonging to the Schedule Caste and Schedule Tribe shall not be less than Scheduled Caste/ Scheduled Tribe population percentage of the district where such a committee is set up. All the above should be residents within the said local body limits and be in the voters list.

(4) The local body shall nominated six special invitees from forest, agriculture, livestock, health, fisheries and education department.

(5) The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be presided over by the Chairperson of the local body. The Chairperson of the local body shall have the casting vote in case of a tie.

(6) The Chairperson of the Biodiversity Management Committee shall have atenure of five years.

(7) The local Member of the Legislative Assembly and Member of Parliament would be special invitees to the meetings of the Biodiversity Management Committee at different levels.

(8) A technical support group comprising of experts in the field of biodiversity drawn from government agencies, Non Governmental Organizations, academic field, community and individuals shall be established by Zila Parisad/Gaon Panchayat. The expert group shall lend support to Biodiversity Management Committees.

(9) The key mandate of the Biodiversity Management Committees will be to ensure conservation, utilization and equitable sharing of benefits from the biodiversity. The Biodiversity Management Committees shall facilitate preparation of people's Biodiversity Registers. The People's Biodiversity Registers shall be prepared at the Gaon Panchayat/Municipality/ Municipal Corporation Biodiversity Management Committee level by using the process and the format set by the Board. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medical or any other use or any other traditional knowledge associated with them. The Zila Biodiversity Management Committee shall be responsible for developing a district wide network of People's Biodiversity Register database. The Biodiversity Management Committee and local bodies will be responsible for ensuring the protection of the knowledge recorded in the People's Biodiversity Register especially to regulate its access to outside agencies and individuals.

(10) The other functions of the Biodiversity Management Committee are to advise on any matter referred to if by the State Biodiversity Board or Authority for granting approval, to maintain data about the local Vaids/ Bez/ Ojha and practitioners using the biological resources.

(11) The Zila Parishad and Gaon Panchayat Biodiversity Management Committees shall strive to mainstream biodiversity conservation concerns in the developmental planning at local level.

(12) The Board shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers and shall ensure that all information record in such Registers receives legal protection against misuse and appropriation by outside agencies and individuals.

(13) The Biodiversity Management Committees shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted details of the collection fee imposed and details of the benefits derived and the mode of their sharing.

(14) The Biodiversity Management Committee at Gaon Panchayat/ Municipality/ Municipal Corporation level may decide the terms on which it would permit access to biodiversity resources and associated knowledge to different parties for various purposes within their

jurisdiction and levy charges by way of collection fees from any person for accessing or collecting any biological resources for commercial purpose from the area failing within its jurisdiction. The 60% of levy charged for the material collected/ cultivated from private land should be given to the owner/ cultivator of the land/ knowledge holder(s) and the balance 40% should be deposited in Local Biodiversity Fund of the Biodiversity Management Committee. The levy charged for the material collected/ cultivated from government land should be totally deposited in Local Biodiversity Fund of the Biodiversity Management Committee.

(15) The Board shall provide guidelines for terms of access and fee collection by the Biodiversity Management Committees.

(16) The Gaon Panchayat/ Municipality/ Municipal Corporation Level Biodiversity Management Committees shall prepare a Biodiversity Management Plan using output from People's Biodiversity Registers and will be responsible for or participate in its implementation.

(17) The local bodies shall ensure that the Biodiversity Management Committees are integrated with the functioning of existing local institutions by cross-membership, regular coordination meetings and other such measures, as determined by the local bodies or as specified by the Board.

26. Utilization of Local Biodiversity Fund:

(1) At the level of local body the Local Biodiversity Fund shall be constituted.

(2) The Local Biodiversity Fund shall be utilized strictly in accordance with the provisions of sub-section (2) of section 44 of the Act which states that the fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.

(3) The Fund shall be deposited in a Nationalized Bank/scheduled Bank approved by the Biodiversity Management Committee and it shall be operated by the Chairperson of the Committee under his seal and signature or any other officer of the Biodiversity Management Committee as may be authorized in this behalf.

27. Annual Report and Annual Statement of Accounts of Biodiversity Management Committees:

(1) The Biodiversity Management Committee shall prepare the annual report for each year giving detailed accounts of its activities. The annual report shall invariably contain:-

(a) name of the Committee;
(b) period to which the report relates;
(c) incumbency of office for the period;
(d) detailed statement of programmes of action for the year;
(e) detailed report on the activities performed during the year;

(f) a brief account of financial position of the Committee.

(2) The accounts of the Local Biodiversity fund shall be audited by the Examiner of Local Fund Audits.

(3) The Biodiversity Management Committee shall submit the annual report together with the audited statement of accounts to the local body concerned by the 30th of the month of September following to enable the Local Body to submit it to the District Collector.

28. **Removal of doubts:**

Where a doubt arises as to the interpretation of any of the provisions of these rules the matter shall be referred to the Government whose decision thereon shall be final.

29. **Appeal for settlement of disputes:**

(1) If a dispute arises between the Authority and the Board or between one Board and other Board(s) on account of implementation of any order/direction or on any issue of policy decision, either of the aggrieved parties i.e. Authority or the Board, as the case may be, prefer an appeal under section 50 of the act, From-VI appended to the Biological Diversity Rules,2004 to the Secretary, Government of India, Ministry of Environment and Forests or to the Chairperson, National Biodiversity Authority in the case of dispute between one Board and other Board (s).

(2) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant for preferring the appeal and the relief sought for, and shall be accompanied by an authenticated copy of the order, direction or policy decision as the case may be by which the appellant is aggrieved. The memorandum of appeal shall be duly signed by the appellant/ authorized representative of the appellant.

(3) The memorandum of appeal shall be submitted in quadruplicate accompanied with the authenticated copy of the order, directions or policy decisions as the case may be by which the appellant is aggrieved either in person or through a registered post with acknowledgement due within 30 days from the date of order, direction or policy decision impugned:

Provided that if the appellate authority is satisfied that there was good and sufficient reason for the delay in preferring the appeal, it may, for reasons to be recorded in writing allow the appeal to be preferred after the expiry of the aforesaid period of 30 days but before the expiry of 45 days from the date of the order, direction, or policy decision as the case may be.

(4) The notice for hearing of the appeal shall be given in Form-VII appended to the Biological Diversity Rules, 2004 by registered post with an acknowledgement due.

(5) If a dispute arises between any person or groups of persons or communities or agencies or organizations or local bodies or Biodiversity Management Committees on account of implementation of any order/ direction or on any issue of policy decision in regard to access and use of biological resources and related knowledge in the State of Assam, either of the aggrieved parties may prefer an appeal to the Secretary, Government of Assam, Department of Environment and Forests in Format-III appended to these rules within 30 days from the date of the order, direction or policy decision impugned. The notice for hearing of the appeal shall be given in Format-IV appended to these rules by registered post with an acknowledgement due.

(6) Every memorandum of appeal made to the Secretary, Government of Assam, Environment and Forest Department shall be accompanied by a fee of Rs.100/-.

(7) The Board shall lay down the procedure for settlement of disputes between Board and the Biodiversity Management Committees or amongst Biodiversity Management Committee and relevant Local Bodies.

30. Making complaint and manner of giving notice under Section 61:

(1) A complaint under section 61 for cognizance of any offence under the Act shall be made before appropriate Court of Law by Officers of the State Biodiversity Board not below the rank of Scientist "C" within the State of Assam or by Forest Officers not below the rank of Range officers in their respective jurisdiction as notified by the Government of India vide S.O.No 2708(E) dated 17th November, 2008 and S.O.No 120(E) dated 7th January, 2009.

(2) The manner of giving notice under clause (b) of section 61 shall be as follows namely:-

(i) The notice shall be in writing in Form-VII appended to the Biological Diversity Rules, 2004 copy of which is annexed after these rules at Annexure "A" in matters National Biodiversity Authority is having jurisdiction over.

(ii) If violation of any provision of the Biological Diversity Act, 2002 is detected or observed by any person or groups of persons or communities or agencies or organizations or local bodies or Biodiversity Management Committees in matters falling within jurisdiction of the State Biodiversity Board a complaint may be made to the State Biodiversity Board of Assam in Format-V appended to these Rules.

(iii) The person giving the notice shall send it to the Chairman of the National Biodiversity Authority/ State Biodiversity Board as the case may be by registered post acknowledgement due:

Provided that the period of thirty days mentioned in clause (b) of Section 61 of the Act shall be reckoned from the date of receipt of the notice by the Chairman, National Biodiversity Authority/State Biodiversity Board.

31. Framing of Guidelines by State Biodiversity Board:

Without prejudice to any of the provisions of the Biological Diversity Act, 2002 and the Biological Diversity Rules, 2004 of the Government of India and the Assam Biodiversity Rules, 2008 framed by the Government of Assam, the Assam Biodiversity Board may frame any guideline(s) as it may deem fit necessary for carrying out within the State of Assam the provisions of the Biological Diversity Act, 2002:

FORMAT- I

(See Rule 18)

Application form for seeking approval of Assam Biodiversity Board for access to Biological resources and associated traditional knowledge

Part –A

1. Full particular of the applicant

   (a) Name
   (b) Permanent address
   (c) Profile of the organization (personal profile in case the applicant is an individual)
   (d) Nature of business
   (e) Turnover of the organization (in Rs……..)

2. Details and specific information about nature of access sought and biological material and associated knowledge to be accessed

   (a) identification (scientific name) of biological resources and its traditional use
   (b) Geographical location of proposed collection
   (c) Description / nature of traditional knowledge (oral and documented)
   (d) Any identified individual / community holding the traditional knowledge
   (e) Quantity of biological resources to be collected (give the schedule)
   (f) Time span in which the biological resources is proposed to be collected
   (g) Name and nature of person authorized by company for making the selection

(h) The purpose for which the access is required including the type and extend of research, commercial use being derived and expected to be derived from it

(i) Whether any collection of the resource endangers any component of biological diversity and risks which may arise from the access.

3. Details of any institution which will participate in the Research and Development activities
4. Primary destination of accessed resource and identity of the location where the R&D will be carried out
5. The economic and other benefits including those arriving out of any IPR, patent obtained out of accessed biological resources and knowledge that are intended or may accrue to the applicant or to the country that he/she belongs
6. The biotechnology scientific social or any other benefits obtained out of accessed biological resources and knowledge that are intended or may accrue to the applicant or to the state that he/she belongs
7. Estimation of benefits that would follow to Assam / communities arising out of the use of accessed bio-resources and traditional knowledge
8. Proposed mechanism and arrangements for benefits sharing
9. Any other information considered relevant

PART-B

DECLARATION

I/ we declared that

- Collection of proposed biological resources shall not adversely affect the sustainability of the resources
- Collection of proposed biological resources shall not entail any environmental impact.
- Collection of proposed biological resources shall not pose any risk to ecosystems.
- Collection of proposed biological resources shall not adversely affect the local communities.

I /we further declare the information provided in the application is true and correct and I / we shall be responsible for any incorrect/ wrong information.

Place: _____ Signed _____

Date:_____ Name _____

Title _____

FORMAT-II

(See Rule-21)

Application for seeking approval of Assam Biodiversity Board for third party transfer of the accessed Biological resources and associated traditional knowledge

1. Full particulars of the applicant

   Name
   (a) Address
   (b) Professional
   (c) Organizational affiliation (please attach relevant documents of authentication)

2. Details of the biological material and traditional knowledge accessed
3. Details of the access contract entered (copy to be e enclosed)
4. Details of the benefits and mechanism/ arrangements for benefit sharing already implemented
5. Full particulars of the third party to whom the assessed material/ knowledge is intended to be transferred
6. The purpose of the intended third party transfer
7. Details of economic, social biotechnological, scientific or any benefits that are intended, or may accrue to the third party due to transfer of accessed biological material and knowledge
8. Details of any agreement to be entered between the applicant and the third party
9. Estimation of benefits that would flow to Assam/ communities arising out of the third party transfer of accessed biological resources and traditional knowledge
10. Proposed mechanism and arrangements for benefit sharing out of the proposed third party transfer
11. Any other relevant information

Declaration

I /we declare the information provided in the application is true and correct and I/we shall be responsible for any incorrect/wrong information.

Signed
Name Title

Place:
Date:

FORMAT-III
(See rule-29

FORM OF MEMORANDUM OF APPEAL

BEFORE THE SECRETARY, DEPARTMENT OF ENVIRONMENT AND FORESTS, GOVERNMENT OF ASSAM

(Memorandum of appeal under Rule 29(5) of the Assam Biodiversity Rules, 2010)

Appeal No. ..... of 200___

Appellant(s)

Vs

……Respondent(s)*
State Biodiversity Board of Assam

(*here mention the designation of the officer of the Board)

The appellant begs to prefer this Memorandum of Appeal against the order dated passed by the Respondent on the following facts and grounds.

1. FACTS
(Here briefly mention the facts of the case)

2. GROUND
(Here mention the grounds on which the appeal is made)
i)
ii)
iii)

3. RELIVE SOUGHT
i)
ii)
iii)

4. PRAYER

a) In the light of which is stated above, the appellant respectively prays that the order/ decision of the respondent be quashed/set-aside.

b) The Policy/guidelines/regulation framed by the Respondent be quashed/modified/annulled to the extent _____

c) _____

Date:
Place: Signature of the appellant With seal & Address

VERIFICATION

I, the appellant do hereby declare that what is above is true to the best of my information and behalf.

Varied on _____ day of _____

Signature of the appellant with seal & Address

Signature of the Authorized representative of the appellant

Enclosures: 1. Authenticated copy of the order/ direction/ policy decision against which the appeal has been preferred.

*****

Please note that if you fail to appear on the said date or other subsequent date of hearing of the appeal the appeal would be disposed of finally by placing you *ex-parte*.

Date:
Place: Authorized signatory on behalf of the Appellate Authority (Seal)

*****

THE WILDLIFE (PROTECTION) (ASSAM AMENDMENT) ACT, 2009

THE ASSAM GAZETTE
EXTRAORDINARY
PUBLISHED BY THE AUTHORITY

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT: LEGISLATIVE BRANCH

NOTIFICATION

The 19th October, 2010

No.LGL.107/2008/33: - The following Act of the Assam Legislative Assembly which received the assent of the President is hereby published for general information.

ASSAM ACT NO. XXXI OF 2010

(Received the assent of the President on 26th September, 2010)

AN ACT

Further to amend the Wildlife (Protection) Act, 1972, in its application to the State of Assam.

Whereas it is expedient further to amend the Wildlife (Protection) Act, 1972, hereinafter referred to as the Principal Act, in its application to the State of Assam; Central Act No. 53 of 1972

It is hereby enacted in the Sixtieth Year of the Republic of India as follows:-

Short title, extent and Commencement

1. *(1)* This Act may be called the Wildlife (Protection) (Assam Amendment) Act, 2009.

(2) It extends to the whole of Assam.

(3) It shall come into force at once.

Amendment of section 51

2. In the principal Act, in section 51, in sub section *(1)*

(i) In the first proviso,

(a) In between the words "hunting in" and "a sanctuary" the words "or outside the boundary of" shall be inserted;

(b) For the words “three years”, “seven years” and “ten thousand” the words “seven years”, “ten years” and “fifty thousand” respectively shall be substituted.

(ii) In the second proviso, for the words “three years”, “seven years” and “twenty five thousand”, the words “ten years”, “life imprisonment” and “seventy five thousand” respectively, shall be substituted.

Insertion of section 51B

3. In the principal Act, after section 51 A, the following new section 51 B shall be inserted, namely:

Offences to be cognizable, non bailabale and triable by the Court of Sessions

51 B *(1)* Every offence punishable under this Act shall be congnizable and non-bailable within the meaning of the Code of Crimanal Procedure, 1973.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable under this Act, shall be released on bail unless -

(a) The Public Prosecutor has been given an opportunity to oppose the application for such release; and

(b) Where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not likely to commit any offence while on bail.

(3) The offences under this Act shall be triable by the Court of Sessions of the respective jurisdiction.”

MOHD. A. HAQUE
Secretary to the Government of Assam
Legislative Department, Dispur

THE NATIONAL GREEN TRIBUNAL ACT, 2010

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd June, 2010

The following Act of Parliament receited the assent of the President of the 2nd June, 2010, and is hereby published for general information:

THE NATIONAL GREEN TRIBUNAL ACT, 2010

(No. 19 of 2010)

An Act to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

And whereas India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment;

And whereas decisions were taken at the United Nations Conference on Environment and Development held at Rio de Janeriro in June, 1992, in which India participated, calling upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and othe environmental damage;

And whereas in the judicial pronouncement in India, the right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution;

And whereas it is considered expedient to implement the decisions taken at the aforesaid conferences and to have a National Gree Tribunal in view of the involvement of multi-disciplinary isues relating to the environment.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:-

CHAPTER – I

PRELIMINARY

Short title and commencement

1. *(1)* This Act may be called the National Green Tribunal Act, 2010.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. *(1)* In this Act, unless the context otherwise requires -

(a) "accident" means an accident involving a fortuitous or sudden or unintended occurrence while handing any hazardous substance or equipment, or plant, or vehicle resulting to continuous or intermittent or repeated exposure to death, of, or, injury to, any person or damage to any property or environment but does not include an accident by reason only of war or civil disturbance;

(b) "Chairperson" means the Chairperson of the National Green Tribunal;

(c) "environment" includes water, air and land and the inter relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro organism and property;

(d) "Expert Member" means a member of the Tribunal who, is appointed as such, and holds qualifications specified in sub section (2) of section 5, and, is not a Judicial Member;

(e) "handling", in relation to any hazardous substance, means the manufacture, processing, treatment, package, strorage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such hazardous substance;

(f) "hazardous substance" means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986, and exceeding such quantity as specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991. *29 of 1986 6 of 1991*

(g) "injury" includes permanent, partial or total disablement or sickness resulting out of an accident;

(h) "Judicial Member" means a member of the Tribunal who is qualified to be appointed as such under sub-section *(1)* of section 5 and includes the Chairperson;

(i) "notification" means a notification published in the Official Gazette;

(j) "person" includes—

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) trustee of a trust,

(vii) a local authority, and

(viii) every artificial juridical person, not falling within any of the

proceeding sub-clauses;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Schedule" means Schedules I, II and III appended to this Act;

(m) "substantial question relating to environment" shall include an instance where,—

(i) there is a direct violation of a specific statutory environment obligation by a person by which,—

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

(n) "Tribunal" means the National Green Tribunal established under section 3;

(o) "workman" has the meaning assigned to it in the Workmen's Compensation Act, 1923. **(** 8 of 1923).

(2) The words and expressions used in this Act but not defined herein and defined in the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1977, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability Insurance Act, 1991, and the Biological Diversity Act, 2002 and other Acts relating to environment shall have the meaning, respectively, assigned to them in those Acts.

CHAPTER – II

ESTABLISHMENT OF THE TRIBUNAL

Establishment of Tribunal

3. The Central Government shall, by notification, established, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

Composition of Tribunal

4. *(1)* The Tribunal shall consist of

(a) a full time Chairperson;

(b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;

(c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.

(2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

(4) The Central Government may, in consultation with the Chairperson of the Tribunal make rules regulating generally the practices and procedure of the Tribunal including

(a) the rules as to the persons who shall be entitled to appear before the Tribunal;

(b) the rules as to the procedure for hearing applications and appeals and other matters [including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the application and appeals;

(c) the minimum number of Members who shall hear the application and appeals in respect of any class or classes of applications and appeals;

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.

Qualifications for appointment of Chairperson, Judicial Member and Expert Member

5. *(1)* A person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court;

Provided that a person who is or has been a Judge of the High Court shall also be qualified to be appointed as a Judicial Member.

(2) A person shall not be qualified for appointment as an Expert Member, unless he,

(a) has a degree in Master of Science (in physical sciences or life sciences) with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management, biological diversity management and forest conservation) in a reputed National level institution; or

(b) has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.

(3) The Chairperson, Judicial Member, and Expert Member of the Tribunal shall not hold any other office during their tenure as such.

(4) The Chairperson and other Judicial and Expert Members shall not, for a period of two years from the date on which cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Tribunal under this Act;

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government compnay as defined in section 617 of the Companies Act, 1956. *1 of 1956*

Appointment of Chairperson, Judicial Member and Expert Member

6. *(1)* Subject to the provisions of section 5, the Chairperson, Judicial Members and Expert Members of the Tribunal shall be appointment by the Central Government.

(2) The Chairperson shall be appointed by the Central Government in consultation with the Chief Justice of India.

(3) The Judicial Members and Expert Members of the Tribunal shall be appointed on the recommendations of such Selection Committee and in such manner as may be prescribed.

7. The Chairperson, Judicial Member and Expert Member of the Tribunal shall hold office as such for a term of five years from the date on which they enter upon their office, but shall not be eligible for re-appointment. *Term of office and other condition of service of Chairperson, Judicial Member and Expert Member*

Provided that in case a person, who is or has been a Judge of the Supreme Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of seventy years.

Provided further that in case a person, who is or has been the Chief Justice of a High Court, has been appointed as Chairperson or Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years;

Provided also that in case a person, who is or has been a Judge of a High Court, has been appointed as Judicial Member of the Tribunal, he shall not hold office after he has attained the age of sixty-seven years;

Provided also that no Expert Member shall hold office after he has attained the age of sixty-five years;

8. The Chairperson, Judicial Member and Expert Member of the Tribunal may, by notice in writing under their hand addressed to the Central Government, resign their office. Registration

9. The salaries and a allowances payable to, and the other terms and condition of service (including pension, gratuity and other retirement benefits) of, the Chairperson, Judicial Member and Expert Member of the Tribunal shall be such as may be prescribed; *Salaries, allowances and other terms and conditions of service*

Provided that neither the salary and allowances not the other terms and conditions of service of the Chairperson, Judicial Member and Expert Member shall be varied to their disadvantage after their appointment.

10. *(1)* The Central Government may, in consultation with the Chief Justice of India, remove from office of the Chairperson on Judicial Member of the Tribunal, who, *Removal and suspension of Chairperson, Judicial Member and Expert Member*

(a) has been adjudged on insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable; or

(d) has acquired such financial or other interest as a likely to affect prejudicially his functions; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) The Chairperson or Judicial Member shall not be removed from his office except by an order made by the Central Government after an inquiry made by a Judge of the Supreme Court in which such Chairperson or Judicial Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may suspend from office the Chairperson or Judicial Member in respect of whom a reference of conducting an inquiry has been made to the Judge of the Supreme Court under sub-section (2), until the Central Government passes an order on receipt of the report of inquiry made by the Judge of the Supreme Court on such reference.

(4) The Central Government may, by rules, regulate the procedure for inquiry referred to in sub-section (2).

(5) The Expert Member may be removed from his office by an order of the Central Government on the grounds specified in sub-section *(1)* and in accordance with the procedure as may be notified by the Central Government;

Provided that the Expert Member shall not be removed unless he has beengiven an opportunity of being heard in the matter.

To act as Chairperson of Tribunal or to discharge his functions in certain circumstances

11. In the event of the occurrence of any vacancy in the office of the Chairperson of the Tribunal, by reason of his death, resignation or otherwise, such Judicial Member of the Tribunal as the Central Government may, be notification, authorised in this behalf, shall act as the Chairperson until the date on which a new Chairperson is appointed in accordance with the provisions of this Act.

Staff of Tribunal

12. *(1)* The Central Government shall determine the nature and categories of the officers and other employees to assist the Tribunal in the discharge of its functions.

(2) The recruitment of the officers and other employees of the Tribunal shall be made by the Chairperson in such manner as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

(4) The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be

such as may be prescribed.

Financial and adminisrative powers of Chairperson

13. The Chairperson of the Tribunal shall exercise such financial and administrative powers as may be vested in him under the rules made by the Central Government:
Provided that the Chairperson may delegate such of his financial and administrative powers, as he may think fit, to any Judicial Member or Expert Member or officer of the Tribunal subject to the condition that the Member or such officer, while exercising such delegated power, continues to act under the direction, control and supervision of the Chairperson.

CHAPTER – III

JURISDICTION, POWERS AND PROCEEDINGS OF THE TRIBUNAL

Tribunal to settle disputes

14. *(1)* The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactment specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section *(1)* and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose;
Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

Relief, compensation and restitution

15. *(1)* The Tribunal may, by an order, provide,

(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);

(b) for restitution of property damaged;

(c) for restitution of the environment for such area or areas, as the Tribunal may think fit.

(2) The relief and compensation and restitution of property and environment referred to in clauses *6 of 1991*

(a), (b) and (c) of sub-section *(1)* shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991.

(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:

Provided that the Tribunal may, if it is satisfied that the application was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.

(4) The Tribunal may, having regard to the damage to public health, property and environment divided the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.

(5) Every claimant of the compensation or relief under this act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.

Tribunal to have appellate jurisdiction

16. Any person aggrieved by,

6 of 1974

(a) an order or decision, made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 28 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974

(b) an order passed, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government under section 29 of the Water (Prevention and Control of Pollution) Act, 1974;

6 of 1974

(c) direction issued, onor after the commencement of the National Green Tribunal Act, 2010, by a Board, under section 33A of the Water (Prevention and Control of Pollution) Act, 1974;

36 of 1977

(d) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the appellate authority under section 13 of the Water (Prevention and Control of Pollution) Cess Act, 1977;

69 of 1980

(e) an order or decision made, on or after the commencement of the National Green Tribunal Act, 2010, by the State Government or other authority under section 2 of the Forest (Conservation) Act, 1980;

14 of 1981

(f) an order or decision, made, on or after the commencement of

the National Green Tribunal Act, 2010, by the Appellate Authority under section 31 of the Air (Prevention and Control of Pollution) Act, 1981;

29 of 1986

(g) any direction issued, on or after the commencement of the National Green Tribunal Act, 2010, under section 5 of the Environment (Protection) Act, 1986;

29 of 1986

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986;

29 of 1986

(i) an order made, on or after the commencement of the National Green Tribunal Act, 2010, refusing to grant environmental clearance for carrying out any activity or operation or process under the Environment (Protection) Act, 1986;

18 of 2003

(j) any determination of benefit sharing or order made, on or after the commencement of the National Green Tribunal Act, 2010, by the National Biodiversity Authority or a State Biodiversity Board under the provisions of the Biological Diversity Act, 2002, may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

Liability to pay relief or compensation in certain cases

17. *(1)* Where death of, or injury to, any person (other than a workman) or damage to any property or environment has resulted from an accident or the adverse impact of an activity or operation or process, under any enactment specified in Schedule I, the person responsible shall be liable to pay such relief or compensation for such death, injury or damage, under all or any of the heads specified in Schedule II, as may be determined by the Tribunal.

(2) If the death, injury or damage caused by an accident or the adverse impact of an activity or operation or process under any enactment specified in Schedule I cannot be attributed to any single activity or operation or process but in the combined or resultant effect of several such activities, operations and processes, the Tribunal may, apportion the liability for relief or compensation amongst those responsible

for such activities, operations and processes on an equitable basis.

(3) The Tribunal shall, in case of an accident, apply the principle of no fault

Application or appeal to Tribunal

18. *(1)* Each application under sections 14 and 15 or an appeal under section 16 shall, be made to the Tribunal in such form, contain such particulars, and, be accompanied by such documents and such fees as may be prescribed.

(2) Without prejudice to the provisions contained in section 16, an application for grant of relief or compensation or settlement of dispute may be made to the Tribunal by

(a) the person, who has sustained the injury; or

(b) the owner of the property to which the damage has been caused; or

(c) where death has resulted from the environmental damage, by all or any of the legal representatives of the deceased; or

(d) any agent duly authorised by such person or owner of such property or all or any of the legal representatives of the deceased, as the case may be; or

(e) any person aggrieved, including any representative body or organisation; or

(f) the Central Government or a State Government or a Union territory Administration or the Central Pollution Control Board or a State Pollution Control Board or a Pollution Control Committee or a local authority, or any environmental authority constituted or established under the Environment (Protection) Act, 1986 or any other law for the time being in force; *29 of 1986*

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation or relief or settlement of dispute, the application shall be made on behalf of, or, for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be imp leaded as respondents to the application;

Provided further that the person, the owner, the legal representative, agent, representative body or organisation shall not be entitled to make an application for grant of relief or compensation or settlement of dispute if such person, the owner, the legal representative, agent, representative body or organisation have preferred an appeal under section 16.

(3) The application, or as the case may be, the appeal filed before the Tribunal under this act shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to

dispose of the application, or, as the case may be, the appeal, after providing the parties concerned an opportunity to be heard.

Procedure and powers of Tribunal

19. *(1)* The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice. *5 of 1908*

(2) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure.

(3) The Tribunal shall also not be bound by the rules of evidence contained in the Indian Evidence Act, 1872 *1 of 1872*

(4) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely: *5 of 1908*

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

1 of 1872

(d) subject to the provisions of section 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decision;

(g) dismissing an application for default or deciding it ex parte;

(h) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(i) pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act;

(j) pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I;

(k) any other matter which may be prescribed.

45 of 1860 2 of 1974

(5) All proceedings before the Tribunal shall be deemed to the judicial proceedings within the meaning of section 193, 219 and 228 for the purposes of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973

20. The Tribunal shall, while passing any order or decision or award, apply the principles of sustanable development, the precuationary principle and the polluter pays principles. *Tribunal to apply certain principles*

21. The decision of the Tribunal by majority of Members shall be binding: *Decision to be taken by majority*

Provided that if there is a difference of opinion among the Members hearing an application or appeal, and the opinion is equally divided, the Chairperson shall hear (if he has not heard such application or appeal) such application or appeal and decide:

Provided further that where the Chairperson himself has heard such application or appeal alongwith other Members of the Tribunal, and if there is a difference of opinion among the Members in such cases and the opinion is equally divided, he shall refer the matter to other Members of the Tribunal who shall hear such application or appeal and decide.

5 of 1908

22. Any person aggrieved by any award, decision or order of the Tribunal, may, file an appeal to the Supreme Court, within ninety days from the date of communication of the award, decision order of the Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 *Appeal to Supreme Court*

Provided that the Supreme Court may entertain any appeal after the expiry of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal.

23. *(1)* While disposing of an application or an appeal under this Act, the Tribunal shall have power to make such order as to costs, as it may consider necessary. *Cost*

(2) Where the Tribunal holds that a not maintainable, or is false or vexatious, and such claim is disallowed, in whole or in part, the Tribunal may, if it so thinks fit, after recording its reasons for holding such claim to be false or vexatious, make an order to award costs, including lost benefits due to any interim injunctions.

6 of 1991

24. *(1)* Where any amount by way of compensation or relief is ordered to be paid under any award or order made by the Tribunal on the ground of any damage to environment, the amount shall be remitted to the authority specified under sub-section (3), of section 7A of the Public Liability Insurance Act, 1991 for being credited to the *Deposit of amount payable for damage to environment*

Environmental Relief Fund established under that section.

(2) The amount of compensation or relief credited to the Environmental Relief Fund under sub-section *(1)*, may, notwithstanding anything contained in the Public Liability Insurance Act, 1991, be utilised by such persons or authority, in such manner and for such purposes relating to environment, as may be prescribed. 6 of 1991

Execution of award or order or decision of Tribunal

25. *(1)* An award or order or decision of the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of a civil court.

(2) Notwithstanding anything contained in sub-section *(1)*, the Tribunal may transmit any order or award made by it to a civil court having local jurisdiction and such civil court shall execute the order or award as if it were a decree made by that court.

(3) Where the person responsible, for death of, or injury to any person or damage to any property and environment, against whom the award or order is made by the Tribunal, fails to make the payment or deposit the amount as directed by the Tribunal within the period so specified in the award or order, such amount, without prejudice to the filing of complaint for prosecution for an offence under this Act or any other law for the time being in force, shall be recoverable from the aforesaid person as arrears of land revenue or of public demand.

CHAPTER – IV

PENALTY

Penalty for failure to comply with orders of Tribunal

26. *(1)* Whosever, fails to comply with any order or award or decision of the Tribunal under this act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to with any order or

award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code. *2 of 1974*

Offences by companies

27. *(1)* Where any offence under this act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where on offence under this Act has been committed by the company and it is proved that the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purposes of this section,

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

Offences by Government Department

28. *(1)* Where any department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that the exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where an offence under this act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER – V

MISCELLANEOUS

Bar of jurisdiction

29. *(1)* With effect from the date of establishment of the Tribunal under this Act, no civil court shall have jurisdiction to entertain any appeal in respect of any matter, which the Tribunal is empowered to determine under its appellate jurisdiction.

(2) No civil court shall have jurisdiction to settle dispute or entertain any question relating to any claim for granting any relief or compensation or restitution of property damaged or environment damaged which may be adjudicated upon by the Tribunal and no injunction in respect of any action taken or to be taken by or before the Tribunal in respect of the settlement of such dispute or any such claim for granting any relief or compensation or restitution of property damaged or environment damaged shall be granted by the civil court.

Cognizance of offences

30. *(1)* No court shall take cognizance of any offence under this act except on a complaint made by

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days in such manner as may be prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised

as aforesaid.

(2) No court inferior to that of a Metropolitan Magistrate or, a Judicial Magistrate of the first class shall try any offence punishable under this Act.

45 of 1860

31. *Members and staff of Tribunal to be public servants*

The Chairperson, the Judicial and Expert Members, officers and other employees of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

32. *Protection of action taken in good faith*

(1) No suit or legal proceeding shall lie against the employees of the Central Government or a State Government or any statutory authority, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made there under.

(2) No suit, prosecution or other legal proceeding shall lie against the Chairperson or, Judicial Member or Expert Member of the Tribunal or any other person authorized by the Chairperson or Judicial Member or the Expert Member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made there under.

33. *Act to have overriding effect*

The provisions of this Act, shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

34. *Power to amend Schedule I*

(1) The Central Government may, by notification, amend the Schedule I by including therein any other act, enacted by Parliament having regard to the objective of environmental protection and conservation of natural resources, or omitting there from any act already specified therein and on the date of publication of such notification, such act shall be deemed to be included in or, as the case may be, omitted from the Schedule I.

(2) A copy of every notification proposed to be issued under sub-section (I), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses

agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Power to make rules

35. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of the 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) rules as to the persons who shall be entitled to appear before the Tribunal under clause (a) of sub-section (4) of section 4;

(b) the procedure for hearing applications and appeals and other matters pertaining to the applications and appeals under clause (b) of sub-section (4) of section 4;

(c) the minimum number of members who shall hear the applications and appeals in respect of any class or applications and appeals under clause (c) of sub-section (4) of section 4;

(d) the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting;

(e) the selection committed and the manner of appointment of the Judicial Member and Expert Member of the Tribunal under sub-section (3) of section 6;

(f) the salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson , Judicial Member and Expert Member of the Tribunal under section 9;

(g) the procedure for inquiry of the charges against the Chairperson or Judicial Member of the Tribunal under sub-section (4) of section 10;

(h) the recruitment of officers and other employees of the Tribunal under sub-section (2) of section 12; and the salaries and allowances and other conditions of service of the officers and other employees of the Tribunal under sub-section (4) of that section;

(i) the finanical and administrative powers to be exercised by the Chairperson of the Tribunal under section 13;

(j) the form of application or appeal, the particulars which it shall contain and the documents to be accompanied by and the fees payable under sub-section *(1)* of section 18;

(k) any such matter in respect of which the Tribunal shall

have powers of a civil court under clause (k) of sub-section (4) of section 19;

(l) the manner and the purposes for which the amount of compensation or relief credited to the Environment Relief Fund shall be utilised under sub-section (2) of section 24;

(m) the manner of giving notice to make a complaint under clause (b) of sub-section (I) of section 30;

(n) any other matter which is required to be, or may be, specified by rules or in respect of which provision is to be made by rules.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more sucessive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or ammunlment shall be without prejudice to the validity of anything previously done under that rule.

Amendment of certain enactments

36. The enactments specified in the Schedule III to this Act be amended in the manner specified therein and such ammendments shall take effect on the date of establishment of the Tribunal

Power to remove difficulties

37. *(1)* If any difficulty arises in giving effect to the provisions of this act, the Central Government, may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficutly:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings

27 of 1995 22 of 1997 38. *(1)* The National Environment Tribunal Act, 1995, and the National Environment Appellate Authority Act,1997 are hereby repealed

(hereinafter referred to as the repealed Act.)

(2) Notwithstanding such repeal, anything done or any action taken under the said Acts shall be deemed to have done or taken under the corresponding provisions of this Act.

22 of 1997

(3) The National Environment Appellate Authority established under sub-section *(1)* of section 3 of the National Environment Appellate Authority Act, 1997, shall, on the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, stand dissolved.

22 of 1997

(4) On the dissolution of the National Environment Appellate Authority established under sub-section *(1)* of section 3 of the National Environment Appellate Authority Act, 1997, the persons appointed as the Chairperson, Vice-chairperson and every other person appointed as Member of the Said National Environment Appellate Authority and holding office as such immediately before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010 shall vacate their respective offices and no such chairperson, Vice-Chairperson and every other person appointed as member shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

22 of 1997

(5) All cases pending before the National Environment Appellate Authority established under sub-section *(1)* of section 3 of the National Environment Appellate Authority Act, 1997 on or before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall, on such establishment, stand transferred to the said National Green Tribunal and the National Green Tribunal shall dispose of such cases as if they were cases filed under that Act.

(6) The officers or other employees who have been, immediately before the dissolution of the National Environment Appellate Authority appointed on deputation basis to the National Environment Appellate Authority, shall on such dissolution stand reverted to their parent cadre, Ministry or Department, as the case may be.

(7) On the dissolution of the National Environment Appellate Authority, the officers and other employees appointed on contract basis under the National Environment Appellate Authority and holding office as such immediately before such dissolution, shall vacate their respective offices and such officers and other employees shall be entitled to

claim compensation for three months' pay and allowances or pay and allowances for the remaining period of service, whichever is less, for the premature termination of term of their office under their contract of service.

(8) The mention of the particular matters referred to in sub-sections (2) to (7) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal. *10 of 1897*

SCHEDULE – I

[See Sections 14*(1)*, 15*(1)*, 17*(1)*(a), 17(2), 19(4)(j) and 34 (l)]

1. The Water (Preventtion and Control of Pollution) Act, 1974;
2. The Water (Prenvention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;
4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991;
7. The Biological Diversity Act, 2002.

SCHEDULE – II

[See Sections 15(4) and 17*(1)*]

HEADS UNDER WHICH COMPENSATION OR RELIEF FOR DAMAGE MAY BE CLAIMED

(a) Death;

(b) Permanent, temporary, total or partial disability or other injury or sickness;

(c) Loss of wages due to total or partial disability or permanent or temporary disability;

(d) Medical expenses incurred for treatment of injuries or sickness;

(e) Damages to private property;

(f) Expenses incurred by the Government or any local authority in providing relief, aid and rehabilitation to the affected persons;

(g) Expenses incurred by the Government for any administrative or legal action or to cope with any harm or damage, including compensation for environmental degradation and restoration of the quality of environment;

(h) Loss to the Government or local authority arising out of, or connected with, the activity causing any damage;

(i) Claims on account of any harm, damage or destruction to the fauna including milch and draught animals and aquatic fauns;

(j) Claims on account of any harm, damage or destruction to flora including aquatic flora, crops, vegetables, trees and orchards;

(k) Claims including cost of restoration on account of any harm or damage to environment including pollution of soil, air, water, land and eco-systems;

(l) Loss and destruction of any property other than private property;

(m) Loss of business or employment or both;

(n) Any other claim arising out of, or connected with, any activity of handling of hazardous substance.

THE SCHEDULE III

[See Sections 36]

AMENDMENT TO CERTAIN ENACTMENTS

PART – I

AMENDMENT TO THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974
(6 of 1974)

Insertion of new section 33B:

After section 33A, the following section shall be inserted, namely:

Appeal to National Green Tribunal:

"33B. Any person aggrieved by,

(a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or

(b) an order passed by the State Government under section 29, on or after the commencement of the National Green Tribunal Act, 2010; or

(c) directions issued under section 33A by a Board, on or after the commencement

of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

PART – II

AMENDMENTS TO THE WATER (PREVENTION AND CONTROL, OF POLLUTION) CESS ACT, 1977
(36 of 1977)

1. In section 13, in sub – section (4), for the words "shall be final", the words, figures and letters "shall, if no appeal has been filed under section 13A, be final " shall be substituted. *Amendment of section 13:*

2. After section 13, the following section shall be inserted, namely: *Insertion of new section 13A: Appeal to National Green Tribunal:*

"13A, Any person aggrieved, by an order or decision of the appellate authority made under section 13, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.".

PART – III

AMENDMENT TO THE FOREST (CONSERVATION) ACT, 1980
(69 of 1980)

After section 2, the following section shall be inserted, namely: *Insertion of new section 2A:*

"2A, Any person aggrieved, by an order or decision of the State Government or other authority made under section 2, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act."

PART – IV

AMENDMENT TO THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981
(14 of 1981)

Insertion of new section 31B:	After section 31A, the following section shall be inserted, namely:
Appeal to National Green Tribunal:	"31B, any person aggrieved by an order or decision of the Appellate Authority under section 31, made on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act."

PART – V

AMENDMENT TO THE ENVIRONMENT (PROTECTION) ACT, 1986
(29 of 1986)

Insertion of new section 5A: Appeal to National Green Tribunal:

After section 5, the following section shall be inserted, namely:

"5A, Any person aggrieved by any directions issued under section 5, on or after the commencement of the National Green Tribunal Act, 2010, may file appeal to the National Green Tribunal under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act."

PART – VI

AMENDMENT TO THE BIOLOGICAL DIVERSITY ACT, 2002
(18 of 2003)

Amendment of section 52:

1. In section 52, after the proviso, the following provision shall be inserted, namely:

Provided further that nothing contained in this section shall apply on and from the commencement of the National Green Tribunal Act, 2010:

Provided also that any appeal pending before the High Court, before the commencement of the National Green Tribunal Act, 2010, shall continue to be heard and disposed of by the High Court as if the National Green Tribunal had not been established under section 3 of the National Green Tribunal Act, 2010."

Insertion of new section 52A: Appeal to National Green Tribunal:

2. After section 52, the following section shall be inserted, namely:

"52A, any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board under this Act, on or after the commencement of the National Green Tribunal Act, 2010, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act."

V. K. Bhasin
Secretary to the Government of India

THE ENVIRONMENT (PROTECTION) ACT, 1986

(Received the assent of the President of India on 23rd of May, 1986)

[23rd of May, 1986]

An Act to provide for the protection and improvement of environment and for matters connected therewith.

Whereas the decisions were taken at the United Nations Conference on the Human and Environment held at Stockholm in June, 1972, in which India participated, to take appropriate steps for the protection and improvement of human environment;

And Whereas it is considered necessary further to implement the decisions aforesaid in so far as they relate to the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property;

Be it enacted by Parliament in the Thirty-Seventh Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. **Short title, extend and commencement**

(1) This Act may be called the Environment (Protection) Act, 1986.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different areas.

2. **Definitions**

In this Act, unless the context otherwise requires,-

(a) "Environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, microorganism and property;

(b) "Environmental pollutant" means any solid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;

(c) "Environmental pollution" means the presence in the environment of any environmental pollution;

(d) "Handling", in relation to any substance, means the manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, offering for sale, transfer or the like of such

substance;

(e) "Hazardous substance" means any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plant, micro-organism, property or the environment;

(f) "Occupier", in relation to any factory or premises, means a person who has, control over the affairs of the factory or the premises and includes in relation to any substance, the person in possession of the substance;

(g) "Prescribed" means prescribed by rules made under this Act.

CHAPTER II

GENERAL POWERS OF THE CENTRAL GOVERNMENT

3. **Power of Central Government to take measures to protect and improve environment**

(1) Subject to the provisions of this Act, the Central Government, shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing controlling and abating environmental pollution.

(2) In particular, and without prejudice to the generality of the provisions of subsection *(1)*, such measures may include measures with respect to all or any of the following matters, namely:-

(i) co-ordination of actions by the State Governments, officers and other authorities-

(a) under this Act, or the rules made thereunder, or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever:

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for the purpose of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the provisions of such order, such authority or authorities may exercise and powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powersor perform those functions or take such measures.

4. **Appointment of officers and their powers and functions**

(1) Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may appoint officers with such designation as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section *(1)* shall be subject to the general control and direction of the Central Government or, if so directed by that Government, also of the authority or authorities, if any, constituted under subsection (3) of section 3 or of any other authority or officer.

5. **Power to give directions**

Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation - For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

6. **Rules to regulate environmental pollution**

(1) The Central Government may, by notification in the Official Gazette, make rules in respect of all or any of the matters referred to in section 3.

(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) the standards of quality of air, water or soil for various areas and purposes;

(b) the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas;

(c) the procedures and safeguards for the handling of hazardous substances;

(d) the prohibition and restrictions on the handling of hazardous substances in different areas;

(e) the prohibition and restriction on the location of industries and the carrying on process and operations in different areas;

(f) the procedures and safeguards for the prevention of accidents which may cause environmental pollution and for providing for remedial measures for such accidents.

CHAPTER III

PREVENTION, CONTROL, AND ABATEMENT OF ENVIRONMENTAL POLLUTION

7. **Persons carrying on industry operation, etc., not to allow emission or discharge of environmental pollutants in excess of the standards**

No person carrying on any industry, operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutants in excess of such standards as may be prescribed.

8. **Persons handling hazardous substances to comply with procedural safeguards**

No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.

9. **Furnishing of information to authorities and agencies in certain cases -**

(1) Where the discharge of any environmental pollutant in excess of the prescribed standards occurs or is apprehended to occur due to any accident or other unforeseen act or event, the person responsible for such discharge and the person in charge of the place at which such discharge occurs or is apprehended to occur shall be bound to prevent or mitigate the environmental pollution caused as a result of such discharge and shall also forthwith

(a) intimate the fact of such occurrence or apprehension of such occurrence; and

(b) be bound, if called upon, to render all assistance, to such authorities or agencies as may be prescribed.

(2) On receipt of information with respect to the fact or apprehension on any occurrence of the nature referred to in sub-section *(1)*, whether through intimation under that sub-section or otherwise, the authorities or agencies referred to in sub-section *(1)* shall, as early as practicable, cause such remedial measures to be taken as necessary to prevent or mitigate the environmental pollution.

(3) The expenses, if any, incurred by any authority or agency with respect to the remedial measures referred to in sub-section (2), together with interest (at such reasonable rate as the Government may, by order, fix) from the date when a demand for the expenses is made until it is paid, may be recovered by such authority or agency from the person concerned as arrears of land revenue or of public demand.

10. **Powers of entry and inspection**

(1) Subject to the provisions of this section, any person empowered by the Central Government in this behalf shall have a right to enter, at all reasonable times with such assistance as he considers necessary, any place-

(a) for the purpose of performing any of the functions of the Central Government entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorization served, made, given or granted under this Act is being or has been complied with;

(c) for the purpose of examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reason to believe that it

may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution.

(2) Every person carrying on any industry, operation or process of handling any hazardous substance shall be bound to render all assistance to the person empowered by the Central Government under sub-section *(1)* for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act.

(3) If any person wilfully delays or obstructs any persons empowered by the Central Government under sub-section *(1)* in the performance of his functions, he shall be guilty of an offence under this Act.

(4) The provisions of the Code of Criminal Procedure, 1973, or, in relation to the State of Jammu and Kashmir, or an area in which that Code is not in force, the provisions of any corresponding law in force in that State or area shall, so far as may be, apply to any search or seizures under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or as the case may be, under the corresponding provision of the said law.

11. **Power to take sample and procedure to be followed in connection therewith**

(1) The Central Government or any officer empowered by it in this behalf, shall have power to take, for the purpose of analysis, samples of air, water, soil or other substance from any factory, premises or other place in such manner as may be prescribed.

(2) The result of any analysis of a sample taken under sub-section *(1)* shall not be admissible in evidence in any legal proceeding unless the provisions of subsections (3) and (4) are complied with.

(3) Subject to the provisions of sub-section (4), the person taking the sample under sub-section *(1)* shall-

(a) serve on the occupier or his agent or person in charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(b) in the presence of the occupier of his agent or person, collect a sample for analysis;

(c) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(d) send without delay, the container or the containers to the laboratory established or recognised by the Central Government under section 12.

(4) When a sample is taken for analysis under sub-section *(1)* and the person taking the sample serves on the occupier or his agent or person, a notice under clause (a) of sub-section (3), then,-

(a) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be

placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and

(b) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and sealed container or containers of the sample as required under clause (c) of sub-section (3), the marked and sealed container or containers shall be signed by the person taking the samples, and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised under section 12 and such person shall inform the Government Analyst appointed or recognised under section 12 in writing, about the wilfull absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers.

12. **Environmental laboratories**

(1) The Central Government may, by notification in the Official Gazette,-

(a) establish one or more environmental laboratories;

(b) recognise one or more laboratories or institutes as environmental laboratories to carry out the functions entrusted to an environmental laboratory under this Act.

(2) The Central Government may, by notification in the Official Gazette, make rules specifying-

(a) the functions of the environmental laboratory;

(b) the procedure for the submission to the said laboratory of samples of air, water, soil or other substance for analysis or tests, the form of the laboratory report thereon and the fees payable for such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

13. **Government analysts**

The Central Government may by notification in the Official Gazette, appoint or recognise such persons as it thinks fit and having the prescribed qualifications to be Government Analysts for the purpose of analysis of samples of air, water, soil or other substance sent for analysis to any environmental laboratory established or recognised under sub-section *(1)* of section 12.

14. **Reports of government analysts**

Any document purporting to be a report signed by a Government analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

15. **Penalty for contravention of the provisions of the act and the rules, orders and directions**

(1) Whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in

respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention.

(2) If the failure or contravention referred to in sub-section *(1)* continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which may extend to seven years.

16. **Offences by companies**

(1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation-For the purpose of this section,

(a) "company" means any body corporate and includes a firm or other association of individuals;

(b) "director", in relation to a firm, means a partner in the firm.

17. **Offences by Government Departments**

(1) Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercise all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where an offence under this Act has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance

of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER IV
MISCELLANEOUS

18. **Protection of action taken in good faith**

No suit, prosecution or other legal proceeding shall lie against the Government or any officer or other employee of the Government or any authority constituted under this Act or any member, officer or other employee of such authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

19. **Cognizance of offences**

No court shall take cognizance of any offence under this Act except on a complaint made by-

(a) the Central Government or any authority or officer authorised in this behalf by that Government, or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

20. **Information, reports or returns**

The Central Government may, in relation to its function under this Act, from time to time, require any person, officer, State Government or other authority to furnish to it or any prescribed authority or officer any reports, returns, statistics, accounts and other information and such person, officer, State Government or other authority shall be bound to do so.

21. **Members, officers and employees of the authority constituted under section 3 to be public servants**

All the members of the authority, constituted, if any, under section 3 and all officers and other employees of such authority when acting or purporting to act in pursuance of any provisions of this Act or the rules made or orders or directions issued thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

22. **Bar of jurisdiction**

No civil court shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken or order or direction issued by the

Central Government or any other authority or officer in pursuance of any power conferred by or in relation to its or his functions under this Act.

23. **Powers to delegate**

Without prejudice to the provisions of sub-section (3) of section 3, the Central Government may, by notification in the Official Gazette, delegate, subject to such conditions and limitations as may be specified in the notifications, such of its powers and functions under this Act [except the powers to constitute an authority under sub-section (3) of section 3 and to make rules under section 25] as it may deem necessary or expedient, to any officer, State Government or other authority.

24. **Effect of other laws**

(1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules or orders made therein shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

25. **Power to make rules**

(1) The Central Government may, by notification in the Official Gazette, 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) the standards in excess of which environmental pollutants shall not be discharged or emitted under section 7;

(b) the procedure in accordance with and the safeguards in compliance with which hazardous substances shall be handled or caused to be handled under section 8;

(c) the authorities or agencies to which intimation of the fact of occurrence or apprehension of occurrence of the discharge of any environmental pollutant in excess of the prescribed standards shall be given and to whom all assistance shall be bound to be rendered under sub-section *(1)* of section 9;

(d) the manner in which samples of air, water, soil or other substance for the purpose of analysis shall be taken under sub-section *(1)* of section 11;

(e) the form in which notice of intention to have a sample analysed shall be served under clause (a) of sub section (3) of section 11;

(f) the functions of the environmental laboratories, the procedure for the submission to such laboratories of samples of air, water, soil and other substances for analysis or test; the form of laboratory report; the fees payable for such report and other matters to enable such laboratories to

carry out their functions under sub-section (2) of section 12;

(g) the qualifications of Government Analyst appointed or recognised for the purpose of analysis of samples of air, water, soil or other substances under section 13;

(h) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section 19;

(i) the authority of officer to whom any reports, returns, statistics, accounts and other information shall be furnished under section 20;

(j) any other matter which is required to be, or may be, prescribed.

26. **Rules made under this act to be laid before parliament**

Every rule made under this Act shall be laid, as soon as may be after it is made, before each Hose of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

The Wetlands (Conservation and Management) Rules, 2010

GOVERNMENT OF INDIA
MIINSTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

G.S.R. 951 (E) New Delhi the 4th December, 2010

WHEREAS the wetlands, which are vital parts of the hydrological cycle, are highly productive, support exceptionally large biological diversity and provide a wide range of ecosystem services, such as food and fibre, waste assimilation, water purification, flood mitigation, erosion control, ground water recharge; microclimate regulation; enhance aesthetics of the landscape, support many significant recreational, social and cultural activities, besides being a part of the cultural heritage;

AND WHEREAS many wetlands are seriously threatened by reclamation through drainage and landfill, conversion, pollution (discharge of domestic and industrial effluents, disposal of solid wastes), hydrological alterations (water withdrawal and inflow changes), and over-exploitation of their natural resources resulting in loss of biodiversity and disruption in goods and services provided by wetlands;

AND WHEREAS India is a signatory to the Ramsar Convention on wetlands for conserving their biodiversity and wise use, extending its scope to a wide variety of habitats, including rivers and lakes, coastal lagoons, mangroves, peatlands, coral reefs, and numerous man-made wetlands, such as ponds, farm ponds, irrigated agricultural lands, sacred grooves, salt pans reservoirs, gravel pits, sewage farms, and canals;

AND WHEREAS the Central Government has identified a number of wetlands for conservation and management under its conservation programme and provides financial and technical assistance to the State Governments or Union territory Administration for various conservation activities through approval of the Management Action Plans;

AND WHEREAS the National Environment Policy, 2006 recognises the ecological services provided by wetlands and emphasizes on the need for setting up of a legally enforceable regulatory mechanism for the identified wetlands and developing of a national inventory of such wetlands;

NOW, THEREFORE, in exercise of the powers conferred by section 25 read with sub-section *(1)* and clause (v) of sub-section (2) and sub section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby makes the following rules for conservation and management of wetlands, namely:-

1. **Short title and commencement**

1. These rules may be called the Wetlands (Conservation and Management) Rules, 2010
2. They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions**

(1) In these Rules unless the context otherwise requires,-

(a) "Act" means the Environment (Protection) Act, 1986 (29 of 1986);

(b) "authority" means the Central Wetlands Regulatory Authority constituted under rule 5;

(c) "dredging" means an excavation activity or operation usually carried out at least partly underwater, in shallow sea or fresh water areas with the purpose of gathering up bottom sediments and disposing them off at a different location;

(d) "National Park" means an area declared, whether under section 35, or section 38, or deemed to be declared as a National Park under sub-section (3) of section 66, of the Wild Life (Protection) Act, (35 of 1972);

(e) "Ramsar Convention" means the Convention on Wetlands signed at Ramsar, Iran in 1971;

(f) "UNESCO" means the United Nations Educational, Scientific and Cultural Organizations;

(g) "wetland" means an area of marsh, fen, peat land or water, whether natural or artificial, permanent or temporary with water that is static or flowing, fresh, brackish or salt, including areas of marine water, the depth of which at low tide does not exceed six meters and includes all inland waters such as lakes, reservoirs, marshes, swamps, tanks, backwaters, lagoons, creeks, estuaries, man-made wetlands; the zone of influence on wetlands, i.e, the riparian floodplain areas along the rivers to the extent they are flooded naturally, a perimeter of 200 metres from the highest water line observed in the last ten years; but *does not include main river channels, paddy fields, those coastal wetlands covered under the notification of the Government of India in the Ministry of Environment and Forests* S.O. number 114 (E) dated the 19th February, 1991 published in the Gazette of India, Extraordin*ary Part-II, section 3, sub-section (ii) of dated the 20th February, 1991;*

(h) "Wildlife Sanctuary" means an area declared as a wildlife sanctuary under the provisions of Chapter IV of the Wildlife (Protection) Act, 1972 (18 of 1972) and shall include an area deemed to be sanctuary under sub section (4) of section 66, of the said Act;

(2) The word and expressions used in these rules and not defined but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. **Protected wetlands**

Based on the significance of the functions performed by the wetlands for overall well being of the people and for determining the extent and level of regulation, the following wetlands shall be regulated under these rules,

namely:

(i) Wetlands categorized as Ramsar Wetlands of International Importance under the Ramsa; Convention as specified in the Schedule.

(ii) Wetlands in areas that the ecologically sensitive and important, such as, national parks, marine parks, sanctuaries, reserved forests, wildlife habitants, mangroves, corals, coral reefs, areas of outstanding natural beauty or historical or heritage areas and the areas rich in genetic diversity;

(iii) Wetlands recognized as or lying within a UNESCO World Heritage Site;

(iv) High altitude wetlands or high altitude wetland complexes at or above an elevation of two thousand five hundred meters with an equal to or greater than five hectares;

(v) Wetlands or wetland complexes below an elevation of two thousand five hundred meters with an area equal to or greater than rive hundred hectares.

(vi) Any other wetland as so identified by the Authority and thereafter notified by the Central Government under the provisions of the Act for the purposes of these rules.

4. **Restrictions on Activities within the Wetlands**

(1) The following activities within the notified wetlands shall be prohibited, namely:-

(i) reclamation of wetlands;

(ii) setting up of new industries and expansion of existing industries;

(iii) manufacture or handling or storage or disposal of hazardous substances as specified in the notifications of the Government of India in the Ministry of Environment and Forests No. S.O. 594(E) dated 28th July 1989, S.O. 966 (E) dated 27th November, 1989 and GSR 1037 (E) dated 24th September, 2008.

(iv) solid waste dumping; the existing practices, if any, shall be phased out within a reasonable time period not exceeding one year from the date of notification of the wetland under these rules;

(v) discharge of untreated wastes and effluents from industries, cities or towns and other human settlements; the existing practices, if any, shall be phased out within a reasonable time period not exceeding two years from the date of notification of the wetland under these rules;

(vi) any construction of permanent nature except for boat jetties within fifty metres from the mean high flood level observed in the past ten years calculated from the date of commencement of these rules.

(vii) any other activity likely to have an adverse impact on the ecosystem of the wetland to be specific in writing by the Authority constituted in accordance with these rules.

(2) The following activities shall not be shall not be undertaken without the prior approval of the State Government within the wetlands, namely:

(i) withdrawal of water or the impoundment, diversion or interruption of water sources within the local catchment area of the wetland ecosystem;

(ii) harvesting of living and non-living resources;

(iii) grazing to the level that the basic nature and character of the biotic community

is not adversely affected;

(iv) treated effluent discharges from industries, cities or towns, human settlements and agricultural fields falling within the limits prescribed by the Central Pollution Control Board or the State Pollution Control Committee, as the case may be.

(v) plying of motorized boat, if it is not detrimental to the nature and character of the biotic community;

(vi) dredging only if the wetland is impacted by siltation;

(vii) Construction of boat jetties;

(viii) activities which interfere with the normal run-off and related ecological processes upto 200 meters as per the definition of wetland;

(ix) facilities required for temporary use, such as pontoon bridges, that do not affect the ecological character of the wetland;

(x) Aquaculture, agriculture and horticulture activities within the wetland;

(xi) Repaid of existing buildings or infrastructure including reconstitution activities;

(xii) Any other activity to be identified by the Authority.

(3) Notwithstanding anything in sub rules *(1)* or sub-rule (2), the Central Government may permit any of the prohibited activities or non wetland use in the protected wetland on the recommendation of the Authority.

(4) The State Government shall ensure that a detailed Environment Impact Assessment is carried out in accordance with the procedures specified in the notification of the Government of India in the Minister of Environment and Forests S.O. number 1533 (E) dated the September 14th, 2006 as amended from time to time.

(5) No wetland shall be converted to non wetland use unless the Central Government is satisfied on the recommendation of the Authority that it is expedient in the public interest and reasons justifying the decision are recorded.

5. Constitution of Central Wetlands Regulatory Authority

(1) The Central Government, in exercise of the powers conferred by sub section (3) of section 3 of the Emvironment (Protection) Act, 1986 (29 of 1986) hereby constitutes Central Wetlands Regulatory Authority consisting of the following Chairpersons and members for the purpose of these rules, namely:-

(a) Secretary, Ministry of Environment and Forests, Governmen of India – Chairperson;

(b) A representative (not below the rank of Joint Secretary) from Ministry of Tourism, Governmen of India – Member ex-officio;

(c) A representative (not below the rank of Joint Secretary) from Ministry of Water Resources, Government of India – Member ex-officio.

(d) A representative (not below the rank of Joint Secretary) from Ministry of Agriculture, Government of India – Member ex-officio;

(e) A representative (not below the rank of Joint Secretary) from Ministry of Social Justice, Government of India – Member ex-officio;

(f) Chairman or his nominee, the Central Pollution Control Board – Member ex-officio;

(g) Joint Secretary or Adviser, dealing with the wetland in the Ministry of Environmetn and Forests, Governemnt of India – Member ex-officio;

(h) Dr. Asad R. Rahmani, Director, Bombay National History Society, Hornbill House, Dr. Salim Ali Chowk, Shaheed Bhagat Singh Road, Mumbai – 400 023, Expert Ornithology – Member;

(i) Dr. M. R. D. Kunadangar, Darul Aloom Qasmia Lane, Botshah Mohalla, Lal Bazar, Srinagar, Kashmir; Expert Limnology – Member;

(j) Dr. C. K. Varshney, 88 Vaishali, Pitampura, New Delhi – 110 034; Expert Ecology – Member;

(k) Dr. E. J. James, Director, Water Institute, Karunya University, Coimbatore, Tamil Nadu; Expert Hydrology – Member;

(l) Director or Additional Director or Joint Director dealing with the Wetland in the Ministry of Environment and Forests – Member Secretary.

(2) The term of the authority shall be three years effected from the date of publication of the notification referred to in sub-rule *(1)*;

(3) The Authority shall exercise the following powers and perform the following functions, namely:-

(i) appraise proposals for identification of new wetlands, projects or activities in consultations with the concerned local authorities;

(ii) Identity and interface with the concerned local authorities to enforce the provisions contained under these rules and other laws for the time being in force;

(iii) Grant clearances or identify in consultation with the local State Government, the areas for the grant of clearance for regulated activities in the wetlands within their respective jurisdictions;

(iv) Determine, in consultation with concerned local authority, the zone of direct influence of the wetlands;

(v) Issue whatever directions, necessary for the conservation, preservation and wise use of wetlands to the State Government.

(4) The Authority shall periodically review the list of wetlands and the details or prohibited and regulated activities under the rules.

(5) The Authority shall specify the threashold levels for activities to be regulated and the mode and methodology for undertaking activities in wetland.

6. Process for identification and notification of wetlands under different categories

(1) Wetlands covered under item (i) of rule 3 specified under Schedule shall be the wetland to be regulated under these rules.

(2) The States Government shall prepare, within a period of one year from the commencement of these rules, 'Brief Document' identifying and classifying the wetlands within their respective territories in accordance with the criteria specified under Rule 3 and submit the same to Authority.

(3) The 'Bried Document' of each wetland for identiciation shall comprise of

following information, namely:

(i) Broad geographic delineation of the wetland;

(ii) Its zone of influence along with a map (accurate and to sacle);

(iii) The size of the wetland'

(iv) Account of pre-existing rights and privileges, consistent or not consistent with the ecological health of the wetland.

(4) The Authority, shall on receipt of the 'Brief document' under sub-rule (2), if consider it necessary refer in consultation with the State Government to a research institute or university having relevant multi-disciplinary expertise related to wetlands, to conduct a comprehensive survey of the wetland within a period of thirty days; provided that the institute or university to which the matter has been referred under sub-rule (4) shall submit a report within next ninety days from the date of such reference to Authority, which shall contain information with respect to the criteria specified under rule 3.

(5) The Authority shall, thereafter, arrive at a decision in consultation with the State Government, on the proposal, within a period of ninety days from the date of receipt of the report under sub rule (4)

(6) The Central Government shall on the receipt of the recommendation of the Authority notify the area of wetlands as recommended by the Authority for public information inviting objections and suggestions from the general public likely to be affected to make representation to the Central Government within a period of sixty days;

(7) The Authority shall consider all the representatives which the Central Government may receive under sub-rule (6) and submit its recommendatkion on the such representations to Central Government within a period of sixty days for final notification;

(8) The Central Government shall on receipt of the recommendations of the Authority under sub-rule (7) issue a final notification notifying therein the area of the wetland its category or classification to be regulated under these rules and display the said notification in public places in English and vernacular languages.

(10) The Authority may, suo moto or on application made to it, review any decision under these rules or issue direction for inclusion of wetland under these rule.

7. Overlapping Provisions

(1) The wetlands within the protected areas of the National Parks and Wildlife Sanctuaries shall be regulated by the provisions of Wildlife (Protection) Act, 1972 (35 of 1972).

(2) The wetlands within the protected or notified forest areas shall be regulated by the provisions of the Indian Forest Act, 1972 (16 of 1972), the Forst (Conservation) Act, 1980 (69 of 1980), and the Environment (Protection) Act, 1986 (29 of 1986).

(3) The gaps in the regulation of wetlands within the protected and notified forest areas, if any, under the provisions of the Indian Forest Act, 1972; Wildlife (Protection) Act, 1972, and Forest (Conservation) Act, 1980, shall be plugged

by invoking provisions of the Environment (Protection) Act, 1986.

(4) The wetlands situated outside the protected or notified forest areas referred to in sub rule (2) shall be regulated by the relevant provisions of the Environment (Protection) Act, 1986 (29 of 1986).

8. Enforcement of regulated activities

(1) The identified activities for management and wise use of wetlands situated within the protected or notified forest areas referred to in sub rule (2) of rule 7 shall be regulated by the Forest Department of the State concerned.

(2) The identified activities for management and wise use of wetlands situated outside the protected or notified forest areas shall be regulated by the nodal Department or the relevant local state agencies to be designated by the State Government within a period of six months from the date of commencement of these rules.

9. **Appeals against the decisions of Authority -**

Any person aggrieved by the decision of the Authority may prefer an appeal to the National Green Tribunal constituted under the National Green Tribunal Act, 2010 (19 of 2010) within a period of sixty days from the date of such decision: Provided the National Green Tribunal may entertain any appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from filling the appeal in time.

THE SCHEDULE

[see rule 3 (i)]

List of wetlands in India idenfitied as Ramsar sites under Ramsar Convention on Wetland

Sl. No.	Name of Wetland	State
1.	Ashtamudi Wetland	Karala
2.	Bhitarkanika Mangroves	Orissa
3.	Bhoj Wetland	Madhya Pradesh
4.	Chilika Lake	Orissa
5.	Deepor Beel	Assam
6.	East Calcutta Wetlands	West Bengal
7.	Harike Lake	Punjab
8.	Kanjli	Punjab
9.	Keoladeo National Park	Rajasthan
10.	Kolleru Lake	Andhra Pradesh
11.	Loktak Lake	Manipur
12.	Point Calimere Wildlife and Bird Sanctuary	Tamil Nadu
13.	Pong Dam Lake	Himachal Pradesh
14.	Ropar	Punjab
15.	Sambhar Lake	Rajasthan
16.	Sasthamkotta Lake	Kerala
17.	Tsomoriri	Jammu and Kashmir
18.	Vembanad-Kol Wetland	Kerala
19.	Wular Lake	Jammu and Kashmir
20.	Chandratal	Himachal Pradesh
21.	Renuka	Himachal Pradesh
22.	Rudrasagar	Tripura
23.	Upper Ganga	Uttar Pradesh
24.	Hokarsar (Hokera)	Jammu and Kashmir
25.	Surinsar and Mansar (complex)	Jammu and Kashmir

[F. No. J-22012/31/05-CS(W)]

(R. Mehta)

Adviser to the Government of India

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd April, 2013.

The following Act of Parliament received the assent of the President of the 22nd April, 2013, and is hereby published for general information:

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

(No. 14 of 2013)

[22nd April, 2013]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows::

CHAPTER – I

PRELIMINARY

Short title, extent and commencement.

1. *(1)* This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) It extends to the whole of India.

(3) It shal1 come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,

(a) "aggrieved woman" means

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to a dwel1ing place or house, a woman of any age who is employed in such a dwelling place or house;

(b) "appropriate Government" means

(i) in relation to a workplace which is established, owned, controlled or wholly or substantial1y financed by funds provided directly or indirectly

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (l) of section 7;

(d) "District Officer" means an officer notified under section 5;

(e) "domestic worker" means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or ful1 time basis, but does not include any member of the family of the employer;

(f) "employee" means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) "employer" means:'

(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.
Explanation.—For the purposes of this sub-clause "management" includes the person or board or committee responsible for formulation and administration of polices for such organisation;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) "Internal Committee" means an Internal Complaints Committee constituted under section 4;

(i) "Local Committee" means the Local Complaints Committee constituted under section 6;

(j) "Member" means a Member of the Internal Committee or the Local

Committee, as the case may be;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Presiding Officer" means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) "respondent" means a person against whom the aggrieved woman has made a complaint under section 9;

(n) "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

(i) physical contact and advances; or

(ii) a demand or request for sexual favours; or

(iii) making sexually coloured remarks; or

(iv) showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(o) "workplace" includes

(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainmental, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;

(vi) a dwelling place or a house;

(p) "unorganised sector" in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

Prevention of sexual harassment.

3. *(1)* No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs or is persent in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment

(i) implied or explicit promise of preferential treatment in her employment; or

(ii) implied or explicit threat of detrimental treatment in her employment; or

(iii) implied or explicit threat about her present or future employment status; or

(iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or

(v) humiliating treatment likely to affect her health or safety.

CHAPTER – II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

Constitution of Internal Complaints Committee.

4. *(1)* Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee":

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer, namely:

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:
Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (l):
Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:
Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee,

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

Notification of District Officer.

5. The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

Constitution and jurisdiction of Local Complaints Committee

6. *(1)* Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Complaints Committee within a period of seven days.

(3) The jurisdiction of the Local Complaints Committee shall extend to the areas of the district where it is constituted.

Composition. tenure and other terms and conditions of Local Complaints Committee

7. *(1)* The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely:

(a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;

(c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member ex officio.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local Complaints Committee-

(e) contravenes the provisions of section 16; or

(f) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(g) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(h) has so abused his position as to render his continuance in office prejudicial to the public interest, such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section *(1)* shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

Grants and audit.

8. *(1)* The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section *(1)* to that agency.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

CHAPTER IV

COMPLAINT

Complaint of sexual harassment

9. *(1)* Any aggrieved woman may make, in writing, a complaint of sexual harassment at work place to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

Conciliation

10. *(1)* The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where a settlement has been arrived at under sub-section (I), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section *(1)*, no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

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11. *(1)* Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable: *Inquiry Into complaint*

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

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(2) Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

5 of 1908

(3) For the purpose of making an inquiry under sub-section (I), the Internal Committee. Or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (I) shall be completed within a period of ninety days.

CHAPTER V

INQUIRY INTO COMPLAINT

Action during pendency of inquiry

12. *(1)* During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to

(a) transfer the aggrieved woman or the respondent to any other workplace; or

(b) grant leave to the aggrieved woman up to a period of three months; or

(c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section *(1)*, the employer shall implement the recommendations made under sub-section *(1)* and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

Inquiry report.

13. *(1)* On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period often days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:
Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:
Provided further that in case the respondent fails to pay the sum referred to in clause (II), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of

land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him. Punishment for false or malicious complaint and false evidence

Punishment for false or malicious complaint and false evidence

14. *(1)* Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (I) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action IS recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

Determination of compensation

15. For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to

(a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;

(b) the loss in the career opportunity due to the incident of sexual harassment;

(c) medical expenses incurred by the victim for physical or psychiatric treatment;

(d) the income and financial status of the respondent;

(e) feasibility of such payment in lump sum or in installments.

22 of 2005

Prohibition of publication or making known contents of complaint and inquiry proceedings

16. Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any

other particul njars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed. Penalty for publication or making known contents of complaint and inquiry proceedings

18. *(1)* Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or subsection (l) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed. Appeal

(2) The appeal under sub-section *(1)* shall be preferred within a period of ninety days of the recommendations.

CHAPTER VI

DUTIES OF EMPLOYER

19. Every employer shall *Duties of employer.*

(a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;

(b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under subsection (I) of section 4;

(c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;

(d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;

(e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;

(f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section *(1)* of section 9;

(g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being 45 of 1860. in force;

(h) cause to initiate action, under the Indian Penal Code or any other law for the 45 of 1860. time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in

the workplace at which the incident of sexual harassment took place;

(i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;

(j) Monitor the timely submission of reports by the internal committee

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

Duties and powers of District Officer.

20. The District Officer shall,

(a) monitor the timely submission of reports furnished by the Local Committee;

(b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

Committee to submit annual report

21. *(1)* The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section *(1)* to the State Government.

Employer to include information In annual report

22. The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

Appropriate Government to monitor implementation and maintain data.

23. The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

Appropriate Government to take measures to publicise the Act

24. The appropriate Government may, subject to the availability of financial and other resources,

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace,

(b) formulate orientation and training programmes for the members of the Local Complaints Committee.

Power to call for information and inspection of records

25. *(1)* The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,

(a) call upon any employer or District Officer to furnish in writing such

information relating to sexual harassment as it may require;

(b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

Penalty for non-compliance with provisions of Act.

26. *(1)* Where the employer fails to

(a) constitute an Internal Committee under sub-section *(1)* of section 4;

(b) take action under sections 13, 14 and 22; and

(c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made there under, he shall be punishable with fine which may extend to fifty thousand rupees.

(2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to-CO twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;

(ii) Cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

Cognizance of offence by courts

27. *(1)* No court shall take cognizance of any offence punishable under this Act or any rules made there under, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

Act not in derogation of any other law.

28. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power of appropriate Government to make rules.

29. *(1)* The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions 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) the fees or allowances to be paid to the Members under sub-section (4) of section 4;

(b) nomination of members under clause (c) of sub-section (I) of section 7;

(c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;

(d) the person who may make complaint under sub-section (2) of section 9;

(e) the manner of inquiry under sub-section (I) of section 11;

(f) the powers for making an inquiry under clause (c) of sub-section (2) of section I I;

(g) the relief to be recommended under clause (c) of sub-section (I) of section 12;

(h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;

(i) the manner of action to be taken under sub-sections *(1)* and (2) of section 14;

(j) the manner of action to be taken under section 17;

(k) the manner of appeal under sub-section *(1)* of section 18;

(l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and

(m) The form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (I) of section 21.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to remove difficulties.

30. *(1)* If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

(P. K. MALHOTRA)
Secretary to the Government of India

THE ASSAM FOREST PROTECTION FORCE ACT, 1986

(Assam Act No.XXII of 1987)

(Received the assent of the President of 11th December, 1987)
[Published in the Assam Gazette, Extraordinary, dated 22nd December, 1987]

[22nd December, 1987]

An Act

To provide for the constitution and regulation of a force called the Assam Forest Protection Force for the better protection and security of the Forests, Forest Produce and Wild Life of Assam.

It is hereby enacted in the Thirty-Seventh Year of the Republic of Indian as follows.

1. Short title, extent and commencement

(1) This Act may be called the Assam Forest Protection Force act, 1986.

(2) It extends to the whole of Assam

(3) It shall come in to force at once.

2. Definitions.-

In this Act, unless the contest otherwise requires -

(a) "Governor" means the Governor of Assam;

(b) "Government" men's the State Government of Assam;

(c) "Force" means the Assam Forest Protection Force constituted under S. 3;

(d) "Forests" means reserved forests, protected forests,village forests proposed reserved forests where preliminary notification has duel been published in the Assam Gazette, unclassed State forests so constituted or defined under the Assam Forest Regulation of 1891, any area recorded as forests in the Government records and also arrears under various Social Forestry Plantations;

(e) "Forest produce" includes

(i) timber, charcoal, caoutchoue, catechu, wood oil, resin, natural varnish, bark, lac, marbolams, rhinoceros horns and anything found in or brought from a forest;

(ii) trees and leaves, fruits and all other parts or produce, not hereinbefore mention, of trees;

(iii) plants not being tree (including grass creepers, reeds and moss) and all parts or produce of such plants;

(iv) wild animals and skins, tusks and horns, bones other than rhinoceros horn, silk cocoons, honey, wax and all other parts or produce of animals;

(v) Peat, surface soil, rock and minerals (including limestone, literate, mineral oils and all produce of mines or quarries);

(f) "Forest Officer" means any person appointed by name or as holding an office by or under the orders of the Government to be a Chief Conservator, Additional Chief Conservator of Forests, Conservator, Deputy Conservator, Assistant Conservator of Forest, a Wild Life Warden, Forest Ranger, Deputy Ranger, Game Keeper, Forest Guard, Head Game Watcher, Game Watcher, Mohout, Boatman or

to discharge any function of a Forest Officer under the Assam Forest Regulation of 1891, and the wild life (Protection) Act, 1972;

(g) "Chief Conservator of Forests" means the Chief Conservator of Forests appointed under S. 4;

(h) "Member of the Force" means a person appointed to the Force other than a supervisory officer;

(i) "Supervisory Officer" means any of the officer appointed under S. 4 and includes any other officer appointed by the Government as a supervisory officer of the force;

(j) "Prescribed" means prescribed by rule made under this Act;

(k) "Wild life" includes any animals, bees, butter flies, Crustacea, fish and moth, and aquatic or land vegetation which forms part of any habit.

3. Constitution of the force.-

(1) There shall be constituted and maintained by the Government a force to be called the Assam Forest Protection force for the better protection and security of forests, forest produce and wild life owned by the Government.

(2) The Force so constituted shall consist of such number of supervisory officers and members of the force who shall receive such pay and other remunerations as any be prescribed.

4. Appointment and powers of Supervisory Officers.-

The Government may appoint a person to be the Chief Conservator of Forests and ay appoint other persons to be the Additional Chief Conservator, Conservator, Commandant, Deputy Commandant, Assistant Commandant of the Force as may be required from time to time.

5. Appointment of the members of the Force.-

(a) The appointment of the member of the Force shall rest with the Chief Conservator of Forests who shall exercise that power in accordance with the rules made under this Act:

Provided that such other supervisory officer may also exercise the power of appointment under this section, not below the rank of an Additional Chief Conservator as the Government may by order specify in this behalf.

(b) The designation and rank of the member of the force shall be regulated by rules made under this Act and at the time of initial constitution shall comprise of -

(i) Company Commander/Inspector; (ii) Platoon Commander/Inspector; (iii) Havildar; (iv) Constable.

6. Certificate of the members of the Force.-

(1) Every member of the Force shall receive on his appointment a certificate in the form specified in the Schedule under the sale of the Chief Conservator of Forests or such other Forest Officer as the Chief Conservator of Forests may specify in

this behalf by virtue of which the person holding such certificate shall be vested with the power of member of the Force.

(2) Such certificate shall cease to have effect whenever the person named in it ceases to be a member of the Force.

7. Superintendence and general administration of the Force.-

(1) The superintendence of the Force shall vest in the Government and subject thereto the administration of the Force shall vest in the Chief Conservator of Forests and shall be carried on by him in accordance with the provisions of this Act and rules made there under.

(2) Subject to the provision of sub-S. *(1)* the administration of the Force, within such local limits as may be prescribed, shall be carried on by other supervisory officers in ccordance with the provisions of the Act and/or any made thereunder and every supervisory officer placed in charge of the protection and security of forests, forest produce and wild life shall, subject to any direction that may be given by the Government in this behalf, discharge his function under the general supervisions, direction and control of the concerning Forest Officer of the territory.

8. Dismissal, removal etc, of members of the Force: Subject to the provisions of Art. 311 of the Constitution and to such rules as the Government may under this Act make any supervisory officer may –

(i) dismiss, suspend or reduce in rank any member of the force whom he thinks remiss or negligent in the discharge of his duty or unfit for the same; or

(ii) award any or more of the following punishments to any member of the Force who discharges his duty in a careless or negligent manner or who by any act of his own riders himself unfit for the discharge thereof, namely:

(a) fine to any amount not exceeding seven days' pay or reduction in ay scale;
(b) drill, extra guarder, fatigue or other duty;
(c) removal from any office of diction deprivation of any special emolument;
(d) other punishment/punishments as may be deemed fit and proper.

9. Appeal and revision

(1) Any member of the Force aggrieved by an order made under S. 8 may, within 30 (thirty) days from the date on which the order is communicated to him, prefer and appeal against the order to such authority as may be prescribed, and subject to the provisions of sub-S. (3), the decision of the side authority thereon shall be final:

Provided that the prescribed authority may entertain the appeal after the expiry of the said period of 30 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) In disposing of an appeal, the prescribed authority shall following such Perdue as may be prescribed.

(3) The Government may call for and examine the records of any proceeding under S. 8 or under Sub-S. (2) of this section, and may make such inquiry or cause such inquiry to be made and subject to the provisions of this Act may pass such order thereon as it thinks
fit;
Provided that no order imposing an enhanced penalty under sub-S. (2) or sub-S. (3) Shall be made unless a reasonable opportunity of being heard has been given to the person affected by such order.

10. Duties of members of the Force

It shall be the duty of every supervisory officer and member of the Force -

(a) to promptly obey and execute all orders lawfully issued to him by his superior authority ;

(b) to protect and safeguard the forests, forest produce and wild life of the State of Assam

(c) to protect and safeguard other properties owned by the Forest Department of the State Government of Assam;

(d) to do any other act conductive to the better protection and security of forests, forest produce and wild life referred to in Cls. (b) and (c) above.

11. Power to arrest without warrant

(1) Any supervisory officer or member of the force, may without any order from a Magistrate and without a warrant, arrest any person, who has been concerned in or against whom a reasonable suspicion exist of his having been concerned in or who is found taking precautions to conceal his presence under circumstances which found afford reason to believe that he has taken such precautions with a view to committing, a cognizable offence relating to -

(i) forest, forest producer and wild life of the State of Assam;

(ii) property belonging to the Forest Department of the State Government of Assam.

(2) If any person is found trespassing or squatting in any reserved forest, plantations and remised owned by the Forest Department, National Parks and Wild life Sanctuaries, he may, without prejudices any other proceedings which may be taken against him, be removed from such areas by any supervisory officer or member of the Force.

12. Power search without warrant

(1) Whenever any supervisory office, or any member of Force, not below the prescribed rank, has reason to believe that any such offence as is retired to in S. 11 has been or is being committed and that a search warrant cannot be obtained

without affording the offender an opportunity of exacting or concealing evidence of the offence, he may detain an offender and search his person and belongings forthwith and if he thinks proper, arrest any person whom he has reason to believe to have committed the offence.

(2) The provisions of the Code of Criminal Procedure, 1973, relating to the searches under that code shall, so far as may be, apply to searches under this section.

13. Procedure to be followed after arrest

Any supervisory officer of member of the Force making an arrest under this Act shall, without unnecessary delay, make over or send the person so arrested to a Magistrate having jurisdiction in the case.

14. Power to use fire arms as provided in Chapters XI and XII of Cr. P.C.-

In order to prevent commission of any offence and in order to make effective search, the officers and other members of the Force will have the right to use minimum necessary force including use of fire arms as provided in Chapter XI and XII of the Code of Criminal procedure, 1973.

15. Officers and members of the Force to be considered always on duty and liable to be employed anywhere in the State of Assam.-

(1) Every supervisory office and member of the Force shall for the purpose of this Act be considered to be always on duty, and shall, at any time, he liable to be employed at any place within the State of Assam.

(2) No supervisory officer or member of the force shall engage himself in any employment or officer other than his duties under this Act

16. Responsibilities of the members of the Force during suspension

A member of the Force shall, not by reason of his suspension from officer, cease to be member of the force and he shall during that period be subject to the samer responsibilities, discipline and penalties to which he would have been subject if he were on duty.

17. Surrender of certificates, arms etc. by persons ceasing to be members of the Force

(1) Every person, who for any reason, ceases to be a member of the Force, shall forthwith surrender to any supervisory officer empowered to receive the same, his certificate of appointment, the arms, accouterments, closing and other articles which have been furnished to him for the performances of duties as a member of the Force.

(2) Any person who willfully neglects or refuses to surrender his certificates or appointment or the arms, accouterments, clothing, and other articles furnished to him as required by sub-S *(1)* shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or both.

(3) Nothing in this section shall be deemed to apply to any article, which under the order of the chief Conservator of Forests has become the property of the person to whom the same was furnished.

18. Penalties for neglect of duty etc

(1) Without prejudice to the provisions contained in S. 8,every member of the Force who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by supervisory officer, or who shall withdraw for the duties of his office without permission, or who, being absent on leave, fails without reasonable cause, to report himself for duty on the expiration of the leave, or who engages himself without authority in any employment other than his duty as a member of the Force, or who shall be guilty of cowardice, shall on conversion, be punished with imprisonment for a term which may extend to six months.

(2) Notwithstanding anything contained in the code of Criminal Procedure, 1973, offence punishable under this section shall be cognizable.

(3) Nothing contained in this section shall be construed to prevent any member of the Force from being prosecuted under any other law for any offence made punishable by that law, or for being liable under any such law other or higher penalty or punishment than is provided for such offence under this section:
Provided that no person shall be punished twice for the same offence.

19. Application of Act 22 of 1922 of officers and members of the Force

The police (Incitement to Disaffection) Act, 1922 shall apply to the supervisory officers and member to the Force as it applies to the members of the Police Force.

20. Protection of acts of officers and members of the Force

(1) In any suit or proceeding against any supervisory officer of member of the Force for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under the order of a competent authority.

(2) Any such plea may be provided by the production of the order direction the act, and if it is so proved, the supervisory officer or the member of the Force shall thereupon be discharge for any liabilities in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such order.

(3) Notwithstanding any thing contained in any law for the time being in force, any legal proceeding, whether civil or criminal, which may lawfully be brought against any supervisory officer or the member of the Force of anything done or intended to be done under the over conferred by or in pursuance of any provision of this Act or the rules thereunder shall be commenced within three months after the act eompanied of having been committed and not otherwise, and notice in writing of having been committed and not otherwise, and notice in writhing of such proceeding and of the cause there of shall be given to the person concerned and his supervisory officer at last one month before the commencement of such proceeding.

(4) For prosecution of any officer or member of the Force sanction as required under S. 197 of the Code of Criminal Procedure, 1973 will be necessary.

21. Power to make rules

(1) The Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rule may provided for -

(a) regulation the classes, ranks, grades pay and remunerations of supervisory officers and
members of the Force and their conditions of service in the Force.

(b) regulation the powers and duties of supervisory officer and members of the Force authorised to exercise any functions by or under this Act;

(c) fixing the period of service for supervisory officers and members of the Force;

(d) prescribing the description and quantity of arms, accouterments, clothing and other
necessary articles to be furnished to the member of the Force;

(e) prescribing the places of residence of the Force;

(f) institutions, managements and regulation of any fund or any propose connoted with the administration of the Force;

(g) regulation the punishment and prescribing the authorities to whom appeal shall be preferred from order of punishment and the procedure to be followed for the disposal of such appeals;

(h) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the legislative Assembly of Assam while it is in session for a total period of 30 days which may be comprised in one session or two successive session and if, before the expiry of the session in which is so lade or the session immediately following, the State Assembly agrees in making any modification in the rule or agrees that the rules should not be made, the rules shall thereafter have effect only in such modified from or be of on effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything done under that rule.

Allowances & Facilities for Members of AIS serving in the NE

No.14017/30/2005/AIS-II
Government of India
Ministry of Personnel, PG & Pensions
Department of Personnel & Training

North Block, New Delhi – 110 001
Dated 4th December, 2006

To

The Chief Secretaries
Assam, Meghalaya, Manipur, Tripura, Nagaland and Sikkim

Sub: Improvement in allowances and facilities for members of All India Services serving in the North-Eastern States of Assam-Meghalaya, Manipur-Tripura, Nagaland and Sikkim.

Sir,

I am directed to refer to this Department's letter No.14017/3/1997-AIS-II, dated 05-10-1998 vide which the provisions of Ministry of Finance, Department of Expenditure's O.M. No.11/2/97/-E.II (B), dated 22-07-1998 regarding allowances and special incentives for civilian employees of the Central Government etc., were extended to the All India Service officers serving in the North-Eastern States and Andaman & Nicobar Islands and Lakshadweep and to say that the provisions of the following paras 2 (vii) – LTC, 2 (viii) – children education allowance and hostel subsidies and 2 (xii) – medical facility in the said O.M. shall stand modified to the following effect for officers of All India Services serving in the States of Assam-Meghalaya, Manipur- Tripura, Nagaland and Sikkim.

(i) **LTC** – All India Service Officers serving in the above States and officers of other cadres on deputation to these States shall be entitled for annual Home Travel Concession by air during their period of actual service in the North-East.

(ii) **Children Education Allowance** – The Government shall reimburse the cost of education of children of All India Service officers serving in these States subject to the following conditions:-

(a) This scheme for Children's Education Allowance will be restricted to a maximum of two children per officer as per normal rule, who have attained the age of 5 years and who have not completed 20 years of age.

(b) Reimbursement upto Rs.16,000/- p.a. shall be admissible in respect of such children subject to the condition that one time charges like registration fee/ admission fee etc. charged by the school in India shall not be admissible. The officers shall have to contribute of Rs.200/- p.m. per child which may be deducted from her/his pay.

(c) The concession cease to be admissible from the date the officer relinquishes charge. For a period of less than one year, the reimbursement shall be made on a pro-rata basis.

(d) This is based on MEA's Scheme for India based officers posted in Mission/ Posts abroad as amended from time to time in respect of children studying in India.

(iii) **Health Care** – The All India Service officers and their families posted in these cadres shall be entitled to air travel on referrals to super-specialty hospital in emergency situations during the period of their actual service in these States. Lady officers borne on NE cadres or lady officers of other cadres on deputation to North-East States shall be allowed to use of Army/Cantonment Hospitals on payment basis at the prescribed rates. These facilities shall be in addition to the existing medical facilities available to All India Service officers in the North-East cadres.

Yours faithfully

(Smita Kumar)
Director (Services)

Additional monetary incentive to AIS officers serving in the NE

F. No. 14017/4/2005-AIS (II)
Government of India
Ministry of Personnel, Public Grievances and Pension
Department of Personnel and Training

North Block, New Delhi – 110 001
Dated 10th February, 2009

Office Memorandum

Subject: Additional monetary incentive to All India Service Officers belonging to the North-East Cadres.

The undersigned is directed to refer to the subject cited above and to say that the question of granting additional monetary incentive to officers belonging to North-East Cadres of the All India Services has been engaging the attention of the Government for some time. Accordingly, it has now been decided to grant a special allowance to the officers belonging to North-East Cadres of All India Services who are working in the North-Eastern Region. The allowance will be called "Special Allowance for officers belonging to North-East Cadres of All India Services" and will be payable to the officers belonging to North-East Cadres of All India Services while they are actually working in the North-East Region @ 25% of their basic pay in addition to other allowances presently payable to them. These orders will take effect from the date of their issue.

2. This issues with the concurrence of Department of Expenditure (Ministry of Finance).

(Harjot Kaur)
Director (Services)

Encashment of EL by AIS officers

No.11019/34/2003-AIS-III
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi, the 17th September, 2009

To

The Chief Secretaries of All States/Union Territories

Sub: The All India Services (Leave) Rules, 1955 – Encashment of leave while in service by member of All India Services.

Sir/Madam,

I am directed to refer to this Department's letter on even number dated 19th January, 2005 wherein it was decided that members of the All India Services would not be entitled to the benefit of encashment of leave under any of the rules of the State Government. However, encashment of earned leave subject to the maximum of 30 days can be allowed on retirement/death of the member of the Service under rule 20A of the All India Services (Leave) Rules, 1955.

2. This Department has received a number of requests from the State Governments for allowing encashment of leave to the members of the All India Services working under them under the provisions of the State Rules, which is otherwise applicable to employees of that particular State Government.

3. It is hereby clarified that the provision under rule 20A of the AIS (Leave) Rules, 1955 was inserted vide Department of Personnel and Training's Notification No.11019/ 6/97-AIS-II, dated 3rd March, 1998 (made effective from 01-07-1997), wherein the maximum days for encashment of earned leave was increased from 240 days to 300 days which can only be allowed at the time of retirement/death of the member of the Service. Apart from this, pursuant to the recommendation of the Sixth Central Pay Commission, the Central Government officers are allowed to encash ten days earned leave at the time of availing of Leave Travel Concession (LTC) to the extent of sixty days during the entire career. The leave encashed at the time of LTC will not be deducted from the maximum amount of earned leave encashable at the time of retirement. It is further clarified that where both husband and wife are Government servants, the present entitlement for availing LTC shall remain unchanged, and encashment of leave equal to 10 days at the time of availing of LTC will continue to be available to both, subject to a maximum of sixty days each during the career. This

provision has been made applicable to the All India Services Officers vide this Department's letter No.11022/2/2008-AIS(II), dated 7th October, 2008.

4. There is no other provision for encashment of earned leave while in service under the rules applicable to the members of All India Services. Therefore, members of the All India Services are entitled for encashment of earned leave for 10 days each subject to the maximum of 60 days in the entire career; and a maximum of 300 days of earned leave on retirement/death under rule 20A of the All India Services (Leave) Rules, 1955. No member of the Service should be allowed encashment of earned leave during service, other than mentioned above, under any rule of the State Government.

Yours faithfully

(Harjot Kaur)
Director (Services)
Tel No.23093591

All India Services (Conduct) Amendment Rules, 2014

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB SECTION (i)]

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

Notification

New Delhi, dated the 6th August, 2014

G.S.R.(E) – In exercise of the powers conferred by sub-section *(1)* of section 3 of All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the State Governments, hereby makes the following rules further amend the All India Services (Conduct) Rules, 1968, namely:-

1. *(1)* These rules may be called the All India Services (Conduct) Amendment Rules, 2014.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the All India Service (Conduct) Rules, 1968, in rule 3*(1)* after sub-rule *(1)*, the following sub-rule *(1)*, the following sub-rule shall be inserted namely:-

(1A) Every member of the Service shall maintain:-

(i) high ethical standards, integrity and honesty;

(ii) political neutrality;

(iii) promoting of the principles of merit, fairness and impartiality in the discharge of duties;

(iv) accountability and transparency;

(v) responsiveness to the public, particularly to the weaker section;

(vi) courtesy and good behavior with the public;

In rule 3(2) after sub-rule (2A), the following sub-rule shall be inserted namely:-

(2B) Every member of the Service shall:-

i. commit himself to and uphold the supremacy of the Constitution and democratic values;

ii. defend and uphold the sovereignty and integrity of India, the security of State, public order, decency and morality;

iii. maintain integrity in public service;

iv. take decisions solely in public interest and use or cause to use public resources efficiently, effectively and economically;

v. declare any private interests relating to his public duties and take steps to resolve any conflicts in a way that protects the public interest;

vi. not place himself under any financial or other obligations to any individual or organization which may influence him in the performance of his official duties;

vii. not misuse his position as civil servant and not take decisions in order to derive financial or material benefits for himself, his family or his friends;

viii. make choices, take decisions and make recommendations on merit alone;

ix. act with fairness and impartiality and not discriminate against anyone, particularly the poor and the under-privileged sections of society;

x. refrain from doing anything which is or may be contrary to any law, rules, regulations and established practices;

xi. maintain discipline in the discharge of his duties and be liable to implement the lawful orders duly communicated to him;

xii. be liable to maintain confidentiality in the performance of his official duties as required by any laws for the time being in force, particularly with regard to information, disclosure of which may prejudicially affect the sovereignty and integrity of India, the security of State, strategic, scientific or economic interests of the State, friendly relation with foreign countries or lead to incitement of an offence or illegal or unlawful gains to any person;

xiii. perform and discharge his duties with the highest degree of professionalism and dedication to the best of his abilities.

[F.No.11017/1/2014-AIS-III]

(Diwakar Nath Misra)
Director (Services)

The Indian Forest Service (Cadre) Amendement Rules, 1995

[PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART-II SECTION 3 (I), DATED 10-03-1995]

NO.11033/7/94-AIS (II)-C
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
DEPARTMENT OF PERSONNEL AND TRAINING

New Delhi, the 10th March, 1995

NOTIFICATION

G.S.R. (E). In exercise of the powers conferred by sub-section *(1)* of section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the Governments of the State concerned hereby makes the following rules further to amend the Indian Forest Service (Cadre) Rules, 1966 namely –

1. *(1)* These rules may be called the Indian Forest Service (Cadre) Amendement Rules, 1995.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Indian Forest Service (Cadre) Rules, 1966, in rule 4, in sub-rule (2) for words "at the interval of every three years" the words "ordinarily at the interval of every five years" shall be substituted.

(Madhumita D. Mitra)
Desk Officer

Note: The principal rules were published vide GSR No.1397, dated 01-09-1966 and subsequently amended vide GSR Nos, 2440, 485, 315, 385 (E), 1466, 124, 102 (E), 1062 (E) and 379 (E), dated 25-10-1969, 21-03-1970, 18-03-1972, 06-07-1974, 16-10-1976, 29-01-1977, 26-02-1985, 04-11-1988 and 19-04-1993

(Madhumita D. Mitra)
Desk Officer

The Indian Forest Service (Probation) Amendment Rules, 2007

Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

Notifiation New Delhi, the 11th April, 2007

G.S.R. 282.E – In exercise of the powers conferred by sub-section *(1)* read with sub-section (1A) of section 3 of the All India Services Act, 1951 (61 of 1951), the Central Governmnet, after consultation with the State Governments of the States concerned, hereby makes the following rules further to amend the Indian Forest Service (Probtation) Rules, 1968, namely:-

1. *(1)* These rules may be called the Indian Forest Service (Probation) Amendment Rules, 2007.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Indian Forest Service (Probation) Rules, 1968, in rule 3, for sub-rule (2), the following shall be substituted, namely -
   "Every person recruited to the Service in accordance with the Indian Forest Service (Appointment by Competitive Examination) Regulations, 1967 or the Indian Forest Service (Released Emergency Commissioned and Short Service Commissioned Officers) (Appointment by Competitive Examination) Regulations, 1968 shall be appointed to the Service on probation for a period of two years".

Footnote The principal rules were published in Gazette of India, Part-II, Section 3, Sub-Section (i) vide Government of India DP&AR Notification No.2/4/65-AIS(IV), dated 06-05-1968 and subsequently amended by:-

	GSR	Date
1.	388	1st April, 1972.
2.	472	18th May, 1974.
3.	948	7th September, 1974.
4.	986	9th August, 1975
5.	158	7th February, 1976
6.	905	26th June, 1976
7.	1020	17th June, 1976
8.	1361	25th September, 1976
9.	556	30th July, 1980
10.	534-E	25th June, 1994

No.11058/1/2005-AIS-III
(G. C. Pandey)
Under Secretary to the Government of India

The Indian Forest Service (Fixation of Cadre Strength) Second Amendment Regulations, 2010

NO.16016/01/2008-AIS-II (A)

GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
DEPARTMENT OF PERSONNEL AND TRAINING

New Delhi, the 11th August, 2010

NOTIFICATION

G.S.R. No.673 E. in exercise of the powers conferred by sub-section *(1)* of Section 3 of the All India Service Act, 1951 (61 of 1951), read with sub-rule 2 of Rule 4 Indian Forest Service (Cadre) Rules, 1966, the Central Government in consultation with the Governments of Assam and Meghalaya hereby makes the following regulatins further to amend the Forest Service (Fixation of Cadre Strength) Regulations, 1966, namely –

1. (i) These regulations shall be called the Indian Forest Service (Fixation of Cadre Strength) Second Amendment Regulations, 2010.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966 for the heading "**Assam-Meghalaya"** and the entries occurring there under, the following shall be substituted, namely -

"ASSAM-MEGHALAYA"

SENIOR DUTY POSTS UNDER THE JOINT CADRE OF ASSAM AND MEGHALAYA		87
	ASSAM	
i.	**Senior Duty Posts under the Government of Assam**	62
	Principal Chief Conservator of Forests	1
	Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden	1
	Additional Principal Chief Conservator of Forests (Admin and Vigilance)	1
	Additional Principal Chief Conservator of Forests (Planing and Development)	1
	Chief Conservator of Forests (Wildlife and Biodiversity)	1
	Chief Conservator of Forests (Social Forestry and Nodal Officer, FDA)	1
	Chief Conservator of Forests (Research, Education, Working Plans)	1
	Chief Conservator of Forests (Territorial)	2
	Chief Conservator of Forests and Nodal Officer, FC Act	1
	Chief Conservator of Forests (Bodoland Territorial Council)	1

	Chief Conservator of Forests (Karbi Anglong Autonomous Council)	1
	Chief Conservator of Forests (NC Hills Autonomous Council)	1
	Conservator of Forests (Territorial)	4
	Conservator of Forests (Working Plan)	1
	Conservator of Forests (Research and Education)	1
	Conservator of Forests (Headquarter) (in the office of the PCCF, Assam)	1
	Conservator of Forests (Social Forestry)	3
	Conservator of Forests (Wildlife) Headquarter	1
	Conservator of Forests (Border and Protection in the office of the CCF Territorial)	1
	Field Director, Project Tiger, Manas	1
	Director, Kaziranga National Park	1
	Conservator of Forests (Bodoland Territorial Council)	1
	Deputy Conservator of Forests (Territorial)	22
	Deputy Conservator of Forests (Wildlife)	3
	Deputy Conservator of Forests (Assam State Zoo)	1
	Working Plan Officer	3
	Forest Utilization Officer	1
	Planning Officer	3
	Silviculturist	1
	MEGHALAYA	
ii.	**Senior Duty Posts under the State Government of Meghalaya**	25
	Principal Chief Conservator of Forests	1
	Additional Principal Chief Conservator of Forests (Monitoring Research and Training and District Council Affairs)	1
	Chief Conservator of Forests (Territorial)	1
	Chief Conservator of Forests (Social Forestry)	1
	Chief Conservator of Forests (Wildlife)	1
	Conservator of Forests (Headquarter)	1
	Conservator of Forests (Territorial and Wildlife, Khasi Hills Region)	1
	Conservator of Forests (Territorial and Wildlife, Garo Hills Region)	1
	Conservator of Forests (Social Forestry, Khasi Hills Region)	1
	Conservator of Forests (Social Forestry, Garo Hills Region)	1
	Conservator of Forests (Research and Training)	1
	Conservator of Forests (Monitoring and Evalution)	1
	Conservator of Forests (GIS and Project Formulation)	1
	Conservator of Forests (Development and Biodiversity)	1
	Deputy Conservator of Forests (Khasi Hills, Jantia Hills, Garo Hills)	3
	Deputy Conservator of Forests (Training)	1
	Working Plan Officer	1
	Planning Officer	1
	Silviculturist	1
	Director, Balphakaram National Park	1
	Deputy Conservator of Forests (Wildlife (East and West Khasi Hills Wildlife Division)	1
	Deputy Conservator of Forests (Utilization)	1
	Deputy Conservator of Forests (Social Forestry)	1

1.	Total Senior Duty Posts (i + ii above)	87
2.	Central Deputation Reserve not exceeding 20% of Item 1 above	17
3.	State Deputation Reserve not exceeding 25% of Item 1 above	21
4.	Training Reserve not exceeding 3.5% of Item 1 above	3
5.	Leave Reserve and Junior Posts Reserve not exceeding 16.5% of Item 1 above	14
6.	Posts to be filled by promotion under Rule 8 of the Indian Forest Service (Recruitment) Rules, 1966 not exceeding 33 1/3% of Item 1, 2, 3 and 4 above	42
7.	Posts to be filled up by Direct Recruitment (Item 1+2+3+4+5-6)	100
	Totl Authorized Strength (Item 6+7 above)	142

(Roli Singh)
Director (Services)

Note 1: Prior to the issue of this Notification, the total authorized strength was 118

Note 2: The Principal regulations were notified vide notification No.6/1/66-AIS (IV), dated 31-10-1966 as GSR No.1072 in the Indian Forest Service (Fixation of cadre strength) Regulations, 1966 has been amended vide notification given below:

Sl. No.	GSR No.	Date of publlication	S. No.	GSR No.	Date of publication
1.	1673	30-10-66	16	47 (E)	20-01-72
2.	17	7-1-67	17	48 (E)	20-1-72
3.	653	6-5-67	18	478 (E)	4-12-72
4.	654	6-5-67	19	192 (E)	2-4-73
5.	689	13-5-67	20	321 (E)	27-6-73
6.	1083	8-6-68	21	391 (E)	10-8-73
7.	1887	9-8-69	22	142	24-1-71
8.	80	17-1-70	23	28 (E)	8-5-71
9.	485	21-3-70	24	273 (E)	11-1-72
10.	545	4-4-70	25	300 (E)	20-1-72
11.	1802	24-10-70	26	812	29-4-72
12.	135	24-1-75	27	2227	16-8-75
13.	136	24-1-71	28	71	17-1-76
14.	665	8-5-71	29	407 (E)	16-6-76
15.	45 (E)	20-1-72	30	1064	24-7-76
31.	444 (E)	6-7-76	76.	835	14-10-87
32.	750 (E)	3-8-76	77.	836	14-11-87
33.	93 (E)	26-2-77	78.	432 (E)	6-4-88
34.	631 (E)	5-10-77	79.	546 (E)	4-5-88
35.	13 (E)	6-1-78	80.	834 (E)	3-8-88
36.	360 (E)	13-7-78	81.	352 (E)	10-3-89
37.	436 (E)	29-8-78	82.	553 (E)	16-5-89
38.	486 (E)	25-8-80	83.	455	1-7-89
39.	562 (E)	30-9-80	84.	832	11-11-89
40.	626 (E)	3-11-80	85.	916	16-12-89
41.	631 (E)	4-11-80	86.	933	30-12-89
42.	21 (E)	17-1-81	87.	590	22-9-90
43.	31 (E)	23-1-81	88.	603	29-9-90
44.	84 (E)	27-2-81	89.	728	8-12-90
45.	456 (E)	9-5-81	90.	730	8-12-90

Sl. No.	GSR No.	Date of publlication	S. No.	GSR No.	Date of publication
46.	360 (E)	23-5-81	91.	125 (E)	5-3-91
47.	276 (E)	2-6-81	92.	246	13-4-91
48.	386 (E)	9-6-81	93.	473	24-8-91
49.	602 (E)	16-11-81	94.	527	14-9-91
50.	604 (E)	17-11-81	95.	565	5-10-91
51.	653 (E)	10-12-81	96.	584	19-10-91
52.	657 (E)	11-12-81	97.	538 (E)	6-8-93
53.	294 (E)	1-4-82	98.	685 (E)	4-11-93
54.	354 (E)	26-4-82	99.	687 (E)	4-11-93
55.	356 (E)	27-4-82	100.	514	22-10-94
56.	778 (E)	31-5-82	101.	513	22-10-94
57.	530 (E)	20-8-82	102.	321 (E)	31-3-95
58.	24 (E)	12-1-83	103.	213	29-4-95
59.	126 (E)	28-2-85	104.	278	10-6-95
60.	308 (E)	26-3-85	105.	264	6-6-95
61.	327 (E)	29-3-85	106.	339	22-7-95
62.	489 (E)	12-6-85	107.	375	12-8-95
63.	266	12-4-86	108.	480.	18-11-95
64.	654	30-8-86	109.	479	18-11-95
65.	763	20-9-86	110.	503	2-12-95
66.	798	27-9-86	111.	537	9-12-95
67.	796	27-9-86	112.	75 (E)	5-2-96
68.	835	4-10-86	113.	77 (E)	5-2-96
69.	837	4-10-86	114.	231	8-6-96
70.	880	18-10-86	115.	233	8-6-96
71.	164	14-3-87	116.	589 (E)	26-12-96
72.	407	30-5-87	117.	587 (E)	26-12-96
73.	619	15-3-87	118.	585 (E)	26-12-96
74.	802	31-10-87	119.	17 (E)	17-1-97
75.	826	7-11-87	120.	413	20-12-97
121.	741 (E)	31-12-97	142.	724 (E)	23-11-2006
122.	40	29-1-98	143.	703 (E)	12-08-2007
123.	617 (E)	14-1-98	144	765 (E)	12-12-2007
124.	372	10-12-99	145	609 (E)	26-08-2008
125.	374	10-12-99	146.	109 (E)	21-02-2008
126.	824 (E)	21-10-2000	147.	610 (E)	26-08-2008
127.	827 (E)	21-10-2000	148.	716 (E)	03-10-2008
128.	830 (E)	21-10-2000	149.	748 (E)	21-10-2008
129.	141	27-4-2002	150.	190 (E)	24-03-2009
130.	143	27-4-2002	151.	193 (E)	24-03-2009
131.	139	27-4-2002	152.	498 (E)	07-07-2009
132.	145	27-4-2002	153.	500 (E)	07-07-2009
133.	147	27-4-2002	154.	502 (E)	07-072009
134.	372	21-9-2002	155.	504 (E)	07-07-2009
135.	173	26-4-2003	156.	506 (E)	07-07-2009
136.	34 (E)	24-01-2006	157.	905 (E)	18-12-2009
137.	287 (E)	16-05-2006	158.	907 (E)	18-12-2009
138.	289 (E)	16-05-2006	159.	909 (E)	18-12-2009
139.	562 (E)	15-09-2006	160.	911 (E)	18-12-2009
140.	564 (E)	15-09-2006	161.	406 (E)	14-05-2010
141.	566 (E)	15-09-2006			

(Roli Singh)
Director (Services)

The Indian Forest Service (Regulation of Seniority) Amendement Rules, 2012

No.14014/4/2011-AIS-I (C)

GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
DEPARTMENT OF PERSONNEL AND TRAINING

New Delhi, the 18th April, 2012.

NOTIFICATION

G.S.R. (E). In exercise of the powers conferred by sub-section *(1)* of section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the Governments of the State concerned hereby makes the following rules further to amend the Indian Forest Service (Regulation of Seniority) Rules, 1997 namely –

1. *(1)* These rules may be called the Indian Forest Service (Regulation of Seniority) Amendement Rules, 2012.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Indian Forest Service (Regulation of Seniority) Rules, 1997, in rule 3, in sub-rule (3) for clause (ii)-
   (A) The words "immediately before the year" shall be omitted.
   (B) For sub-clauses (a) and (b), the following clauses shall be substituted, namely -
      (a) for the service rendered by him upto twelve years, he shall be given a weightage of one year for every completed four years of service, subject to a minimum of three years;

      (b) for the service rendered by him beyond 12 years, as referred to in sub-clause (a) and upto 21 years, he shall be given a weightage of one year for every completed three years of service;

      (c) for the service rendered by him beyound 21 years, as referred to in sub-clause (b), he shall be given a weightage of one year for every completed two years of service, subject to a maximum of three years".

(Narendra Gautam)
Under Secretary to the Government of India

Note: The principal rule were published in the Gazette of India, Extraordinary Part II Section 3 (i) vide number GSR.738(E) dated the 31st December, 1997 and further amended vide GSR.551(E) dated the 30th August, 2005.

The Indian Forest Service (Appointment by Induction) Regulations, 2013

(Incorporating Amendments of 31-12-1997, 25-07-2000, 31-01-2005 & 13-10-2005)

In pursuance of sub-rule *(1)* of rule 8 of the Indian Forest Service (Recruitment) Rules, 1966, the Central Government, in consultation with the State Governments and the Union Public Service Commission, hereby makes the following regulations namely:

1. **SHORT TITLE**: These regulations may be called the Indian Forest Service (Appointment by Induction) Regulations, 2012.

2. **DEFINITIONS**:

2. *(1)* In these regulations, unless the context otherwise requires:

a. '**Cadre Officer**' means a member of the Service;
b. '**Cadre Post**' means any of the posts specified as such in the regulations made under sub-rule *(1)* of rule 4 of the Cadre Rules;
c. '**Cadre Rules**' means the Indian Forest Service (Cadre) Rules, 1966;
d. '**Examination**' means the 'examination' as defined in regulation 4;
e. '**Committee**' means the Committee set up in accordance with regulation 5;
f. '**Board**' means the Board set up in accordance with regulation 6;
g. '**Commission**' means the Union Public Service Commission;
h. '**Recruitment Rules**' means the Indian Forest Service (Recruitment) Rules, 1966;
i. '**Schedule**' means a Schedule appended to these regulations;
j. '**Service**' means the Indian Forest Service;
k. '**State Government**' means;

(i) in relation to a State in respect of which a separate cadre of the service exists, the Government of such State; and

(ii) in relation to a group of States in respect of which a Joint Cadre of the Service is constituted, the Joint Cadre Authority;

(iii) in relation to a group of Union Territories, and in respect of which a joint cadre of the service is constituted, the Central Government.

l. '**Year**' means the period commencing on the first day of January and ending on 31st day of December of the same year.

2. (2) All other words and expressions used in these regulations but not defined shall have the meanings respectively assigned to them in the Recruitment Rules.

3. **METHOD TO MAKE SELECTION**:

The selection shall be made through a four stage process carrying a maximum of **1000 marks** as follows: (a) a common **written examination** having maximum **400 marks [40%** weightage], (b) Consideration of additional **length of service** rendered by an officer in State Forest Service having maximum **200 marks [20%** weightage @ 1% per year in excess of minimum length of service as per regulation 8], (c) **Assessment of service records** by a Committee set up in accordance with regulation (5) having maximum **250 marks [25%** weightage] and (d) **Interview** by a Board set up in accordance with regulation (6) having maximum **150 marks [15%** weightage]

Number of members of the State Forest Services who shall be called for the written examination will be five times the substantive vacancies in the order of seniority in that service. Out of such members who appear for the examination, on the basis of marks obtained in the written examination and marks assigned for length of service rendered, a number of officers upto **2.5** times the number of substantive vacancies shall be shortlisted for assessment of service records and interview.

Provided that such restriction of 5 times shall not apply in respect of a state where the total number of eligible officers is less than five times the permissible size of the Select List and in such a case all eligible officers shall be called for the written examination.

4. **COMMON WRITTEN EXAMINATION:**

There shall be a common written examination having maximum **400 marks** for all the eligible State Forest Service officers in the zone of consideration [as specified in regulation 3] conducted by the Commission and such examination shall consist of the following papers:

(a) Paper I:
Part A – Aptitude Test **(100 marks)**
Part B – General Studies **(100 marks)**

(b) Paper II:
Part A: State Specific questions **(40 marks)**
Part B: Service specific questions **(160 marks)**

Both Paper I and Paper II will have objective type questions.

The detailed syllabi of the examination shall be laid down by the Commission separately.

Venue for the common written examination and detailed calendar for the selection process including **written examination, Assessment of service records and interview shall** be announced every year by the Commission.

The marks obtained by an officer in the written examination shall be added to the marks assigned to him for the length of service rendered at the rate of 10 marks for each completed year of service beyond 8 years upto a maximum of 200 marks. On the basis of the total marks obtained as aforesaid, the officers shall be shortlisted for assessment of service records and interview.

5. **CONSTITUTION OF THE COMMITTEE TO MAKE ASSESSMENT OF SERVICE RECORDS**:

5. *(1)* There shall be constituted for a State Cadre or a Joint Cadre specified in column 2 of Schedule, a Committee, for assessment of service records of the members of State Forest Service shortlisted as per regulation 3, consisting of the Chairman or any other Member of the Commission representing it and other members specified in the corresponding entry of column 3 of the said schedule ;

Provided that –

(i) no member of the Committee other than the Chairman or the Member of the Commission shall be a person who is not a member of the Service.

(ii) the nominees of the Government of India shall not belong to the cadre of the State for which the meeting of the Committee is to be held.

(iii) that the Central Government may after consultation with the State Government concerned amend the Schedule.

5. (2) The Chairman or the member of the Commission shall preside at all meetings of theCommittee.

5. (3) The absence of a member, other than the Chairman or Member of the Commission, shall not invalidate the proceedings of the Committee if at least half the members of the Committee excluding the Chairman or the Member of the Commission had attended its meetings.

5. (4) The Committee shall make assessment of the service records of preceding five years and, on the basis of assessment of individual service records, grade the officers as ‘Outstanding’, ‘Very Good’, ‘Good’ and ‘Unfit’ as the case may for each of the preceding five years upto the Select List year. The committee shall assign 50 marks for ‘Outstanding’, 40 marks for ‘Very Good’, 30 marks for

'Good' grading as the case may be for the individual year's assessment and thus arriving at total marks out of maximum 250.

Anyone who obtains less than 'Good' grading in any of the assessment years will be 'Unfit' for selection. Similarly an officer shall also be rendered as 'unfit' for selection on account of imposition of penalty/Adverse Remarks. The treatment of penalty/Adverse Remarks will be in terms of internal guidelines of the commission (Annex-I).

6. **CONSTITUTION OF THE INTERVIEW BOARD:**

6. *(1)* The Commission shall constitute for all State Cadres and Joint Cadres a Board for interview of the members of the State Forest Service officers shortlisted as per regulations 3. The interview Board shall be presided over by the Chairman or any other member of the Commission representing it. Other members of the Interview Board shall be as follows:

In respect of a State Cadre or a constituent State of a Joint Cadre:

(i) Chief Secretary of the State/constituent State concerned
(ii) Principal Chief Conservator of Forests of the State/constituent State;
(iii) One nominee of the Government of India, DOP&T not below the rank of Additional Secretary.
(iv) One expert nominated by the Commission

In respect of a Union Territory segment:

(i) Seniormost Chief Secretary of the UT administration
(ii) Principal Conservator of Forests of the constituent State for which the selection is held;
(iii) One nominee of the Government of India, DOP&T not below the rank of Additional Secretary
(iv) One expert nominated by the Commission

6. (2) The absence of a member, other than the Chairman or Member of the Commission, shall not invalidate the proceedings of the Committee if at least half the members of the Committee excluding the Chairman or the Member of the Commission had attended its meetings.

6. (3) The interview of the officers shall carry maximum **150 marks and** shall test the suitability of the officers with reference to the their knowledge and awareness of various topics including knowledge of the Departments in which they have been working, State specific and Service specific rules and laws etc. Officers are expected to be aware of contemporary and relevant regional/national and

international issues. Some of the qualities to be judged are mental alertness, critical power of assimilation, balance of judgement, ability for social cohesion and leadership, intellectual and moral integrity.

7. **PREPARATION OF A LIST OF SUITABLE OFFICERS:**

7. *(1)* Every year on the basis of the method as enumerated in reg 3, a list of such members of the State Forest Service shall be prepared as are held to be suitable for induction to the Service. The number of members of the State Forest Service to be included in the list shall be determined by the Central Government in consultation with the State Government concerned, and shall not exceed the number of substantive vacancies as on the thirty first day of December of the year for which the selection is made, in the posts available for them under Rule 9 of the Recruitment Rules.

Provided that no list for the year in question shall be prepared when;

(a) there are no substantive vacancies as on the thirty first day of December of the year in the posts available for the members of the State Forest Service under Rule 9 of the Recruitment Rules; or

(b) the Central Government in consultation with the State Government decides that no recruitment shall be made during the year to the substantive vacancies as on the thirty first day of December of the year in the posts available for the members of the State Forest Service under Rule 9 of theRecruitment Rules;

Provided further that where no selection process could take place for a year for any reason other than that provided for in the first proviso, the Select List shall be prepared separately for each year based on the procedure as enumerated in regulation 3.

Explanation: In case of Joint Cadres, a separate select list shall be prepared in respect of each State Forest Service.

8. A member of the State Forest Service shall not be eligible for inclusion in the Select List unless **on the first day of January of the year** for which the Select List is prepared, he is substantive in the State Forest Service and has completed not less than eight years of continuous service (whether officiating or substantive) in post(s) included in the State Forest Service.

Explanation I: The powers of the State Government under this regulation shall be exercised in relation to the members of the State

Forest Service of constituent State, by the Government of that State.

Provided that the officers belonging to any service referred to in item (ii) of clause (g) of rule 2 of the recruitment rules, shall not be eligible to be considered for selection to any cadre other than Union Territories Cadre.

Provided also that in respect of any released Emergency Commissioned or Short Service Commissioned officers appointed to the State Forest Service, eight years of continuous service as required under the preceding proviso shall be counted from the deemed date of their appointment to the service, subject to the condition that such officers shall be eligible for consideration if they have competed **not less than four years of actual continuous service**, on the first day of January of the year for which the Select List is prepared, in the post of Assistant Conservator of Forests.

Explanation II: In computing the period of continuous service for the purpose of this regulation there shall be included any period during which an officer has undertaken:

(a) Training in a diploma course in the Forest Research Institute and College, Dehradun; or

(b) Such other training as may be approved by the Central Government in consultation with the Commission in any other institution.

Explanation III: Service in post(s) included in the State Forest Service would also include service rendered in ex-cadre posts connected with forestry whether under the Governmen or in

(i) a company, Associaton or Body of individuals whether incorporated or not, which is wholly or substantively owned or controlled by Government, Municipal or Local Body, and

(ii) an International Organization, an Autonomous Body not controlled by Government or a Private Body;

Provided that the State Government certified that the officer concerned would have continued to hold a post included in the State Government Services but for his deputation to such ex-cadre post.

8. (2) The members of the State Forest Service who have attained the age of 54 years on the first day of January of the year for which the Select List is prepated shall not be elilgible for selection.

8. (3) Such member of the State Forest Service shall not be eligible for selection who had been included in an earlier select list and -

(a) had expressed his unwillingness for appointment to the service under regulation 9 11.

Provided that he shall be eligible for inclusion in the Select List, if before the commencement of the year, he applies in writing, to the State Government expressing his willingness to be considered for appointment to the service;

(c) was not appointed to the service by the Central Government under regulation 11.

8. (4) An officer included provisionally in any Select List in terms of provisio 1 & 2 of regulation 9 will not be eligible for selection again in view of provision at Reg. 9(2).

9. The list finalized by the Commission shall form the Select List.

Provided that the name of an officer so included in the list shall be treated as provisional if the State Government withholds the integrity certificate in respect of such an officer or any proceedings, departmental or criminal are pending against him or anything adverse against him which renders him unsuitable for appointment to the service has come to the notice of the State Government.

Explanation I*:* The proceedings shall be treated as pending only if a charge-sheet has actually been issued to the officer or filled in a Court as the case may be.

Explanation II: The adverse thing which came to the notice of the State Government rendering him unsuitable for appointment to the service shall be treated as having come to the notice of the State Government only if the details o fthe same have been communicated to the Central Government and the Central Government is satisfied that the details furnished by the State Government have a bearing on the suitability of the officer and investigation thereof is essential.

Provided further that if an officer whose name is included in the Select List is, after such inclusion, issued with a charge sheet or a charge sheet is field against him in a Court of Law, his name in the Select List shall be deemed to be provisional.

9. (2) Where the State Government forwards the proposal to declare a provisionally included officer in the Select List as 'Unconditional' to the Commission and if the Commission within forty five days of thereceipt of such proposl, declares the inclusion of the provisionally included officer as 'Unconditional' and final in the select list in which he was included, the appointment of the concerned officer shall considered by the Central Government under Regulation 11.

10. **APPOINTMENTS TO THE SERVICE FROM THE SELECT LIST**:

Appointment of an officer included in the Select List and who has expressed his willingness to be appointed to the service shall be made by the Central Government in the order in which the names of officers appear in the Select List within 60 days from the date of approval by the Commission.

Provided that the appointment of the officers shall be made in accordance with the agreement arrived at under clause (b) of sub-rule (3) of rule 8 of the Recruitment Rules in the order in which the names of the officers occur in the relevant parts of the Select List.

Provided further that the appointment of an officer whose name has been included or deemed to be included in the Select List provisionally under the proviso 1&2 of Regulation 9 as the case may be, shall be made within sixty days after the name is made unconditional by the Commission in terms of **sub regulation (2) of regulation 9**.

Provided also that in case a Select List has expressed his unwillingness for appointment to the service, he shall have no claim for appointment to the service from that Select List unless he informs the Central Government through the State Government within 60 days of finalization of that Select List by the Commission, revoking his earlier expression of unwillingness for appointment to the service.

11. **POWER OF THE CENTRAL GOVERNMENT NOT TO APPOINT IN CERTAIN CASES:**

Notwithstanding anything contained in these Regulations, the Central Government may not appoint any person whose name appears in the Select List, if it is of the opinion that it is necessary or expedient so to do in the public interest.

Provided that no such decision shall be taken by the Central Government without consulting Union Public Service Commission.

Schedule (See Regulation 3)

Sl. No.	Name of the State Cadre/Joint Cadre	Other members of the Committee
1.	Arunachal Pradesh, Goa, Mizoram and Union Territories	(a) Chief Secretary of the constituent State. In respect of Union Territory segment, the senior most Chief Secretary amongst the Chief Secretaries to the Union Territory administration. (b) The senior most Chief Secretary of the remaining constituents of the Cadre; (c) Principal Chief Conservator of Forests of the constituent segment for which the meeting is held. In respect of Goa segment, the CF to attend; (d) Head of Forests Department of theconstituent segment, not below the rank of Secretary to Government. For Union Territory segment, the senior most officer looking after Forest Department among all Union Territories; (e) Joint Secretary, Government of India, dealing with AGMUT cadre in Ministry of Environment and Forests; and (f) Two nominees of Government of India not below the rank of Joint Secretary.
2.	Assam-Meghalaya and Manipur- Tripura Joint Cadres	(a) Chief Secretaries of the Governments of the constituent States; (b) Principal Chief Consevators of Forests of the constituent States; and (c) Two nominees of Government of India not below the rank of Joint Secretary.
3.	Other Cadres	(a) Chief Secretary of the State Government (b) Additional Chief Secretary/Principal Secretary/ Secretary in –charge of the Forest Department of the State Government; (c) Principal Chief Conservator of Forests of the constituent State; and (d) Two nominees of Government of India not below the rank of Joint Secretary.

The Assam Junior Forest Service Rules, 2005

No.16, Dispur, Friday 27th January, 2006, 7th Magha, 1927 (S.E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
ENVIRONMENT AND FOREST DEPARTMENT

NOTIFICATION

The 4th January, 2006

No.FRE-1/94/190 - In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Assam is hereby pleased to make the following rules, regulating the recruitment and conditions of Service of the persons appointed to the Assam Junior Forest Service, namely:-

Short title and commencement

1. *(1)* These rules may be called the Assam Junior Forest Service Rules, 2005.

(2) They shall come into force on the date of their publication in the official Gazette

Definition

2. In these Rules, unless there is anything repugnant in the subject of context,

(a) "Appointing Authority" – means the appointing authority as provided under Assam Service (Discipline and Appeal) Rules, 1964.

(b) "C.C.F." means Chief Conservator of Forest;

(c) "Committee" means a Selection Committee Constituted under rule 6 (2);

(d) "Conservator" means Conservator of Forest or equivalent rank;

(e) "Deputy Conservator" means Deputy Conservator of Forest;

(f) "Governor" means the Governor of Assam;

(g) "Government" means the Government of Assam;

(h) "Commission" means the Assam Public Service Commission;

(i) "Head of the Department" means Head of the Department as notified by the Government of Assam;

(j) "Member" means the member of the "Assam Junior Forest Service";

(k) "Service" means the Assam Junior Forest Service";

(l) "Year" means a calendar year.

Class & Cadre

3. *(1)* The Service shall comprise of the following categories and cadre

(a) **Category I** – it shall include the cadres of Deputy

Ranger, Game Keeper, Foreman, Junior Engineer (Overseer), Subordinate Engineer.

(b) **Category II** – It shall include the cadre of Research Assistant, Silviculture Assistant, Botanical Assistant, Technical Assistant, Information Officer, Pharmacist (Diploma holder), Lady Welfare Officer, Draftsman, Radio Technical, Surveyor, cylinder operator, Mechanic-Cum-Boiler man, Forest Veterinary Field Assistant, Photographer, Forest Village School Teacher, Tracer, Physical Training Instructor, Forest Veterinary Supervisor.

(c) **Category III** – It shall include the cadre of Forester-I, Assistant Inspector of Forest School, Kiln Operator, Mechanic, Electrician, Store Keeper, Forest Veterinary Field Assistant, Harbarium Assistant, Record Keeper, Cinema Operator, Laboratory Assistant, Curator, Plumber, Crane Operator, All Categories of Drivers, Fitter, Carpenter, Boiler, Attendant, Water pump Electric Mistry, Forester-II, Head Game Watcher, Garden Supervisor, Gate fee collector, Motor Launch Driver, Out Boat Motor Driver, Motor Boat Mistry, Zamadar, Mahut, Forest Guard Patrolling Guard, Depot Guard, Anti-poaching Guard, Game Watcher, Pump Engine Operator, Mahut, Elephant Sardar.

(d) **Category-IV** – It shall include the cadres of Welder, Electric Mistry, Head Animal Keeper, Assistant Garden Supervisory, Sawmil Attendant, Animal Keeper, Gate Keeper, Laboratory Attendant, Handyman, Garden Watcher, Boatman, Fire Watcher, Grass Cutter, Museum Peon, Blue Printer, Gate Chowkider, Plantation Mali, Cook Khansama, Laboratory Bearer, Bearer, Paniwala, Water carrier, Sweeper, Chowkider, Dak Runner, Dakwala, Dhubi, Barber, Chainman, Jugali, Peon.

(2) The service may include:

(a) Any post equivalent to a post in any of the cadre mentioned in sub-rule *(1)* and

(b) Any cadres or post laid down by Government to be included in a cadre or the Service.

(3) The posts equivalent to the posts in the cadres of the Service on the date of commencement of these rules are mentioned in Schedule-I.

Strength of Service

4. The strength of each cadre of the service and the nature of post therein shall be such as may be

determined by the Government from time to time. The strength of the cadres of the service on the date of commencement of these rules shall be as shown in Schedule-II.

Provided that the Government may hold in abeyance any post or posts as and when considered necessary.

Method of recruitment

5. Recruitment to the service shall be made in the manner prescribed hereinafter -

(1) All the vacancies in the cadres of Deputy Ranger/Game Keeper of equivalent rank and status shall be filled by the promotion as per Rule 6 *(1)* (a).

(2) (a) 60% of the post of Forester Grade-I shall be filled up by competitive examination as per rule 7 to be conducted by the committee or other authority determined by the Government from time to time.

(b) 40% of the post of Forester Grade-I shall be filled up by promotion as per rule 6 *(1)* (b).

(3) The post of Forest Guard and Game watcher shall be filled up by direct recruitment as per rule 7(2).

(4) Recruitment to the posts of Silviculture Assistant, Botanical Assistant and Technical Assistant shall be made by direct recruitment as per rule 7(6).

(5) Recruitment to the post of Information officer shall be made directly as per rule 7(7).

(6) The post of Pharmacist shall be filled up by direct recruitment as per rule 7(8).

(7) The post of Lady Welfare Officer shall be filled up by direct recruitment as per rule 7(9).

(8) The post of Radio Technician shall be filled up by direct recruitment as per rule 7(10).

(9) The post of Foreman shall be filled up by promotion as per rule 6*(1)*(c).

(10) The posts of Junior Engineer/Overseer shall be filled up by promotion as per rule 6*(1)*(c).

(11) (a) 60% of the total strength in the cadre of subordinate Engineer/Draftsmen shall be filled up by direct recruitment as per rule 7(11).

(b) 40% of the total strength in the cadre of subordinate Engineer/Draftsman shall be filled up by promotion as per rule 6*(1)*(f).

(12) The posts of Forester Grade-II/Head Game Watcher, Garden Supervisor, Zamadar and Mahut shall be filled up by promotion as per rule 6*(1)*(g).

(13) The posts of Head Animal Keeper and Assistant Supervisor shall be filled up by promotion as per rule

6*(1)*(h).

(14) The posts of Mechanic-cum-Boilerman shall be filled up by direct recruitment as per rule 7(12).

(15) The posts of Forest Veterinary Supervisor shall be filled up by direct recruitment as per rule 7(13).

(16) The posts of Photographers shall be filled up by direct recruitment as per rule 7(14).

(17) The posts of Forest Village School Teacher shall be filled up by direct recruitment as per rule 7(15).

(18) The posts of Surveyors shall be filled up by direct recruitment as per rule 7(16).

(19) The posts of Cylinder Operator shall be filled up by direct recruitment as per rule 7(17).

(20) The posts of P.T. Instructor shall be filled up by direct recruitment as per rule 7(18)

(21) The posts of Kiln Operator, Mechanic, Electrician, Cinema Operator, Plumber, Crane Operator, Driver of both heavy and light vehicle, Motor Launch Driver, Outboat Motor Driver, Motor Boat Driver, Motor Boat Mistry, Tracer, Fitter, Boiler attendant, Carpenter, Water-pump Electric Mistry, Pump Engine Operator shall be filled up by direct recruitment as per rule 7(19).

(22) The posts of Gate fee collector, Herbarium Assistant, Laboratory Assistant, Record Keeper, Curator, Store Keeper shall be filled up by direct recruitment as per rule 7(20)

(23) The posts of Mahut shall be filled up by direct recruitment as per rule 7 (21).

(24) The posts of Forest Veterinary Field Assistant shall be filled up by direct recruitment as per rule 7(22).

(25) The posts of Welder, Electric Mistry, Saw Mill Attendant, Animal Keeper, Gate Keeper, Laboratory attendant, Handyman, Garden Watcher, Boatman, Fire Watcher, Grass Cutter, Museum Peon, Blue Printer, Gate Chowkider, Mali, Cook, Khansama, Laboratory Bearer, Bearer, Paniwala, Water Carrier, Sweeper, Peon, I.B. Chowkider, Dak Runner, Dakwala, Dhubi, Barbar, Chainman, Jugali shall be filled up by direct recruitment as per rule 7(23).

6. *(1)* Promotion to the different cadre shall be subject to the following reservation:-

(a) All vacancies in the cadre of Deputy Ranger/Game Keeper of equivalent rank and status shall be filled up by promotion of members belonging to the cadre of

Forester-I, Assistant Instructor of Forest School, of equivalent rank and status satisfying the following conditions:-

(i) Forester trainees securing 1st, 2nd and 3rd position with not less than 70% marks in the final examination of the Foresters Training School and with a continuous service length of not less than 5 years.

(ii) All members due to promotion to this category shall be eligible for promotion on the basis of seniority cum merit with a service length not les than ten years including at least 3 years service in wildlife areas and from the select list to be prepared by the selection committee. List of eligible members due for promotion to this cadre shall be prepared on the basis of seniority-cum-merit and submitted ordinarily every years by the respective Circle Conservator with A.C.Rs and performance report ordinarily for previous 5 years to the Head of the Department for placing it before the selection committee.

The Head of Department shall prepare the list eligible members as per seniority equal to four times the members of vacancies and forward the same to the selection committee for recommendation.

The committee shall prepare the final select list not more than double number of vacancies and furnish the list to the Head of Department. The list shall remain valid for twelve calendar months.

(b) 40% of the posts in the cadre of Forester Grade-I shall be filled up by promotion from the rank of Forester Grade-II/ Head Game watcher of Equivalent rank and status satisfying the following conditions:

(i) Forest Guard/Game Watcher trainees securing 1st, 2nd and 3rd position with marks not less than 70% in the final examination of the Forest Guards Training School and with a continuous service length of not less than 5 years.

(ii) All members due for promotion to this category shall be eligible for promotion on the basis of seniority-cum-merit with a service length of not less than 10 years including at least 3 years service in wildlife areas from the select list to be prepared by the selection committee.

List of eligible members due for promotion to this cadre shall be prepared on the basis of seniority-cum-merit and submitted by the respective Divisional

Forest Officers with A.C.Rs and performance reports ordinarily for previous five years to the respective Circle Conservator for placing it before the Selection Committee.

The Head of the Department shall prepare the list of members as per seniority containing names four times the numbers of available vacancies.

The Selection Committee after scrutiny of the roster position as per register maintained by the Head of Department for the State and screening shall prepare a select list containing numbers twice the numbers of vacancies and send it to the Head of the Department. The list shall remain valid for twelve calendar months.

(c) The post of Foreman shall be filled up by promotion from the members of the cadre of Cylinder operator having five years service with good performance report as per seniority-cum-merit. The performance of previous 5 years shall ordinarily be considered.

All the members eligible for promotion to the post under this category shall be promoted from the select list to be prepared by the Selection Committee.

(d) The post of Cylinder operator shall be filled up by promotion from the members of the cadre of Boiler attendant with five years of service in the grade with good performance and as per seniority-cum-merit. The performance of previous five years shall ordinarily be considered.

All the members eligible for promotion to the post under this category shall be promoted from the select list to be prepared by the Selection Committee.

(e) The post of Junior Engineer/Overseer shall be filled up by promotion from the members of the cadre of subordinate Engineer/Draftsmen with 10 years service in the grade having good performance report and as per seniority-cum-merit. Performance records/ACRs of previous five years shall ordinarily be considered.

All the members eligible for promotion to the post under this category shall be promoted from the select list to be prepared by the selection Committee.

(f) 40% of the posts of subordinate Engineer/Draftsmen shall be filled up promotion from the members in the cadre of surveyor having ten years service in the Grade with good performance report as per seniority-

cum-merit. Performance records/ACRs of previous 5 years shall ordinarily be considered.

All the members eligible for promotion to the post under this category shall be promoted from the select list to be prepared by the Selection Committee.

(g) The post of Forester Grade-II/Head Game Watcher, Garden Supervisor, Zamadar and Mahut shall be filled by promotion from the Members belonging to the cadres of Forest Guards/Game Watcher, Assistant garden supervisor and Mahut, Elephant Saedar respectively having 10 years service including at least 3 years of service in wildlife areas in the respective cadre with good performance report and on the basis of seniority-cum-merit. Previous five years performance records/ACRs shall ordinarily be considered.

The members eligible for promotion to the posts under this category shall be promoted from the select list to be prepared by the Selection Committee.

(h) The posts of Head Animal Keeper and Assistant Garden Supervisor shall be filled up by the promotion from the members belonging to the cadre of Animal Keeper and Garden Watcher respectively with 10 years service in the cadre with good performance report and on the basis of seniority-cum-merit. Previous 5 years performance records/ACRs shall ordinarily be considered.

The members eligible for promotion to the post under this category shall be promoted from the select list to be prepared by the Selection Committee.

(2) The committee as referred to in rule 6 and 7 shall be headed by the Principal Chief Conservator of Forest or his nominee not below the rank of Chief Conservator Forest. It shall consist of another 3 officers from the rank of Chief Conservator of Forest/Conservator of Forest as nominated by the Principal Chief Conservator of Forest/ Deputy Conservator of Forest.

Direct Recruitment

7. *(1)* The posts mentioned hereunder in this rule shall be filled up as per recommendation of the selection committee. The Selection Committee shall hold examination as per the procedure prescribed herein below and furnish the select list to the Principal Chief Conservator of Forest, Assam.

(2) 60% of posts of Forester Grade-I shall be filled up by

competitive examination to be conducted by the committee.

The Selection test shall comprise the following:-

(a) Written test for 3 hours on -

(i) General Mathematics of Higher Secondary or equivalent standard

(ii) English and Vernacular dictation

(iii) Essay in English

(iv) General knowledge

(b) Physical fitness test comprising of 26 kms. walking to be covered within 4 hours followed by a medical examination.

(c) Viva Voice

(d) Eligibility for candidature:-

(i) Higher Secondary (10+2) or equivalent pass (***Amended***)

(ii) Physical requirements

Height – 163 cms for General and 153 cms for hills and plain tribes.

Chest Normal – 79 cm round

Expanded – 84 cm round

(3) Direct Recruitment to the cadre of the Forester Grade-I shall be made as per Select list prepared by the committee following the same procedure laid down in sub rule (2).

(4) Head Game Watcher with equivalent rank of Forester-II shall be of the same rank and status. Whenever a member of this cadre is posted in the wildlife sector, he shall be designated as Head Game Watcher and Vice-Versa.

(a) 20% the vacancies of the Forest Guard and Game Watcher will be filled up from Mali and others equivalent post having a service length of five years.

(b) 80% posts of the Forest Guard and Game Watchers shall be filled up through direct recruitment.

(c) Selection shall be made by competitive examination to be conducted by the committee. Selection test comprise the following:

(i) Physical fitness test comprising 26 kms of walking to be covered within 4 hours followed by a medical examination.

(ii) Written test for 2 hours on -

(aa) Mathematics of HSLC or equivalent standard.

(bb) English and vernacular dictation

(cc) General Knowledge

(iii) Viva Voice
(iv) Eligibility for Candidate
(aa) <u>High School Leaving Certificate or equivalent pass</u> (**Amended**)
(bb) Physical requirement
Height 163 cm general and 153 cm for hills and plains tribes
Chest normal 79 cms: Expanded 84 cms

(5) (a) Direct recruitment to the cadre of Forest Guard/Game Watcher shall be made as per select list prepared by the committee by following the same procedure laid down in the rule 6 *(1)* (b) (ii)

(b) Forest Guard/ Game Watcher are of the same rank and status. Whenever a member of this cadre is posted to wildlife sector, he shall be designated as Game Watcher and Vice Versa.

(6) Recruitment to the post of Silviculture Assistant, Botanical Assistant and Technical Assistant shall be made through competitive examination to be conducted by the Commission on the following subjects:-

<u>For Silviculture and Technical Assistant</u>

(a) (i) General English
(ii) General Knowledge
(iii) Mathematics, Statistics - Degree Standard
(iv) Viva Voice

(b) Eligibility for candidature:-
Bachelor Degree in Science with Mathematics or Statistics.

<u>For Botanical Assistant</u>

(a) (i) General English
(ii) General Knowledge
(iii) Botany- Degree Standard
(iv) Viva Voice

(b) Eligibility for candidature:-
Bachelor Degree in Biological Science preferable with Honours in Botany.

7. (a) Information Officer shall be directly recruited through competitive examination to be conducted by the Commission.
The examination shall be on the following subjects:-
(i) General English
(ii) General Knowledge
(iii) Vive Voice

(b) Eligibility for candidature:-

Bachelor Degree in Biological Science.

8. (a) Pharmacist shall be directly recruited on recommendation of the Committee. The candidate shall be tested through a viva voice examination.

(b) Pharmacist Diploma/ Certificate holder and registered with the Directorate of Health Service, Assam shall be qualified for becoming a candidate for the post of Pharmacist.

9. (a) Lady Welfare Officer shall be directly recruited on recommendation of the committee. The candidate shall be required to appear in a selection test on the following subject:

(a) General Knowledge.
(b) General English
(c) Viva-Voice

10. (a) Radio Technician shall be directly recruited on the recommendation of the committee. The candidates shall be required to appear in a Viva-Voice examination.

(b) For being eligible for the post, the candidate should have a Diploma/ Certificate in Radio Technology approved by the Director of Technical Education, Assam.

11. (a) 60% of the total strength in the cadre of subordinate engineers/draftsmen shall be directly recruited through a competitive examination conducted by the commission and subject for test shall be as indicated below. For the remaining 40% of posts to be filled up by promotion and the commission approval shall be taken by the Government.

The test shall comprise:-

(i) General English
(ii) Drawing
(iii) Menstruation
(iv) Viva-Voice

(b) Eligibility for candidature:

(i) General Qualification. HSLC or equivalent pass
(ii) Draftsman diploma holder of Government recognized institute.

12. (a) Mechanic cum Boilerman shall be directly recruited on recommendation of the committee.

The candidate shall be required to appear in Viva-Voice examination.

(b) Eligibility for candidature:

(i) General qualification, HSLC or equivalent pass

(ii) Certificate/Diploma holder in the trade from Government recognized institute.

13. (a) Forest Veterinary Supervisor shall be directly recruited on the recommendation of the committee. Candidate shall be required to appear in a Viva-Voice examination

(b) Eligibility for candidature:-

(i) General qualification: HSLC or equivalent pass

(ii) Diploma Certificate approved by the Directorate of Animal Husbandry

14. (a) Photographer shall be directly recruited on the recommendation of the committee. The candidates shall have to appear in a Viva-Voice examination

(b) Eligibility for candidature:

(i) General qualification: HSLC or equivalent pass

(ii) Certificate/diploma holder in Photography and Photo processing

15. Forest village School Teacher shall be recruited directly on the recommendation of the committee.

(a) The candidates shall be required to appear in the examination on the following subjects:

(i) General English and any one of the major Indian language

(ii) General Knowledge

(iii) General Mathematics of HSLC or equivalent standard

(iv) Viva-Voce

(b) Eligibility for candidature:

(i) Higher Secondary or equivalent pass

(ii) Teaching certificate holder

16. The cadre of Surveyor shall be required directly on the recommendation of the committee.

(a) The candidate shall be required to appear in the following

(i) Drawing

(ii) Menstruation

(iii) Viva-Voce

(b) Eligibility for candidature:

(i) General qualification: HSLC or equivalent pass

(ii) Certificate in Draftsman from a Government recognized institute.

17. (a) Cylinder Operator shall be directly recruited on the recommendation of the Committee. The candidate shall be required to appear in a Viva-Voce examination.

(b) Eligibility for candidate:

(i) HSLC or equivalent pass

(ii) Trade certificate from Government recognized institute

18. (a) PT Instructor shall be recruited directly on the recommendation from the committee. The candidate shall be required to appear in a Viva-Voce examination

(b) Eligibility for candidature:

(i) HSLC or equivalent pass

(ii) Certificate holder in PT and Game from Government recognized institute.

19. (a) The Cadre of Kiln Operator, Mechanic, Electrician, Cinema Operator, Plumber, Crane Operator, Driver both Heavy and Light Vehicles, Motor Launch Driver, Outboat Motor Driver, Motor Boat Driver, Motor Boat Mistry, Tracer, Fitter, Boiler Attendants, Carpenter, Pump Electric Mistry, Pump Engine Operator, Pump engine Driver shall be recruited directly on the recommendation of the committee. The candidate shall be required to appear in a Viva-Voce examination.

(b) Eligibility for candidature:

(i) General qualification: HSLC or equivalent pass

(ii) Technical qualification: Trade Certificate/Licence holder from recognized institution.

20. (a) The member in the grade of Gate fee collector, Herbarium Assistant, Laboratory Assistant, Record Keeper, Curator, Store Keeper shall be recruited directly on the recommendation of the Committee. The candidates shall be required to appear before the Committee for Viva-Voce examination.

(b) Eligibility for the post:

(i) General qualification: HSLC or equivalent pass

21. (a) The members of the category of Mahut, Elephant Sardar shall be directly recruited on the recommendation of the committee. The candidate shall have to appear for a Viva-Voce examination

(b) Eligibility for candidature:

(i) General qualification: Class VIII standard or equivalent

22. (a) The cadre of Forest Veterinary Field Assistant shall be directly recruited on the recommendation of the committee. The candidates shall be required to appear in a Viva-Voce examination.

(b) Eligibility for candidature:

(i) General qualification: HSLC or equivalent pass

(ii) Special qualification must be a certificate holder from the Director of Veterinary and Animal Husbandry

23 (a) The members belonging to the cadre of Welder, Electric Mistry, Sawmill Attendant, Animal Keeper, Gate Keeper, Laboratory Attendant, Handyman, Garden Watcher, Boat Man, Fire Watcher, Grass Cutter, Museum Peon, Blue Printer, Gate Chowkider, Mali, Plantation Mali, Cook, Khansama, Laboratory Bearer, Bearer, Paniwals, Water Carrier, Sweeper, Peon, IB Chowkider, Dak Runner, Dakwala, Dhobi, Barbar, Chainman, Jugali shall be directly recruited on the recommendation of the committee

(b) Eligibility for candidature for the category:

(i) For the posts of Welder, Electric Mistry, Sawmill Attendant, Handyman, Cook, Khansama, IB Chowkidar, Dhubi, Barber, Boatman. The General qualification shall be Class-VII passed or equivalent.

(ii) For the posts of Animal Keeper, Gate Keeper, Laboratory Attendant, Grass Cutter, Museum Peon, Gate Chowkider, Mali, Laboratory Bearer, Bearer, Paniwala, Water Carrier, Sweeper, Peon, Dak runner, Dakwala, Chainman, Jugali. The general qualification shall be Class-VIII passed or equivalent.

Age 8. A candidate for direct recruitment must be within the age limit of 18 to 25 years on the 1st day of the year in which the examination is held or recruitment of the post.

Qualification 9. No person shall be eligible for appointment to the service

(a) Unless he is a citizen of India; and

(b) If he has more than one wife living or in case of female candidates who has married a person who has one wife living.

Appointment 10 *(1)* Subject to the provision of sub-rule *(1)* of rule 7 appointments under rule 7 shall be made by the Appointing Authorities in accordance with the order of preference determined in the lists referred to in rules 6 & 7.

(2) Inclusion of the candidate's name in the list shall confer no right to Appointment unless the Appointing Authority is satisfied after such enquiry as prescribed by the Government from time to time and also as may be considered necessary that a candidate is suitable in all respects for appointment to the service.

Physical fitness

11. No candidate shall be appointed to a post in the Service he be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of his duties.

12. *(1)* Members selected as Forester-I, Forest Guard shall have to undergo training in the Assam Forest School and Assam Forest Guards Training School respectively, as an in service training and they shall not be eligible for confirmation in the category or class to which belong without completion of training successfully.

(2) For this, a panel of names shall ordinarily be prepared and notified every year, two months ahead from the date of commencement of the training by the Principal Chief Conservator of Forests.

(3) If any trainee fails in the final examination of the training course in the respective institute, he may be allowed 2 more changes to appear in the examination by the Principal Chief Conservator of Forests on the basis of the already undergone by the trainee. In case of failure in the training he shall forfeit all claims for future promotion.

(4) The employee who avoid to attend training after it is conferred to him shall be liable for disciplinary action.

Discharge/Reversion

13. A temporary or officiating members shall be liable to be discharge or reverted to the lower cadre or the service or to his original service, if -

(i) He/She fails to make sufficient use of the opportunities given during any training as may be prescribed by the Principal by the Principal Chief Conservator of Forests from time to time or fails to render satisfactory service during his tenure of service in the cadre an /or.

(ii) If is found on subsequent verification, that he was not initially qualified for the appointment or that he had furnished any incorrect information with regards to his appointment.

Reservation

14. In all cases of appointments by direct recruitment as well as by promotion, there shall be reservation in case of candidates covered under the Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1978 and rule framed thereunder. There shall be reservation for candidates belonging to Other Backward Classes as

per Government instruction contained in OM No.ABP.338/83/14, dated 04-09-1984 for direct recruitment only. General Orders in respect of reservation in favour of other categories of candidates as may be in force for the time being shall also be followed.

Probation & Confirmation

(1) Subject to availability of a permanent vacancy in the respective cadre, a member shall be placed accordingly to seniority on promotion against the permanent vacancy for a period of two years (i.e. Probation Period) before he is confirmed against the permanent vacancy.

Provided that the period of probation may for good and sufficient reasons be extended by the Appointing Authority for any specified period not exceeding a period of two years;

Provided further that the period of probation may be curtailed or dispensed with in any case for good and sufficient reasons by the Appointing Authority.

(2) A member of the service placed on probation under sub-rule *(1)* shall be confirmed against the permanent vacancy subject to the following conditions:

(a) He has completed the period of probation to the satisfaction of the Appointing Authority in accordance with sub-rule *(1)*

(b) He has successfully undergone the training and he passed the departmental examination if any, prescribed by the Principal Chief Conservator of Forests under rule 12.

(3) If confirmation of a member is delayed on account of his failure to qualify for such confirmation, he shall loose his position in order of seniority vis-à-vis such of his junior as might be confirmed earlier than him. His seniority shall however be restored on his confirmation subsequently.

Other condition of service

16. *(1)* Except as provided in these rules all matters relating to pay and allowances, leaves, pension, discipline and other conditions of services shall be regulated by the general rules and/or orders of the Government for the time being in force.

(2) The conditions of services of the members, in respect of matter for which no provisions has been made in these rules shall be the same, as are for the time

being, applicable to other officers of the Government of the corresponding status and having similar functions.

Seniority 17. *(1)* Inter-se-seniority of the direct recruits will be on the basis of their position in the Select List prepared by the Committee.

(2) A members appointed by promotion shall be senior to a member appointed by direct recruitment within the same calendar year. The inter-se-seniority amongst the promotes shall be maintained as per their seniority in the grade from which they get promoted.

Confirmation 18. A member appointed under these rules shall be eligible for confirmation in the service only after successful completion of the training prescribed for the respective grades and shall be confirmed only if he is considered otherwise fit by the Appointing Authority.

Provided that where he is not given opportunity to undergo the prescribed training, his confirmation shall not be held up, but he shall when called upon by the Appointing Authority to undergo the said training and fails to undergo the training, he shall forfeit his claims for future promotion.

Pay 19. (i) All appointment in the service under these rules shall be made in the time scale of pay prescribed for various grades by the Government from time to time. The Scale of pay of the posts in the cadres of the service, on the date of commencement of these rules are shown in Schedule-II.

(ii) The Forester and Forest Guards who passed out successfully from respective training schools shall be entitled to one additional advance increment.

Mode of Employment 20. *(1)* Members of the service shall be employed in such manner as the authority may decide.

(2) A member of the service shall be liable to be posted anywhere within the State of Assam or outside Assam or to any other department of the Government, a body corporate, in the affairs of which the Government may be substantially interested or an autonomous district council, if so required in the interest of public service.

(3) Transfer and posting of the members of service shall be made as under:-

(i) Chief Conservator of Forests within the wing.

(ii) Conservator of Forests within Circle.
(iii) Divisional Forest Officer within Division
(iv) Notwithstanding anything contained in this rule, Principal Chief Conservator of Forests, Assam can pass order for transfer and posting of all members of service in any wing or place as may be deemed necessary in the interest of public service.

Uniform

21. (a) All grades of employees detailed in Schedule-III shall be provided with uniform in the form of two sets of summer uniform and two sets of winter uniforms. The details of specifications of uniform of each grade are given in the Schedule-III.

(b) Members of service shall be provided with the following additional sets of uniforms as prescribed for training during the training period.
(i) Two sets of dress for physical training
(ii) One pair of black pant and full sleeved shirt made of tricot for using in outings.
(iii) One green blazer with necktie
(iv) One set of canvas shoe with white socks for PT and games.

(c) (i) In the event of non supply of uniform as per rule 21 (a) by the Government the members entitled for free uniform shall be provided with kit allowance at par with other services of equivalent status.
(ii) Kit maintenance allowance will be paid to all members of the services as per recommendation for the Commission at par with other services of equivalent status.

Relaxation

22. Where the Principal Chief Conservator of Forest is satisfied that the operation of any of these rules causes undue hardship in any particular case, he may, after due enquiry and for reasons duly recorded, dispense with or relax the requirement of that rule to such extent and subject to such conditions as may be considered necessary for dealing with the case in a just and equitable manner.

Provided that the case of any person shall not be dealt with in any manner less favourable to him than provided in these rules.

Interpretation

23. In case of any question relating to interpretation of these rules, the decision of the Government shall be final.

Appeal

24. The rules, corresponding to these rules and in force

immediately before the commencement of these rules are hereby repeated.

Provided that all orders made or action taken under the rules so repealed or under any general order ancillary thereto shall be deemed to have been validly made or taken under the corresponding provisions of these rules.

SCHEDULE – I

[Rule. 3(3)]

LIST OF POSTS EQUIVALENT TO AND INCLUDED IN THE CADRE OF SERVICE

Sl. No.	Name of Cadres	Name of posts equivalent to and included in the Cadre
1.	Deputy Ranger	Game keeper
2.	Forester Grade-I	Assistant Instructor of Forest School
	Forester Grade-II	Head Game Watcher
3.	Forest Guard	1. Game Watcher 2. Patrolling Depot Guard 3. Anti-poaching Guard

SCHEDULE – II

(RULES – 4 AND – 18)
STATEMENT OF EACH OF THE CADRE OF THE SERVICE AND THE TIME SCALE OF PAY

Category of posts	Time scale of pay	No. of posts		Total
		Permanent	Temporary	
(a) Category –I				
(1) Foreman	Rs.3580-90-4480-220-4720-EB-120-5200-175-6600-250-8100-325-8750/- pm	1	--	1
(2) Junior Engineer	-Do-	--	3	3
(3) Overseer	-Do-	1	--	1
(4) Subordinate Engineer	Rs.3370-60-3490-90-4390-EB-90-4480-120-5200-175-6600-250-7100/- pm	--	1	1
(5) Deputy Ranger	Rs.3130-60-3490-90-4030-EB-90-4480-120-5200-175-6600/- pm	123	377	500
(6) Game Keeper	-Do-	5	--	--

Category of posts	Time scale of pay	No. of posts		Total
		Permanent	Temporary	
(b) Category – II				
(7) Research Assistant	Rs.3760-90-4480-120-4980-EB-120-5200-175-6600-250-8100-325-9400/- pm	3	--	3
(8) Silviculture Assistant	Rs.3580-90-4480-120-4720-EB-120-5200-175-6600-250-8100-325-8750/- pm	1	--	1
(9) Botanical Assistant	-Do-	1	--	1
(10) Technical Assistant	-Do-	1	--	1
(11) Information Officer	-Do-	--	1	1
(12) Lady Welfare Officer	Rs.3490-90-1130-120-4600-EB-120-5200-175-6600-250-8100/- pm	1	--	1
(13) Pharmacist	Rs.3010-60-3490-90-3850-EB-90-4430-120-5200-175-6075/- pm	2	--	2
(14) Draftsman	Rs.3370-60-3490-90-1390-EB-90-4480-120-5200-175-6600-250-7100/- pm	31	14	44
(15) Radio Technician	-Do-	--	1	1
(16) Mechanic cum Boilerman	Rs.3130-60-3490-90-4030-EB-90-4480-120-5200-175-6600/- pm	1	--	1
(17)Forest Veterinary/ Supervisor/ Field	-Do-	1	--	1
(18) Photographer	-Do-	1	--	1
(19) Forest village School Teacher	-Do-	2	--	2
(20) Surveyor	Rs.3010-60-3490-90-3850-EB-90-4430-120-5200-175-6075/- pm	37	15	52
(21) Cylinder Operator	-Do-	2	--	2
(22) P.T. Instructor	-Do-	2	--	2
(23) Tracer	Rs.2890-60-3490-90-3670-EB-90-4480-120-5200-175-5725/- pm	3	--	3
Category - III				
(24) Electrician	Rs.3010-60-3490-90-3850-EB-90-4430-120-5200-175-6075/- pm	--	1	1
(25) Forester Grade-I	Rs.2890-60-3490-90-3670-EB-90-4480-120-5200-175-5725/- pm	979	1050	2029
(26) Assistant Instructor of Forest School	-Do-	1	--	1
(27) Kiln Operator	-Do-	3	--	3
(28) Mechanic	-Do-	2	--	2
(29) Store Keeper	Rs.2890-60-3490-90-3670-EB-90-4480-120-5200-175-5725/- pm	2	1	3
(30) Forest Veterinary Field Assistant	-Do-	1	--	1
(31) Herbarium Assistant	Rs.2890-60-3490-90-3670-EB-90-4480-120-5200-175-5725/- pm	2	3	5
(32) Record Keeper	-Do-	2	3	5
(33) Cinema Operator	-Do-	2	8	10
(34) Curator	-Do-	1	--	1
(35) Plumber	-Do-	1	1	2

Category of posts	Time scale of pay	No. of posts		Total
		Permanent	Temporary	
(36) Laboratory Assistant	-Do-	2	--	2
(37) Crane Operator	-Do-	--	1	1
(38) Driver of heavy vehicles i.e. Tractor, Truck, Bus etc	-Do-	6	15	21
(39) Forester Gr-II, Head Game Watcher	Rs.2650-40-2770-60-3310-EB-60-3490-90-4480-120-5200/- pm	224	207	431
(40) Fitter	-Do-	2	--	2
(41) Carpenter	Rs.2650-40-2770-60-3310-EB-60-3490-90-4480-120-5200/- pm	1	--	1
(42) Boiler Attendant	-Do-	5	--	5
(43) Water pump, Electric Mistry	-Do-	--	1	1
(44) Garden Supervisor	-Do-	1	--	1
(45) Gate fee Collector	-Do-	3	--	3
(46) Motor Lunch Driver/Out Boat Motor Driver	-Do-	3	2	4
(47) Motor Boat Driver	-Do-	1	--	1
(48) Motor Boat Mistry	-Do-	--	1	1
(49) Jamadar Mahut	-Do-	1	--	1
(50) Driver of light vehicle	-Do-	83	129	210
(51) Forest Guard/ Game Watcher of all categories i.e. (Patrolling Depot, Anti poaching)	Rs.2610-40-2770-60-3250-EB-60-3490-120-4840/- pm	1742	5758	7500
(52) Pump Engine Driver	-Do-	1	--	1
(53) Pump Engine Operator	-Do-	1	--	1
(54) Mahut	-Do-	1	--	1
(d) Category – IV				
(56) Welder	Rs.2530-40-2770-60-3130-EB-60-3490-90-4390/- pm		--	1
(57) Electric Mistry	-Do-	1	--	1
(58) Head Animal Keeper	-Do-	5	--	5
(59) Assistant Garden Supervisor	-Do-	1	--	1
(60) Sawmill attendant	Rs.2490-40-2270-60-3070-EB-60-3490-90-4130/- pm	1	--	1
(61) Animal Keeper	-Do-	20	2	22
(62) Gate Keeper	-Do-	7	--	7
(63) Laboratory Attendant	-Do-	4	--	4
(64) Handyman	-Do-	--	1	1
(65) Garden Watcher	Rs.2450-40-2770-EB-60-3490-90-3670/- pm	1	--	1
(66) Boatman	-Do-	91	82	173
(67) Fire Watcher	-Do-	--	26	26
(68) Grass cutter	-Do-	60	28	88
(69) Museum Peon	-Do-	1	--	1
(70) Blue Printer	Rs.2450-40-2770-EB-60-3490-90-3670/- pm	1	--	1
(71) Gate Chowkidar	-Do-	--	1	1

Category of posts	Time scale of pay	No. of posts		Total
		Permanent	Temporary	
(72) Mali/Plantation Mali	-Do-	214	407	621
(73) Cook	-Do-	9	20	29
(74) Khansama	-Do-	3	--	3
(75) Laboratory Bearer	-Do-	1	--	1
(76) Bearer	-Do-	--	1	1
(77) Paniwala/ Water carrier	-Do-	4	1	5
(78) Sweeper	-Do-	53	55	108
(79) Peon	-Do-	186	102	288
(80) Chowkider/ Chowkider I.B. (Night/Day)	-Do-	235	108	343
(81) Dak Runner (Dakwala)	-Do-	4	9	13
(82) Chainman	-Do-	16	9	25

N.B.: Special Pay Granted at present level is given in **ANNEXURE-I**

ANNEXURE – I

Special pay for members posted in Wildlife Sanctuaries, Biosphere Reserve, National Park, Territroial Division, Forest Resources and Survey Divisions, Silviculture Division and any other specific branch of forestry that may be notified from time to time.

1.	Deputy Ranger/Game Keeper	Rs.75.00 per month
2. (i)	Forester Grade-I	Rs.50.00 per month
(ii)	Forester Grade-II, Head Game Watcher	Rs.45.00 per month
3.	Forest Guard/Game Watcher	Rs.40.00 per month
4.	Mahut, Out Boat Driver, Boat man	Rs.30.00 per month

Disturbed Area Allowance

Disturbed Area Allowance upto the rank of Deputy Ranger posted in Reserved Forests declared as disturbed area will be admissible at the following rates:

1. Grade-IV Forest Staff - Rs.30.00 per month

2. Grade-III Forest staff upto the level of Deputy Ranger – Rs. 50.00 per month

SCHEDULE – III

(Rule – 20)

Uniform prescribed for different categories of staff

I. Deputy Ranger/Game Keeper:

2 stars on shoulder with red and green ribbon, AF shoulder badge, barret cap with AF badge on normal duty, P/cap and brown leather cross belt with A.F. monogram on the buckles, green whistle cord, brown boot/show. Name plates on the right chest for all ranks to be put on. The material of dress shall be khaki terricotton cloth for summer and Khaki flannel for winter uniform with overcoat (tweed).

II. (a) Forester Grade-I/Assistant Instructor of Forest School:

One star on shoulder with AF shoulder badge, with green ribbon barret cap with AF badge on normal duty and P/cap and brown leather cross belt with AF monogram on the buckles, Brown boots. Material of dress is Khaki terricotton cloth for summer and khaki flannel for winter uniform.

(b) Forester Grade-II/Head Game Watcher:

Same as Forester Grade-I's dress without star.

III. Forest Guard / Game Watcher:

AF shoulder badge, flannel barest cap with AF badge, brown waist belt with AF monograms Khukri with leather sheets, hunter boots, Material of dress snail be khaki terricotton for summer, Khaki Woolen pull over for winter. A whistle and green lineyard.

IV. Drivers:

Same as forester's dress without belt and stars

V. Malis/Boat man:

Khaki drill uniform shirt and half pant on summer and trousers in winter.

(B. B. HAGJER)
Commissioner & Secretary to the Government of Assam
Environment and Forest Department

The ASSAM JUNIOR FOREST SERVICE (AMENDMENT) RULES, 2015

GOVERNMENT OF ASSAM
ENVIRONMENT AND FORESTS DEPARTMENT
DISPUR, GUWAHATI

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 16th June, 2016

No.FRE.54/2013/50: In exercise of the powers conferred by the provision ot the Article 309 of the Constitution of India, the Governor of Assam is hereby pleased to make the following Rules further to Amend the Assam Junior Forest Service Rules, 2006 hereinafter referred to as the principal Rules, namely:

Short title and commencement

1. *(1)* These rules may be called as the Assam Junior Forest Service (Amendment) Rules, 2015.

(2) They shall come into force on the date of Publication in the Official Gazette.

Amendment of Rule 7

2. In this Principal Rules in rule 7:

(i) The sub rule (2) in clause (d) for existing sub-clause (i) the following shall be substituted, namely:

i. Bachelors degree in any discipline from a recognized University or equivalent.

(ii) In sub rule (4), in clause (c) in sun-clause (iv) for the existing paragraph (aa) the following shall be substituted, namely:
"(aa) passed Higher Secondary (10 + 2) or equivalent examination from a recognized Board/ Council'.

By order on behalf of the Governor of Assam

Sd/- S. Kiumar, IAS
Principal Secretary to the Government of Assam

Elephant as National Heritage Animal of India

(GAZETTE NOTIFICATION TO BE PUBLISHED IN THE GAZETTE OF INDIA EXTRA ORDINARY)

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS

Paryavaran Bhawan
CGO Complex, Lodi Road
New Delhi – 110 003
Dated 21-10-2010

NOTIFICATION

F. No.1-35/2010-PE (.) In pursuance to the recommendation made by the Task Force on Project Elephant and approval by the Standing Committee of the National Board for Wildlife (NBWL) in its meeting held on 13th October, 2010, Government of India hereby declares Elephant as National Heritage Animal of India.

(A. N. PRASAD)
Inspector General of Forests and
Director (Project Elephant)

Declaration of National Forest Martyrs Day

F. NO.17-20/2008-RT
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS
(RT DIVISION)

Paryavaran Bhavan
CGO Complex, Lodhi Road
New Delhi – 110 510
Dated 07-05-2013

NOTIFICATION

Sub: Declaration of National Forest Martyrs Day.

In recognition of the exemplary valour and sacrifices made by the Forest Personnels in various parts of the country for protection of the forests and wildlife, the Ministry of Environment and Forests, Government of India hereby declares September 11 as the National Forest Martyrs Day.

(Dr. D. K. Sharma)
Deputy Inspector General of Forests (RT)

Immunity from Prosecution without Prior Sanction u/s 197 of CrPC

GOVERNMENT OF ASSAM
ENVIRONMENT AND FORESTS DEPARTMENT
DISPUR, GUWAHATI
ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 14th July, 2010

No.FRW.22/2009/5: Whereas the Government of Assam, being conscious of the vulnerability of Forest land and Forest based resources in forest area as well as wildlife in Protected and Reserved Forest areas of the state to mounting threats to their conservation, protection and existence have decided to arm forest personnel of the State with fire arms. And whereas, the Government of Assam is aware that the use of fire arms in discharge of their mandated duty and responsibility, may expose forest personnel to vexatious criminal proceedings and that there is need to provide them immunity from prosecution without prior sanction.

Now, therefore, in exercise of the power and conferred by sub section (3) of section 197 of the Code of Criminal Procedure, 1973 (2 of 1974) and all other powers enabling him in that behalf, the Governor of Assam is hereby pleased to direct that:-

(a) the provisions, as envisaged in sub section (2) of section 197 of said Code shall apply to all forest officers including Game Watchers, Forest Guards, Foresters, Forest Rangers, Assistant Conservator of Forests, Deputy Conservators of Forest, Divisional Forest Officers, Conservators of Forests, Chief Conservators of Forests, Principal Chief Conservators of Forests, Members and Supervisory Officers of Assam Forest Protection Force in the State of Assam and who are charged with maintenance of public order relating to forest and wildlife protection, conservation and management.

(b) Wherever firing is resorted to by any personnel mentioned in Clause (a) above, each such incident shall be enquired into by an Executive Magistrate of the locality, and any proceeding including institution of a criminal case of any nature or effecting an arrest can be initiated by the Police, only if, it is held, as a result of the Magisterial Enquiry that use of firearms has been unnecessary, unwarranted and excessive and such report has been examined and accepted by the Government.

SD/- B. B. HAGJER, IAS
Commissioner & Secretary
Environment and Forests Department

Change of Nomenclature of LDA/ UDA

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL::: PERSONNEL (B) DISPUR
GUWAHATI

No.ABP.59/2000/54 Dated Dispur, the 23rd June, 2006.

OFFICE MEMORANDUM

Sub: Changing the existing nomenclature of L.D. Assistants and U.D. Assistants as Junior Assistant and Senior Assistant in the District officers.

State Government have been considering for quite sometime past of changing the nomenclature of L.D. Assistant and U.D. Assistant of all the State Government offices through out the State. As a part of that State Government have already changed the nomenclature of L.D. Assistant and U.D. Assistant to that of Junior Assistant and Senior Assistant respectively vide Notification No.ABP.141/97/78, dated 17-02-1999 for the District offices i.e. offices of the Deputy Commissioner, S.D.O., Circle Offices and Block Development Offices which are under the purview of Assam Ministerial District Establishment Service Rules, 1967. The State Government have also changed the nomenclature of L.D. Assistant and U.D. Assistant to that of Junior Assistant and Senior Assistant respectively of the offices of Heads of Department by way of amendment of Rule vide Notification No.ABP.59/2000/51, dated 18-01-2006.

Accordingly, the State Government have decided to change the nomenclature of L.D. Assistant and U.D. Assistant serving in remaining other District Offices also as Junior Assistant and Senior Assistant respectively.

Hence, the nomenclature of L.D. Assistant and U.D. Assistant of the other District offices are hereby changed as Junior Assistant and Senior Assistant respectively with immediate effect.

This may be brought to the notice of all concerned.

Sd/- D. N. Saikia
Commissioner & Secretary to the Government of Assam
Personnel (B) Department

Guidelines for reporting violation of Forest (Conservation) Act

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS
NORTH EASTERN REGIONAL OFFICE

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To

Principal Secretary
Department of Forests
Government of Assam/ Arunachal Pradesh/ Manipur/ Meghalaya/ Mizoram/ Tripura / Nagaland/ Sikkim

Sub: Guidelines for reporting violation of Forest (Conservation) Act.

Sir,

It has been observed that whenever cases of contravention/violation of Forest (Conservation) Act are received from the State Government authorities, it is not reported in a detailed and proper way. The reports obtained are very inadequate and sketchy. Based on such reports, disposing cases of violation under Forest (Conservation) Act remains difficult and lodging a complaint is not worth.

Vide guidelines 5-5/86-FC, dated December 7, 1999, Ministry of Environment and Forests has clarified the position with respect to dealing with the cases of violation. A copy of the said guideline is again made available to you for your needful and reporting each cases of violation on the line of instructions contained in the letter. To make it even more clearer, following details about the violation should accompany the report:

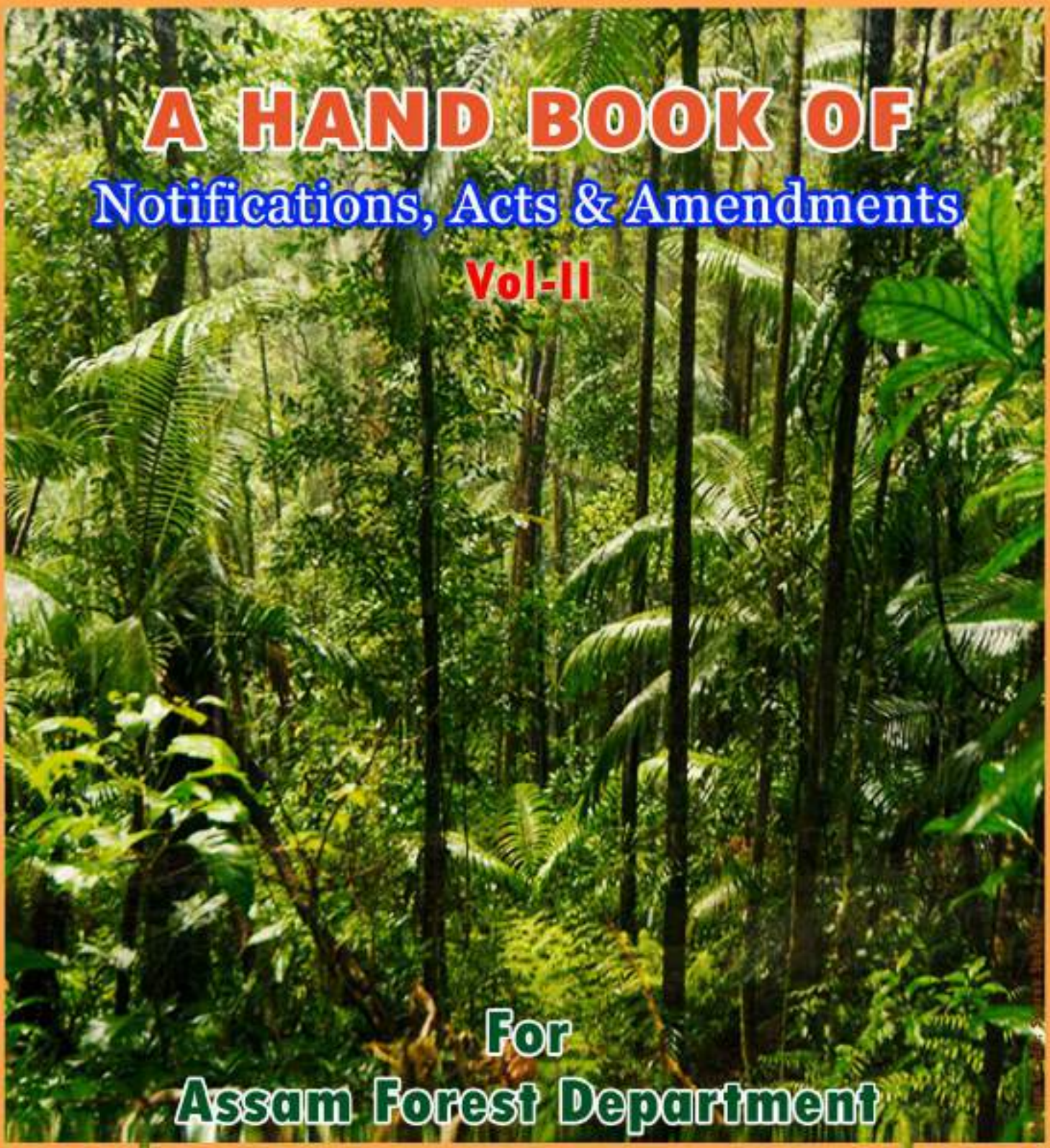
- Describe nature of offence and its extent.
- Name of circle, district, division, range, forest block, compartment number (enclose certified copies of the Gazette notification issued under section 4, 20, 28 or 29/ blanket notification along with khasra statement of relevant period).
- Other details of RF/PF/unclassed forests/revenue forests/private forests/area defined as forests under dictionary meaning/any area recorded as forests in any Government records.
- Area affected due to violation, photographs, video films etc.

- Number, species and girth class wise details of trees felled, out turn, present market value, value of standing growth and potential revenue from MFP.
- Environmental loss, loss of soil expectation value, value of standing growth and potential revenue from MFP.
- Date of detection of offence.
- POR/ FIR number.
- Section number, act(s), rule number and rule(s) violated.
- Order number responsible for violation (including deemed violation).
- Issuing authority, name and designation of officer(s) who passed the order(s), present posting(s).
- Is violation still continuing?
- Toposheet of Survey of India (scale 1:50,000) and / or forest stock maps (scale 1:50,000) indicating location etc. with relevant details.
- Any threat, coercion, unnecessary interference brought on investigation officer (enclose documents, if any).

In almost all cases of violation of Forest (Conservation) Act, 1980, Indian Forest Act, 1927 (sections 5, 26, 28, 29, 30, 32, 33, 41, 52, 253, 63, 79 & 81) are also violated. The competent forest officer of the State Government should straightway investigate the matter and put up challan in the Court of Judicial Magistrate 1st Class and take all necessary actions as required by the local act/rules. The guidelines annexed with this letter also emphasizes the same thing and make it clear that Section 2 of Forest (Conservation) Act, 1980 applies to cases where the State Government or any authority passes any order permitting activities concerned by item No. (i) to (iv) of section 2 without prior approval of Government of India.

Cases of illicit felling and encroachment of illegal mining, road construction or similarly any other non-forestry uses may be dealt at once by the State Government authority under the provision of Indian Forest Act, 1927 / State Forest Act/ Environment (Protection) Act, 1986. It may be borne in mind that the responsibilities of effective implementation of the Acts vested with the State Government mandate of F(C) Act is confined to tackle violations made by Government department and authorities

(B. N. Jha)
Chief Conservator of Forests (Central)



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For Assam Forest Department

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