

ORISSA ACT VIII OF 1947
THE ORISSA PRESERVATION OF PRIVATE
FORESTS ACT, 1947

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 March 1947]

AN ACT FOR PRESERVATION OF PRIVATE FORESTS IN THE
 PROVINCE OF ORISSA

WHEREAS it is expedient to provide for the preservation of private forests and to prevent their indiscriminate destruction, in the Province of Orissa;

It is hereby enacted as follows:—

Short title,
 extent,
 commence-
 ment and
 duration.

1. (1) This Act may be called the Orissa Preservation of Private Forests Act 1947.

(2) It extends to the whole of the Province of Orissa. *

(3) It shall come into force at once.

(4) It shall cease to have effect on the expiration of a period of five years except as respects things done or omitted to be done before the expiration thereof and section 5 of the Orissa General Clauses Act, 1937, shall apply upon the expiry of this Act as if it had then been repealed by an Orissa Act.

Orissa Act
 I of 1937.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(a) "forest" includes communal land containing trees and shrubs, land used for pasture and any class of land declared to be a forest by notification of the Provincial Government but does not include—

(i) a reserved forest constituted under the provisions of the Madras Forest Act, 1882;

Madras Act
 V of 1882.

(ii) reserved and protected forests constituted or a forest placed under protection at the request of owners, under the provisions of the Indian Forest Act, 1927;

XVI of 1927

Explanation—For the purposes of this clause, "communal land" means any land of the description mentioned in sub-clause (a) or sub-clause (b) of clause (16) of section 3 of the Madras Estates Land Act, 1908;

Madras Act
 of 1908.

(b) "owner" in relation to a forest includes a mortgagee, lessee or other person having right to possess on and enjoyment of the forest;

(c) "forest-produce" has the meaning assigned to that expression in section 2 of the Madras Forest Act, 1882, or in clause (4) of section 2 of the Indian Forest Act, 1927, as the case may be.

Madras Act
 V of 1882.

XVI of 1927

* Extended to the partially-excluded areas with modification by notification No. 4236-R., dated the 7th June 1947 (Vide *Orissa Gazette*, dated the 13th June 1947, Part III, page 185).

Preservation of private forests. 3. (1) (a) No owner of any forest shall, without the previous sanction of the Provincial Government or any officer authorised by them in this behalf sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.

Explanation—Nothing in this clause shall be construed as preventing the owner from selling or otherwise dealing with the right to gather and remove forest-produce other than trees and timber in the usual or customary manner.

(b) Any alienation made in contravention of clause (a) shall be null and void.

(2) No owner of any forest or any person claiming under him, whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of this Act, shall, without the previous permission of the Provincial Government or any officer authorised by them in this behalf, cut trees or do any act likely to denude the forest or diminish its utility as a forest:

Provided that nothing in this sub-section shall apply to the removal of dead or fallen trees or to any act done for the usual or customary domestic purposes or for making agricultural implements.

(3) The permission referred to in sub-section (2) may be granted either in any particular case or generally with reference to a specified forest or in respect of a class of trees therein.

(4) If, in the opinion of the Provincial Government, it is necessary for the preservation of a forest they may, by notification, prohibit or regulate the doing of any act likely to be detrimental to the preservation of such forest.

Appeals. 4. Any person aggrieved by an order under clause (a) of sub-section (1) of section 3 or under sub-section (2) of that section made by an officer authorised by the Provincial Government in this behalf, in regard to the sanction or permission referred to in that clause or sub-section, may, within two months of the receipt of such order, prefer an appeal to the Revenue Commissioner, or any other officer specially empowered by the Provincial Government in this behalf. That officer shall pass such orders on the appeal as he may think fit.

Penalties. 5. (1) Whoever contravenes the provisions of sub-section (1) or sub-section (2) of section 3 or any of the terms of a notification under sub-section (4) of that section shall be punishable for the first offence with fine which may extend to two thousand rupees and for a second or subsequent offence with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class, specially empowered by the Provincial Government in this behalf, to impose a fine exceeding one thousand rupees. V of 1898.

Bar of suits. 6. No order made under this Act either by the Provincial Government or by an officer authorised by them, and no notification issued by the Provincial Government under sub-section (4) of section 3 shall be called in question in any Court of law.

Power to
make rules.

7. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the classes or kinds of trees which may be permitted to be cut and the girth of such trees;
- (b) the terms and conditions subject to which permissions may be granted;
- (c) the procedure to be followed before granting permissions.

Repeal and
savings.

8. (1) The Orissa Preservation of Private Forests Ordinance, 1946 is hereby repealed.

(2) Any sanction or permission given, or any notification issued and anything done under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be given, issued, and done under the corresponding provisions of this Act.

Power to
remove
difficulties.

9. If any difficulty arises in given effect to the provisions of this Act, the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.