

# **The Forests Act, 2019 (2076)**

## **Date of Authentication**

14 October 2019 (2076.06.27)

Act No. 12 of the year 2019 (2076)

## **An Act Made to Amend and Consolidate Law Relating to Forests**

### **Preamble:**

Whereas, it is expedient to amend and consolidate the prevailing laws on forests in order to manage the national forests as the Government managed forest, forest protection zone, community forest, partnership forest, lease-hold forest and religious forest and to make contribution to national prosperity by protecting, promoting and utilizing the wildlife, environment, watersheds and bio-diversity, while promoting the private, public and urban forests;

Now, therefore, the Federal Parliament has made this Act.

## **Chapter-1**

### **Preliminary**

**1. Short title and commencement:** (1) This Act may be cited as the "Forests Act, 2019 (2076).

(2) This Act shall commence on the eighth day of the date on which it is authenticated.

**2. Definitions:** Unless the subject or the context otherwise requires, in this Act:

- (a) “Trophy” means the living or dead body of a wildlife or any organ of its body which is in an identifiable condition, and this term also includes any substance of the body of a wildlife or any product prepared from mixture of such substance.
- (b) “Inter-Provincial forest” means a national forest which is situated in, geographically and naturally linked with and, from the point of view of the ecological system, interrelated with, more than one Provinces.
- (c) "Users' group" means an users' group formed pursuant to Section 31 for the promotion, conservation, management and utilization of the forest.
- (d) ‘Leasehold forest" means the national forest to be managed pursuant to Section 26.
- (e) “Non-forest products” means any product of biological origin including a herb and wildlife or trophy of a wildlife, except timber or woods produced from the trees lying or originated in the forest or lying outside the forest.
- (f) "Marking" means any seal, sign or symbol to be affixed on any timber or standing tree.
- (g) “Division Forest Office” means the Division Forest Office under the Provincial Government.

- (h) “Divisional Forest Officer” means the chief of Division Forest Office who is assigned by the Government of Nepal under the prevailing law.
- (i) "Prescribed" or "as prescribed" means prescribed or as prescribed in the rules framed under this Act.
- (j) “Religious forest” means the national forest handed over pursuant to Section 28.
- (k) "Private Forest" means a forest planted and nurtured or conserved in any private land owned by any person pursuant to the prevailing law.
- (l) “Province Forest Director” means the chief of the Province Forest Directorate.
- (m) “National forest within Province” means a national forest within the concerned Province which is different than an inter-Provincial forest.
- (n) “Provincial Ministry” means the Ministry of the Provincial Government which is responsible for forest-related matters.
- (o) "Ministry" means the Ministry of Forest and Environment of the Government of Nepal.
- (p) “National forest” means a forest managed by the Government, forest conservation area, community forest, partnership forest, religious forest, lease-hold

forest, national forest within Province or inter-Provincial forest.

- (q) “Forest” means an area fully or partly covered by trees or plants (*Buttyan*).
- (r) "Forest products" means the following products which are contained or found in or brought from the forest:
  - (a) Timber products,
  - (b) Non-timber forest products, or
  - (c) Boulder, soil, river and mineral substance.
- (s) “Forest conservation area” means the forest conservation area declared pursuant to Section 15.
- (t) “Forest boundary mark” means a pillar or signboard made of timber, stone, cement or any other material installed for the demarcation of the national forest boundaries, and this term also includes the forest boundary mark indicated in the maps prepared by surveying and measuring the lands pursuant to the prevailing laws.
- (u) “Forest management system” means the system followed for the management of national forest.
- (v) "Forest area" means any grass field, pasture land, naked hill whether or not covered with snow, road, pond, lake, stream, wetland, river, rivulets, riverine land, barren or area covered by uncultivated land, which is surrounded

by, or situated within, the forest, whether not marked with the forest boundary, other than that which is subject to private ownership, right and possession, and that with respect to which otherwise is provided by the prevailing laws.

- (w) “Environmental examination” means the brief environmental study, initial environmental examination and environmental impact assessment to be carried out pursuant to the prevailing laws.
- (x) “Environmental services” the following services obtainable from the ecological system of the forest area and benefits derived therefrom:
  - (1) Carbon service,
  - (2) Protection of bio-diversity,
  - (3) Watershed and water-cycle system,
  - (4) Eco-tourism
  - (5) Such other products, services and benefits as prescribed.
- (y) "Department" means the Department of Forest and Soil Conservation under the Ministry.
- (z) “Government managed forest” means the forest managed by the Government pursuant to Section 14.

- (aa) “Armed forest guards” means armed forest guards holding various posts of the armed forest guard service constituted pursuant to Section 46.
- (ab) “Partnership forest” means the national forest to be managed in partnership between the Division Forest Office, Local Level and forest users pursuant to Section 23.
- (ac) “Community forest” means the national forest transferred to the users’ group pursuant to Section 18.
- (ad) “Local Level” means the Rural Municipality or Municipality.

## **Chapter-2**

### **Provisions Relating to Land Ownership, Land Use and Demarcation of Boundaries of National Forest**

- 3. Land ownership of national forest:** (1) Land ownership of the national forest shall be vested in the Government of Nepal.
- (2) No land-use of the national forest area may be changed, possessory right of the national forest may be provided to any one or right in the national forest may be transferred by way of mortgage, exchange or otherwise, except with the decision by the Government of Nepal, Council of Ministers.
- (3) Other provisions relating to the change in the land-use of the forest area and provision of its possessory rights shall be as prescribed.

**4. Demarcation of boundaries of national forest:** The Government of Nepal shall demarcate the boundaries of the national forest and inter-Provincial forest.

**5. Power to acquire land:** (1) While demarcating the boundaries of the national forest, the Government of Nepal may, if so required for the protection of such forest, so demarcate by incorporating into the forest boundaries any such public land or private land belonging to any person and any building, hut, shed and other physical structures as well, constructed in such land that is within or adjoining the national forest.

(2) The private land belonging to any person and any building, hut, shed and other physical structures as well constructed in that land having been incorporated into the forest boundaries pursuant to sub-section (1) shall be acquired in accordance with the prevailing law on land acquisition and compensation or damages thereof shall be provided.

(3) Other provisions relating to the acquisition of the land incorporated into the forest boundaries shall be as per the prevailing law on land acquisition.

**6. Removal of entries of private land from records:** (1) In case the private land of any person which is incorporated into the national forest is acquired and compensation or damages has been determined pursuant to this Chapter, the Divisional Forest Officer shall send a request, setting out the area, plot number of that land and the details

relating to its boundaries to the Land Revenue Office and concerned Local Level for removal of its entries from the records.

(2) If it is so requested pursuant to sub-section (1), the Land Revenue Office shall remove the entry of the land revenue of that land and the concerned Local Level shall remove the entry of tax levied on that land from the records and shall give information thereof to the Divisional Forest Office.

(3) The Division Forest Office shall forward the details of removal from the records pursuant to sub-section (2) to the Ministry and Provincial Ministry.

**7. Land not to be registered:** (1) No person shall register, or cause to be registered, land within the national forest.

(2) If any person has got registered the land within the national forest, such land cannot be claimed simply by virtue of such registration, and such registration shall be deemed to have become *ipso facto* void.

(3) In case any person had registered any part of the national forest in an illegal manner prior to the commencement of this Act, such registration shall also *ipso facto* be void after the commencement of this Act.

(4) The Division Forest Officer shall immediately send a request to the Land Revenue Office for removal of entries of the land of which registration is voided pursuant to sub-sections (2) and (3) from the records and to the concerned Local Level for removal of the entry of tax. If it is so requested, the Land Revenue Office shall



remove the entry of the land revenue of that land and the concerned Local Level shall remove the entry of tax levied on that land from the records within seven days and shall give information thereof to the Division Forest Office.

(5) The Division Forest Office shall forward the description of removal from the records pursuant to sub-section (4) to the Ministry and Provincial Ministry.

**8. No person to have any right in the national forest:** Except in cases where any right or facility has been obtained through a lease or permit or certificate or in any other way pursuant to this Act, no person shall have any kind of right or facility in the national forest.

**9. Power to prohibit entry into the forest area:** (1) If it is deemed necessary from the point of view of the protection of forest, the Division Forest Officer may, by publishing a public notice, prohibit entry into the whole or any part of the national forest for a certain time.

(2) In prohibiting the entry pursuant to sub-section (1), paths may be set aside upon demarcating the boundaries for the movement of persons, and the paths so set aside may be used subject to the conditions set forth in the notice published pursuant to sub-section (1).

(3) Notwithstanding anything contained in sub-section (2), no entry of any kind of domesticated quadruped may be made into the forest area in which entry is prohibited.

(4) In prohibiting the entry pursuant to sub-section (1), regulation of entry may be made as prescribed in the case of the project operators having obtained permission from the Government of Nepal.

**10. Power to enforce land-use plan of national forest:** The Government of Nepal may, in order to make sustainable protection and management of the forest and maintain the balance between the environment and development, enforce, or cause to be enforced, a land-use plan as prescribed in any specific forest area.

**11. Management of national forest:** (1) The Government of Nepal shall, in consultation with the Provincial Government, prepare an integrated or Province specific strategic plan for the management of the national forest within the Province and inter-Provincial forest.

(2) The Provincial Government may, subject to the strategic plan referred to in sub-section (1), make necessary provisions for the protection, development and utilization of the national forest within the Province and Inter-Provincial forest.

(3) The Division Forest Officer shall, subject to this Act, prepare a strategic plan of the national forest within his or her jurisdiction in a participatory manner, get it to be approved as prescribed and implement it.

(4) The Government of Nepal may manage any area within the national forest as a national project relating to forest.

**12. No settlement or re-settlement may be made within forest area:**

(1) No forest area containing trees shall be used for the settlement or re-settlement.

(2) In the case of the land in which settlement or re-settlement was made subject to the then prevailing law on forest, prior to the commencement of this Act, the trees lying since the provision of such land shall be under ownership of the Government of Nepal, and such trees shall be removed as prescribed.

**13. Management of wetlands:** (1) The Government of Nepal shall protect, conserve, promote and manage wetlands within the national forest.

(2) Ecological tourism development works may be carried out as prescribed in the wetlands referred to in sub-section (1).

### **Chapter-3**

#### **Provisions Relating to Government-Managed Forest**

**14. Management of Government-managed forest:** (1) The Divisional Forest Office may demarcate any part of the national forest and manage it as the Government-managed forest subject to the strategic plan approved by the Government of Nepal.

(2) Notwithstanding anything contained in sub-section (1), the other national forests except the forest conservation area, community forest, partnership forest, religious forest and leasehold forest shall be managed as the Government-managed forest.

(3) A work plan shall be got approved and enforced as prescribed for the management of the Government-managed forest.

(4) The Government of Nepal shall make the strategic plan of the inter-Provincial forest.

## **Chapter-4**

### **Provisions Relating to the Forest Protection Area**

**15. Forest protection area:** (1) The Ministry may, in consultation with the Provincial Ministry and by a notification in the Nepal Gazette, demarcate any part of the following national forest and the concerned land-scape area, make a special work plan and declare it as the forest protection area:

- (a) Which is of environmental, ecological, scientific or cultural importance nationally and internationally,
- (b) Which seems to be sensitive from the watershed management perspective,
- (c) Which is necessary for the protection and management of the forests, vegetation and wildlife outside the protected area, or
- (d) Which seems appropriate for the development of eco-tourism.

**Explanation:** For the purpose of this Section, “land-scape area” means the forest and the community, area and natural resources interrelated with the forest.

(2) The Division Forest Office shall implement the work plan approved pursuant to sub-section (1).

**16. Management of forest protection area:** (1) One or more forest management systems may, on the basis of the geographical location, be adopted in the national forest area situated in the forest protection area.

(2) Notwithstanding anything contained elsewhere in this Act, in making the work plan of the national forest being managed under other forest management system situated within the forest protection area, it shall be made subject to the work plan referred to in sub-section (1) of Section 15.

(3) Allocation of benefits earned from the management of the forest protection area pursuant to sub-section (2) shall be in accordance with the prevailing law relating to the National Natural Resources and Finance Commission.

(4) The Government of Nepal may declare the forest conservation area as a bio-corridor for the wildlife.

**17. To be converted into the forest protection area:** (1) The protected forest existing at the time of the commencement of this Act shall be deemed to have ipso facto been converted into the forest protection area after the commencement of this Act.

(2) The conversion of the forest protection area referred to in sub-section (1) shall not be deemed to have caused adverse effects on the forest management system existing at the time of the commencement of this Act.

## Chapter-5

### Provisions Relating to the Community Forest

**18. To hand over the community forest:** (1) If a users' group formed pursuant to Section 31 wishes to manage any part of the national forest as the community forest with entitlement to develop, conserve, use and manage the forest and to sell and distribute the forest products by fixing their price independently, it shall make an application, along with a work plan, to the Division Forest Office.

(2) The Division Forest Officer may, if he or she deems it appropriate upon inquiring into the work plan referred to in sub-section (1), approve it.

(3) If the work plan is approved pursuant to sub-section (2), the Division Forest Officer shall give the certificate of hand-over of forest in the format as prescribed to the users' group referred to in sub-section (1).

(4) For the purpose of sub-section (1), the Division Forest Officer may provide technical and other assistance required to constitute a users' group with participation of the users and to prepare the work plan.

(5) The users' group may, on the basis of its desire and need make the work plan of the community forest or amend it as per necessity, in consultation with the concerned Local Level, in order to make effective the forest management. Prior to implementing the work plan so made or amended, the users' group shall give information thereof to the Divisional Forest Officer.

(6) If it appears that the work plan made, or amendment made to it, by the Users' Group pursuant to sub-section (5) is likely to cause significant adverse impacts on the environment, the Division Forest Officer may direct the users' group not to implement such work plan or amendment, within thirty days from the date of receipt of information of such work plan or amendment, and it shall be the duty of the users' group to comply with such direction.

(7) The users' group may carry out forest enterprises specified by the work plan approved by the Division Forest Office and such eco-tourism programs as prescribed.

(8) The users' group may use the forest area as prescribed for the development of eco-tourism pursuant to sub-section (7).

(9) The users' group may, by making an agreement as prescribed, provide any part of the community forest to the users who are below the poverty line, for income generation through the development, protection and use of the community forest.

**19. Community forest may be taken back:** (1) The Division Forest Officer may, in case the users' group fails to operate its functions in accordance with the work plan in the community forest handed over pursuant to Section 18 or commits any act which may cause significant adverse effect on the environment or fails to comply with the terms and conditions to be complied with pursuant to this Act and the rules framed under this Act, decide to cancel the registration of such users' group and take back such community forest as prescribed.

Provided that, such users' group shall be provided with a reasonable opportunity to submit its clarification, prior to making such a decision to cancel the registration of the user's group and take back the community forest.

(2) The users' group which is not satisfied with the decision made by the Division Forest Director pursuant to sub-section (1) may make a complaint to the Province Forest Director. The decision made by the Province Forest Director on such a complaint shall be final.

**20. Community forest may be re-handed over:** (1) If a complaint is made pursuant to sub-section (2) of Section 19 against the decision to take back any community forest pursuant to sub-section (1) of the same Section and such a decision is voided by the Province Forest Director, the Division Forest Officer shall re-hand over such community forest to the same users' group.

(2) If no complaint is made pursuant to sub-section (2) of Section 19 against the decision referred to in sub-section (1) of the same Section or if such a complaint is made but the decision is upheld, the Division Forest Officer shall hand over that community forest by reconstituting the users' group upon completing the procedures referred to in Section 18.

**21. Punishment for contravening the work plan:** (1) If any user commits any act which is contrary to the work plan in the community forest, the concerned users' group may impose fine on



that user and realize the amount equal to the claimed amount if there has been any loss or damage as a result of such act.

(2) If the users' group is not able to take action pursuant to sub-section (1) on its own, the group may recommend the Division Forest Office for an action, and if so recommended, the Division Forest Office may impose such fine.

(3) Nothing shall be deemed to bar the taking of action against such a person in accordance with the prevailing law merely by the reason alone that the fine has been imposed pursuant to sub-section (1).

**22. Expenditure to be made for the development of forest:** (1) The users' group shall spend at least twenty-five percent amount of the annual income earned as per the work plan in the development protection and management of the forest, and at least fifty percent of the remaining amount in poverty alleviation, women empowerment and entrepreneurship development activities, in coordination with the concerned Local Level.

(2) The amount remaining after the expenditures made pursuant to sub-section (1) shall be used in the interest of the users' group.

## **Chapter-6**

### **Provisions Relating to Partnership Forest**

**23. Partnership forest:** (1) The Provincial Ministry may, for the following objectives and on recommendation of the Division Forest Officer, manage any part of the Government-managed forest as the

partnership forest, as prescribed, in partnership between the Division Forest Office, Local Level and forest users:

- (a) To render contribution to the economy by making development and sustainable management of the forest,
- (b) To make supplies of forest products to the traditional users who live nearby or far from the forest area by getting such users to participate in forest protection activities,
- (c) To enhance the productivity of the forest area and utilize the open area,
- (d) To protect and promote biodiversity and watershed area,
- (e) To make improvement in the users' livelihood.

(2) The Division Forest Officer shall, in consultation with the Local Level and partnership forest users' group as prescribed, prepare a work plan for the management of the partnership forest and submit it to the Province Forest Directorate, and the Province Forest Director may approve such a work plan.

(3) It shall be the obligation of the Division Forest Office, Local Level and the partnership forest users' group referred to in Section 24 to enforce the work plan approved pursuant to sub-section (2).

(4) If the partners referred to in sub-section (1) fail to operate functions in accordance with the work plan or commit any

act which causes significant adverse effect on the environment or fail to comply with the terms and conditions to be complied with pursuant to this Act and the rules framed under this Act, the Provincial Ministry may terminate the management system of such partnership forest, and that forest shall ipso facto be managed as the Government-managed forest.

Provided that such users' group shall be provided with a reasonable opportunity to submit its clarification, prior to making such a decision to so cancel the registration of the user's group and take back the partnership forest.

**24. Partnership forest users' group may be formed:** The concerned traditional users within the partnership forest management area may form a partnership forest users' group to make necessary provisions on behalf of the users for the development and protection of the partnership forest and manage the forest products available to the users from such forest.

**25. Use, sale and distribution of forest products of the partnership forest:** (1) The allocation of the timber, wood and non-timber forest products produced from the partnership forest shall be made as prescribed.

(2) The partnership forest users' group shall accord priority to internal consumption of the forest products available to the group from the implementation of the partnership forest management work plan, and may set aside only the remaining forest products for sending them outside the group.

(3) The partnership forest users' group shall spend at least twenty-five percent amount of the amount earned from the sale, distribution of forest products available to it from the partnership forest in the development, protection and management of the forest, and at least fifty percent of the remaining amount in poverty alleviation, women empowerment and entrepreneurship development activities, in coordination with the concerned Local Level.

(4) The amount remaining after the expenditures made pursuant to sub-section (3) shall be used in the interest of the users' group.

## **Chapter-7**

### **Provisions Relating to the Leasehold Forest**

- 26. Grant of leasehold forest:** (1) The Government of Nepal may grant any part of the degraded national forest, in the form of leasehold forest, to any body corporate established under the prevailing law, by making an agreement as prescribed, for any of the following purposes:
- (a) To produce raw materials required for the industries based on forest products,
  - (b) To sell and distribute or utilize the forest products by increasing its production through afforestation,

- (c) To operate agro-forest crops or livestock farms in a way that is compatible with the conservation and development of the forest,
- (d) To operate farm of insects, butterflies and wildlife in a way that is compatible with the conservation and development of the forest,
- (e) To operate eco-tourism business in a way that is compatible with the conservation and development of the forest.

**Explanation:** For the purpose of this Section, “degraded forest” means the forest of which crown coverage is less than twenty percent.

(2) Notwithstanding anything contained in sub-section (1), the Division Forest Office may, by making a work plan for the alleviation of poverty of the people who are below the poverty line, provide a forest area in the form of the lease-hold forest to a group of such people, to carry out income generating programs in a way that is compatible with the conservation and development of the forest.

**27. Leasehold forest may be taken back:** (1) If the party to the agreement or any other person commits any act contrary to the work plan in the leasehold forest or any act which causes loss or damage to the forest, the Division Forest Officer may decide to take back such leasehold forest as prescribed, and the person, body or community that commits such an act shall be liable to the punishment as if the offence were committed in other national forest.

Provided that prior to making such a decision to take back the lease-hold forest, the concerned party shall be provided with a reasonable opportunity to submit clarification.

(2) The party who is not satisfied with the decision made by the Division Forest Officer pursuant to sub-section (1) may make a complaint to the Director General of the Department within thirty-five days from the date of such a decision.

(3) The decision made by the Director General of the Department on the complaint made pursuant to sub-section (2) shall be final.

(4) Notwithstanding anything contained elsewhere in this Section, if any act is committed inconsistent with forest protection in the forest area provided pursuant to sub-section (2) of Section 26, the Government of Nepal may decide to take back such leasehold forest at any time, and the forest so taken back shall be managed as the Government-managed forest.

## **Chapter-8**

### **Provisions Relating to Religious Forest**

**28. Religious forest:** (1) The Division Forest Office may, for the protection of any religious site since ancient times and of the forest in its surrounding, hand over the national forest around that area to any religious body, group or community established under the prevailing law, for its protection as the religious forest.

(2) The right in such forest shall not be deemed to have been transferred to such a religious body, group or community

merely by the reason only that it has been transferred for protection pursuant to sub-section (1).

- 29. Use of forest products in the religious forest:** (1) The concerned religious body, group or community may use the forest products in the religious forest for the purpose of religious work only.

(2) **The forest products obtained in the course of building and operation** of a development project in the religious forest may be sold and distributed in coordination between the Division Forest Office and Local Level.

(3) In making use of the forest products pursuant to sub-section (1), the trees shall not be felled in such a way that it may cause significant adverse effect on the environment or loss or damage publicly or soil erosion in the watershed area.

- 30. Religious forest may be taken back:** (1) In case the concerned religious body, group or community commits any act contrary to Section 29 in the religious forest handed over pursuant to Section 28 or fails to operate the function required to be operated in the religious forest or fails to comply with the terms and conditions to be complied with pursuant to this Act or the rules framed under this Act, the Division Forest Officer may decide to take back such religious forest.

Provided that, prior to making a decision to take back the religious forest, the concerned religious body, group or community shall be given a reasonable opportunity to submit its clarification.

(2) A person, religious body, group or community that is not satisfied with the decision made by the Division Forest Officer pursuant to sub-section (1) may make a complaint to the Provincial Forest Director within thirty-five days of the date of receipt of information.

(3) The decision made by the Provincial Forest Director in respect to the complainant received pursuant to sub-section (2) shall be final

## **Chapter-9**

### **Provisions Relating to the Constitution of Users' Group**

**31. Constitution of users' group:** (1) The concerned users of any forest who wish to utilize the forest products by protecting, developing and managing such forest for the collective interest may constitute a users' group as provided in this Act.

(2) The users' groups constituted pursuant to sub-section (1) shall be registered with the concerned Division Forest Office as prescribed.

(3) For the registration pursuant to sub-section (2), the concerned users' group shall make an application, along with its statute.

(4) The users' group shall, not later than three months of the expiration of each fiscal year, submit an annual report of its activities, setting out inter alia the financial statements and status of the forest to the concerned Local Level and Division Forest Office, as prescribed.



**32. Users' group to be a body corporate:** (1) The users' group shall be an autonomous body corporate body with perpetual secession.

(2) The users' group shall have a separate seal of its own.

(3) The users' group may like an individual acquire, possess or transfer or otherwise manage movable and immovable property.

(4) The users' group may like an individual sue or be sued by its own name.

**33. Fund of the users' group:** (1) The users' group shall have a separate fund of its own.

(2) The following amounts shall be credited to the fund referred to in sub-section (1):

(a) Amount of grant received from the Government of Nepal, Provincial Government and Local Level,

(b) Amount of grant or assistance received from any native person or organization,

(c) Amount received from the sale and distribution of forest products,

(d) Membership fees of the users' group and amount collected by the users' group by way of fine.

(3) Expenditures to be made on behalf of the users' group as per the work plan shall be chargeable on the fund referred to in sub-section (1).

(4) In the event of damage to the body and property of any member of the users' group caused by the wildlife in the forest managed by such a group, relief shall be provided to the affected person from the fund referred to in sub-section (1).

(5) The operation of the fund referred to in sub-section (1) shall be as prescribed.

**34. Forest enterprise and eco-tourism programs may be operated:**

(1) The users' group may, upon following the procedures as prescribed, operate such forest enterprise and eco-tourism programs as specified by the approved work plan on its own or in partnership with the Local Level or organization or the private sector or cooperatives.

**Explanation:** For the purpose of this Section, "forest enterprise" includes wildlife farming.

(2) The responsibility of the users' group shall not be deemed to have been transferred for the sole reason that it has made partnership in the operation pursuant to sub-section (1).

(3) In operating the forest enterprise upon establishing it pursuant to sub-section (1), it shall be operated upon preparing the work plan on the basis of such standards as specified by the Ministry.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the group or body or organization that changes, or causes to be changed, the land-use of the forest area by building physical infrastructures contrary to the prevailing law and the forest work

plan in the course of operation of the eco-tourism programs shall be liable to action pursuant to this Act.

(5) Other provisions relating to the granting of license for the operation of the forest enterprise and eco-tourism programs pursuant to sub-section (1) and to the operation of such programs shall be as prescribed.

## **Chapter-10**

### **Provisions Relating to Forest in Private and Public Lands**

**35. Registration of private forest:** (1) Any person or body that wishes to register a private forest shall make an application, along with the recommendation of the Division Forest Office or Sub-Division Forest Office to the concerned Local Level for the registration of such private forest.

(2) If any application is made pursuant to sub-section (1), the concerned Local Level shall make necessary inquiry into the matter and register the private forest and issue a certificate thereof.

(3) The Local Level shall give information of the registration of private forest pursuant to sub-section (2) to the concerned Division Forest Office.

(4) No national forest referred to in this Act shall be nationalized.

**36. Management of private forest:** (1) The owner of a private forest may develop, protect and manage the private forest and utilize the

forest products or sell and distribute such products by fixing their price.

(2) The Division Forest Office or Sub-Division Forest Office may, at the request of the owner of a private forest, provide necessary technical and other assistance to such an owner for the work referred to in sub-section (1).

(3) If it is required to collect and transport the forest products in the private forest or private cultivation for a commercial purpose, approval of the concerned Local Level shall be obtained.

(4) Notwithstanding anything contained in sub-section (3), if it is required to collect and transport the forest products from one Local Level to another Local Level for a commercial purpose, approval of the concerned Division Forest Office shall be obtained.

(5) If it is required to collect and transport the forest products from one Local Level to another Local Level within any district for the house-hold purpose, approval of the Local Level from which such collection and transportation is made shall be obtained, and it is required to collect and transport the forest products from one District to another District for such purpose, approval of the Division Forest Office of the District from which such collection and transportation is made shall be obtained.

(6) The Government of Nepal may provide such facilities as prescribed to the owner of a private forest.

(7) Any person, body, group or community may, subject to the prescribed standards, also carry out agro-forestry, herbs farming and wildlife farming.

**37. Provisions relating to forest development in public land:** (1) The Local Level may, subject to this Act, develop, protect and manage the forest in a public land and utilize, sell and distribute the forest products.

(2) The Division Forest Office or Sub-Division Forest Office shall provide necessary technical and other assistance to the Local Level for the work referred to in sub-section (1).

(3) The trees planted in the road, canal and path side and trees providing shelter on the road and trees planted in the source of a ditch, religious site or similar other sensitive place may be cut or removed upon fulfilling the procedures as prescribed.

**38. Development and Management of urban forest:** (1) The Local Level may, on its own or in partnership with any body, organization or the private sector, develop and manage forest in places such as public roads and parks in the urban area and settlement within its area.

(2) The Division Forest Office or Sub-Division Forest Office shall provide necessary technical assistance for the development of the urban forest to be established pursuant to sub-section (1).

(3) The concerned Local Level may use, as prescribed, the forest products of the urban forest to be established pursuant to sub-section (1).

## **Chapter-11**

### **Provisions Relating to Unclaimed Timbers**

**39. Management of unclaimed timbers:** (1) The ownership of any timber flowing or thrown on the banks, obstructed or submerged in streams or time in unclaimed situation shall belong to the Provincial Government unless and until any person proves his or her right in such timber.

(2) The management of the timber referred to in sub-section (1) shall be as prescribed.

**40. Action on claim of title:** (1) If any person makes a claim, accompanied by the evidence showing the ownership of the timber in an unclaimed situation pursuant to Section 39, and it appears that such person's claim of title thereto is sustained, such timber shall be handed over to that person.

(2) Other provisions relating to claim of title to unclaimed timbers and action thereon shall be as prescribed.

## **Chapter-12**

### **Provisions Relating to Development Projects**

**41. Land-use of the forest area not to be changed:** No part of the national forest shall be used in a manner to change the land-use of the forest area.

Provided that this provision shall not apply to the forest area provided to any project, pursuant to the decision of the Government of Nepal, for the development of infrastructures.

**42. Use of forest area:** (1) Notwithstanding anything contained elsewhere in this Act, if there is no other alternative to the using of forest area for the operation of a national priority project, plan of which investment is approved by the Investment Board, project of national pride and it appears from the environment examination referred to in the prevailing law that the operation of such plan does not result in significant adverse effects on the environment, the Government of Nepal may give approval, as prescribed, to use any part of the national forest for the purpose of operating such plan.

(2) In providing the forest area for the operation of a plan pursuant to sub-section (1), to the extent possible, a land that is adjoining to the national forest area near the project site and situated in the same geographical and ecological belt and has such landscape where forest can be developed shall be provided for the purpose of planting trees at least in the area equal to the forest area that has to be used.

(3) If there is no other alternative to the using of forest area for the operation of any development project by the Province or Local levels and it appears from the environment examination referred to in the prevailing law that the operation of such plan does not result in significant adverse effects on the environment, it may request the Government of Nepal for acquisition of the land in such forest area for the operation of that project.

(4) If the land is acquired at the request referred to in sub-section (3), the Government of Nepal may, subject to this Section, give approval to use any part of the national forest for the purpose of operating such project.

(5) Notwithstanding anything contained in sub-section (2), in cases where such land is not available, the operator of such project shall provide such amount as may be required for the provision of land for forest development.

(6) The operator of such project shall provide such amount as may be required for the growing up or maintenance of trees in the land referred to in sub-section (2) or (5) until five years.

(7) The amounts received pursuant to sub-sections (5) and (6) in consideration for the land of forest area provided for use pursuant to sub-section (1) shall be credited to the fund referred to in Section 45.

(8) If, in giving approval to use any part of forest pursuant to sub-section, it causes any loss or damage to any person or community, the Government of Nepal shall make appropriate provision of compensation.

**43. Forest area may be used for mining work:** (1) If it is required to explore whether or not there is mineral substance in the national forest, the Provincial Ministry may, at the request of the concerned body, give permission for that purpose.

(2) If it is found out from the exploration referred to in sub-section (1) that the national forest contains in it any mineral



substance such as gold, silver, copper or iron and excavation is to be made, the Government of Nepal may give approval to use the forest area for the purpose of the excavation of such mineral substance in case it is seen from the environmental examination carried out pursuant to the prevailing law that such excavation does not cause significant adverse impacts on the environment.

Provided that no other mineral forest products may be excavated from the forest area except for the said mineral substance and for the use of raw materials to be used in a development plan with national priority, plan of which foreign investment has been approved by the Investment Board and project with national pride.

## **Chapter-13**

### **Provisions Relating to Environmental Services**

- 44. Management of environmental services:** (1) The Government of Nepal shall make the following provisions for the management, use and distribution of benefits of the environmental services to be obtained from the forest area:
- (a) In the case of benefits derived from climate change adaptation and storage, and mitigation of emission, of carbon, the management, use and distribution of benefits thereof shall be made as determined by the Government of Nepal,
  - (b) The management, use and distribution of benefits of the environmental services other than the storage, and mitigation of emission, of carbon obtained from the

forest area shall be as provided in the work plan of the concerned forest,

- (c) The amount to be derived from the environmental services by other body or industry including hydropower, drinking water supply and eco-tourism project and the management, use and distribution thereof shall be as prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Division Forest Office may make provision for the payment of grants or other kind of payment to the owner of a private forest that wishes to manage the environmental services by completing the prescribed conditions, by making invitation to environmental services tender, and upon making provision in its annual program.

**45. Establishment of forest development fund:** (1) The Government of Nepal may, establish a forest development fund for the implementation of the objective of this Act, protection and promotion of the forest and performance of other promotional activities.

(2) The following amounts shall be credited to the fund referred to in sub-section (1):

- (a) Amount received from the Government of Nepal, Provincial Government and Local Level,
- (b) Amount received from any person or body,

(c) Amount received from a foreign government, international organization or person in the form of aid or loan,

(d) Amount obtained from the sale of forest products of the forest area, amount obtained from the environmental services and amount obtained in consideration for the provision of the forest area for other purpose.

(3) In receiving any amount pursuant to clause (c) of sub-section (2), prior approval of the Government of Nepal, Ministry of Finance shall be obtained.

(4) The amount of the forest development fund shall be credited to an account opened with any class “A” commercial bank.

(5) The fund referred to in sub-section (1) shall be audited by the Auditor General.

(6) Other provisions relating to the operation of the fund referred to in sub-section (1) shall be as prescribed.

## **Chapter-14**

### **Provisions Relating to Armed Forest Guard Service**

**46. Constitution of the armed forest guard service:** (1) There shall be an armed forest guard service for the protection and promotion of the national forest and biological diversity, prevention illicit hunting of wildlife and smuggling of forest products and guarding of the forest heritages.

(2) The service constituted pursuant to sub-section (1) shall have the posts as prescribed.

(3) The organization structure in and number of positions in the armed forest guard service shall be as specified by the Government of Nepal.

(4) Other provisions relating to the appointment of armed forest guards and conditions of their service shall be as prescribed.

**47. Departmental punishment:** (1) The following departmental punishment may be imposed on an armed forest guard who commits an act contrary to this Act or the rules framed under this Act:

(a) General Punishment:

- (1) To reprimand,
- (2) To mention an adverse opinion in the character report,
- (3) To withhold a maximum of five salary increments,
- (4) To withhold promotion for a maximum period of five years,
- (5) To demote to a maximum of five salary increments being received and enjoyed,
- (6) To demote to the initial scale being received and enjoyed, along with seniority, in the current post.

(b) Special punishment:

(1) To remove from the service without being disqualified from the government service in the future,

(2) To dismiss from the service with being disqualified from the government service in the future,

(2) Provisions relating to the conditions and process for imposition of departmental punishment pursuant to sub-section (1) and to appeal shall be as prescribed.

**48. Punishment of imprisonment:** (1) An armed forest guard who commits any of the following offenses shall be liable to punishment of imprisonment for life:

(a) To take part in armed rebellion,

(b) To carry out, or cause to be carried out, by writing, speech or sign or through any other means any act so that such hatred, enmity or contempt is caused as is likely to disrupt the sovereignty, territorial integrity, nationality and independence of Nepal, or undermine the cordial relations between the federal units or various castes, tribes,, religions and communities.

(c) To sell governmental or other's arms or ammunitions under his or her custody to another person or to hand over them to another person in any other manner,

- (d) To abscond with arms, ammunitions which he or she has received for his or her use or which is under his or her custody,
- (e) To assist terrorist activities directly or indirectly,
- (f) To provide, or make attempt to provide, the information and news relating to security to any unauthorized person, body or group or entice any other person to do so.

(2) An armed forest guard who commits any of the following offences shall be liable to punishment of imprisonment from two to twelve years depending on the gravity of the offence:

- (a) To use or attempt to use criminal force after knowing or having reasonable ground to believe that he or she is an armed forest guard of a rank higher than that of the forest guard or other competent authority related to security irrespective of whether or not on duty,
- (b) To fail to inform or give notice as soon as possible to the official superior to him or her or even after knowing the commission of conspiracy or attempt of armed rebellion.
- (c) To assist in any manner one who makes illicit hunting of trophy of wildlife or smuggle forest products or one who commits a forest related offence in collusion with such a person,

(d) To let knowingly an accused person under his or her responsibility or control escape or assist in such escape.

(3) An armed forest guard who commits any of the following offences shall be liable to punishment of imprisonment for a term not exceeding two years depending on the gravity of the offence:

(a) To consume alcohol while on duty or disregard an order given by his or her commander or leave the camp without permission,

(b) To obtain the membership of a political organization or party or take part in a procession or demonstration organized with political objective,

(c) To abuse, or lose, disorder or break up recklessly, the arms, ammunitions or motor vehicles or cash or in-kind under his or her responsibility,

(d) To run away with the property under his or her custody.

(4) If an armed forest guard commits larceny or causes loss or damage to any governmental or public or personal money or property in any manner, he or she shall be liable to punishment of imprisonment for a term not exceeding two years, in addition to the sentence imposable on him or her pursuant to the prevailing law.

## Chapter-15

### Offences and Punishment

**49. Offences:** If any person commits, or causes to be committed, or make attempt to do, any of the following acts, he or she shall be deemed to have committed the offence referred to in this Act, except as otherwise provided for in this Act or the rules framed under this Act:

- (a) To register, or cause to be registered, land within the national forest contrary to sub-section (1) of Section 7,
- (b) To enter the area prohibited pursuant to Section 9,
- (c) To deforest the national forest or plough, dig, excavate mining or cultivate in the land of forest area, construct a road or other infrastructure, to build a house or shed, operate business or make encroachment therein, or cause such act to be done,
- (d) To set fire in the national forest or to do any act that may cause fire,
- (e) To make the quadruped enter or graze in the prohibited forest area,
- (f) To remove, transport or sell and distribute forest products from the forest area, or to remove or seal the forest products held in timber depot,



- (g) To cut trees or plants in the national forest area or trim their branches, extract rosin or bark from them or to damage them in any way,
- (h) To damage any other forest product negligently while cutting, felling trees in, dragging or removing trees from the national forest area under the license,
- (i) To extract boulders, pebbles, sand or soil from the river flowing through the forest area, or burn charcoal or lime or manufacture other finished products from them or collect them, and extract or collect mineral substances,
- (j) To damage forest products by contravening the terms of the permit received to take the forest products.
- (k) To export the forest products which are prohibited to export abroad,
- (l) To take out, dislocate, alter, convert, erase or destroy the forest boundary mark,
- (m) To forge the mark or marking or to alter, damage or erase the government mark or marking stamped in the timber or standing trees,
- (n) To cut, break, uproot or damage in any way the plants kept in the nurseries or those which have been planted,
- (o) To damage or steal the pillar, wire fence or similar other property in the nurseries or in the area where the plantation has been carried out,

- (p) To make hunting, hold, transfer, sell or distribute the trophy of wildlife,
- (q) To hold forest products by the forest-product based industry contrary to the prevailing law,
- (r) To misappropriate the amounts of the fund in the name of a users' group and commit any act contrary to the statute and work plan of such a group, by any office-bearer or member of such a group,
- (s) To commit any other act contrary to this Act and the rules framed under this Act.

**50. Punishment:** (1) A person who commits, or causes to be committed, the offence under clause (a) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding five years or of a fine not exceeding fifty thousand rupees or with both.

(2) A person who commits, or causes to be committed, the offence under clause (b) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding one month or of a fine not exceeding one thousand rupees or with both.

(3) A person who commits, or causes to be committed, the offence under clause (c) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding five years or of a fine not exceeding one hundred thousand rupees or with both, and any house or shed built in or machinery, tools, vehicles used in such land shall also be forfeited, upon incorporating such land into the national forest. If the forest products were removed or damaged

while committing such an offence, such a person shall also be liable to the punishment for the same.

(4) A person who commits, or causes to be committed, the offence under clause (d) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding three years or of a fine not exceeding sixty thousand rupees or with both, along with the recovery of the claimed amount damaged.

(5) A person who commits, or causes to be committed, the offence under clause (e) of Section 49 shall be liable to a fine at the following rate for every quadruped:

- (a) From fifty rupees to five hundred rupees in the case of a quadruped of sheep, goat species,
- (b) From one thousand rupees to five thousand rupees in the case of an elephant,
- (3) From one hundred rupees to one thousand rupees in the case of any other animal.

(6) A person who commits the offence under clause (f), (g), (h) or (i) of Section 49 shall be liable to the following punishment, along with the confiscation of the forest products related to the offence:

- (a) A fine not exceeding one thousand rupees if the claimed amount does not exceed one thousand rupees,
- (b) Imprisonment for a term not exceeding one month or a fine equal to the claimed amount or both if the claimed

amount is above one thousand rupees but not exceeding five thousand rupees,

- (c) Imprisonment for a term not exceeding three months or a fine equal to the claimed amount or both if the claimed amount is above five thousand rupees but not exceeding fifty thousand rupees,
- (d) Imprisonment for a term not exceeding six months or a fine equal to the claimed amount or both if the claimed amount is above fifty thousand rupees but not exceeding one hundred thousand rupees,
- (e) Imprisonment for a term not exceeding one year or a fine equal to the claimed amount or both if the claimed amount is above one hundred thousand rupees but not exceeding five hundred thousand rupees,
- (f) Imprisonment for a term not exceeding two years or a fine that is twice the claimed amount or both if the claimed amount exceeds five hundred thousand rupees and whatsoever thereafter.

(7) A person who commits the offence under clause (j) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding three years or of a fine that is twice the claimed amount or both, along with confiscation of the forest products related to the offence.

(8) A person who commits the offence under clause (k) or (l) of Section 49 shall be liable to the punishment of imprisonment

for a term not exceeding one year or of a fine not exceeding twenty thousand rupees or both.

(9) A person who commits, or causes to be committed, the offence under clause (m) of Section 49 shall be liable to the punishment of a fine not exceeding five hundred rupees for each plant, and a person who commits the same offence again shall be liable to the punishment of imprisonment for a term not exceeding one year or of a fine not exceeding twenty thousand rupees or both for each instance, depending on the gravity of the offence.

(10) A person who commits the offence under clause (n) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding six months or of a fine not exceeding ten thousand rupees or both, along with the recovery of the claimed amount so damaged.

(11) A person who commits the offence under clause (o) of Section 49 shall be liable to the punishment referred to in the prevailing law on protection of wildlife.

(12) A person who commits the offence under clause (p) of Section 49 shall be liable to a fine not exceeding two hundred thousand rupees, in addition to the punishment imposable for such offence.

(13) A person who commits the offence under clause (q) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding one year or of a fine not exceeding twenty

thousand rupees or with both, along with the recovery of the claimed amount, if any.

(14) A person who commits the offence under clause (r) of Section 49 shall be liable to the punishment of imprisonment for a term not exceeding six months or of a fine not exceeding ten thousand rupees or with both, along with the recovery of the claimed amount, if any.

- 51. Punishment to one who takes custody or arrests with intention to harass:** (1) If any employee performing any forest related work or security personnel, takes custody of any goods or arrests any person, without any reasonable ground, with intention to harass, or with ill will, such an employee shall be punished with a fine not exceeding fifty thousand rupees.
- 52. Punishment to one who causes obstruction while discharging duties:** If any person obstructs the government employee in discharging his or her official duties under this Act, such a person shall be liable to the punishment of a fine not exceeding five thousand rupees or imprisonment for a term not exceeding three months or both.
- 53. Punishment to one who aids the offender to escape:** Anyone who aids a person who commits any offence under this act to escape shall be liable to the punishment equal to that imposed on the offender.
- 54. Punishment to one who abets or accomplices:** A person who abets or accomplices the commission of any offence under this Act shall be liable to the punishment imposed on the offender.

- 55. Punishment to one who attempts to commit offence:** A person who attempts to commit any offence under this Act shall be liable to the same punishment as may be imposable on the offender in the case of attempt to commit the offence related to protected wildlife under the prevailing law on wildlife protection and to the half the punishment imposable on the offender in the case of attempt to commit any other offence.

## **Chapter-16**

### **Inquiry into Offence and Procedures**

- 56. Necessary action to be taken to prevent offence:** If a person is suspected of attempting to commit any offence liable to the punishment under this Act or is found committing such offence, the employee who performs the forest related work or security personnel shall make arrangement to prevent such offence from being committed, and may use necessary force for that purpose.
- 57. Special powers:** (1) The employee deputed for the forest security or security personnel may, by order of the Division Forest Office, shoot the offender below the knee who is involved in the forest and wildlife related offence under this Act, in case there arises a situation that any person obstructs within or outside the forest area to arrest the offender or any person assists the offender to make escape even after his or her arrest or without using the weapon the life of the person making such arrest is endangered as and when the offender is apprehended.

(2) Even though any person has already cultivated the land of the national forest area or made a house, hut in such land, the Division Forest Officer or Forest Officer or Forest Assistant designated by him or her may remove the harvest or dismantle the house or hut, and confiscate the harvest in such an area.

(3) Notwithstanding anything contained in sub-section (2), nothing contained in that sub-section shall affect other punishment imposable under this Act.

**58. Power to arrest:** (1) If it is necessary to arrest any person in the course of investigating into any offence under this Act, the investigating authority shall make an application, accompanied by the reason therefor and description setting out the identification of such person, to the adjudicating authority for permission to arrest such person.

(2) If the reason for the arrest seems reasonable from the application referred to in sub-section (1), the adjudicating authority may give permission to issue a warrant for arrest.

(3) The investigating authority, forest related employee or security personnel shall arrest the person under the warrant for arrest referred to in sub-section (2) and produce him or her before the adjudicating authority within twenty-four hours exclusive of the time required for the journey.

(4) Notwithstanding anything contained in sub-section (1), if there is a reasonable ground that the person committing the offence may escape or destroy evidence, exhibit or proof if he or she is not



arrested immediately or if any person related to the offense who has remained absconded is found or is found committing the offence, the investigating authority, forest related employee or security personnel shall immediately issue a warrant of arrest to him or her, arrest him or her and produce him or her, along with the matter, before the case adjudicating authority for approval.

Provided that if the person to be so arrested is a woman, a forest related woman employee or woman security personnel shall be assigned as far as possible.

(5) In case it is required to remand the person arrested in connection with any offence and keep on investigation because the investigation cannot be completed within twenty-four hours, the employee making investigation shall present him or her before the adjudicating authority and shall remand him or her only by obtaining the permission of the adjudicating authority. In so asking for permission, the charge against the person held in detention, ground thereof, the reason for making investigation by holding him or her in detention and content of the statement made by him or her, if any, shall be set out clearly.

(6) If permission is sought for remanding to custody pursuant to sub-section (5), the case trying authority shall examine the concerned documents, consider whether or not investigation is being made satisfactorily, and may, if it seems that investigation is being made satisfactorily, give permission to remand him or her in custody for a period not exceeding twenty-five days at several times.

**59. Power to make search:** (1) In case there exists a reasonable ground to believe that an offence punishable under this Act has been committed, a forest technical employee of at least non-gazetted second class or employee of assistant police inspector rank may search any place in accordance with the prevailing law.

**Explanation:** For the purpose of this Section, the term "place" means a permanent or temporary building or shed, and this term includes an empty land, tent, boat and any type of motor vehicle.

(2) The person conducting search pursuant to sub-section (1) shall search a place only upon giving a notice to that effect, setting out the reason, to the owner of the place to be searched or the person using the place for the time being before entering such place.

(3) In making search pursuant to sub-section (1), it shall be made in presence of at least one office-bearer or member of the concerned Local Level and at least two witnesses.

(4) In case the search of a residential house is to be made and if any woman is in that house, information and reasonable time shall be given to get herself out of the house.

(5) Nothing contained in this Section shall be construed as entitling the employee making search to enter into a residential house from the sun-set till the sun rise.

**58. Forest products and related goods may be impounded:** (1) If there is a reliable ground to believe that this Act has been violated in the course of storing or transporting any forest products, any employee performing forest related work or security personnel may

impound such forest products and any arms, boat, vehicle and quadruped connected with the offence.

(2) In any forest product or good is impounded pursuant to sub-section (1), the employee or security personnel so impounding shall give a receipt thereof to the concerned person, setting out the description of such impounded forest product or good, and submit a report to the Division Forest Office or Sub-Division Forest Office as soon as possible, upon marking a specific sign in such product or good, measuring and examining it.

(3) The employee of at least non-gazetted second class or security personnel of equivalent rank may release the weapon, boat, motor vehicle or quadruped related to the offence, other than the forest products, impounded pursuant to sub-section (1), on the condition that the same shall be produced at such date and place specified by him or her, after getting a bond to be executed by the owner of such goods, in presence of at least one office-bearer or member of the concerned Local Level and at least two local persons.

**61. Provision relating to submission of material evidence:** (1) The forest products seized in connection with the offence referred to in this Act or tools and other instruments used in the commission of such offence shall be submitted to the adjudicating authority as a material evidence.

(2) Notwithstanding anything contained in sub-section (1), in case the forest products, tools and other instruments so seized equipment cannot be submitted to the adjudicating authority as a

material evidence, it shall be deemed as if the material evidence were submitted if such material evidence is held in the custody of the nearest forest office and the deed of memorandum to that effect is submitted.

(3) The adjudicating authority may obtain a report by sending a mission to the place where the material evidence is held pursuant to sub-section (2) and initiate action.

**62. Investigation into and filing of cases:** (1) Such employee of the Provincial Government as designated by the Provincial Government by a notification in the Provincial Gazette shall carry out investigation into the cases related to the offence punishable by imprisonment for a term not exceeding one year pursuant to this Act.

(2) Such employee of the Government of Nepal as designated by the Government of Nepal by a notification in the Nepal Gazette shall carry out investigation into the cases related to the offence punishable by imprisonment for a term exceeding one year pursuant to this Act.

(3) If one person is liable to punishment of imprisonment for a term not exceeding one year and another person to that of imprisonment for a term exceeding one year for the same offence, the employee referred to in sub-section (2) shall carry out investigation and inquiry into that case.

(4) If, upon completion of the investigation and inquiry referred to in this Act, it appears necessary to file a case, the investigating authority shall submit the case-file containing the

concerned evidence and proof, accompanied by his or her opinion, to the concerned Government Attorney Office for a decision whether or not to institute the case.

(5) In the case of receipt of the case-file referred to in sub-section (4), the concerned Government Attorney Office shall return the case-file to the investigating officer specifying the matter to that effect if the case is incapable of being instituted, and specifying the person against whom the case is to be instituted, the charge against him or her, punishment to be imposed on him or her and the claim to be made in the charge-sheet if the case is to be instituted so that the limitation for filing the case does not expire.

(6) Notwithstanding anything contained in sub-section (5), if, in studying the case-file received, it deems necessary to carry out further investigation on that matter, the Government Attorney Office shall return the case-file, accompanied by the ground and reason for the same, specifying the matters to be further investigated, to the investigating officer.

(7) If the case-file is received for carrying out further investigation on any matter pursuant to sub-section (6), the investigating officer shall carry out further investigation on the matter and submit again the case-file, accompanied by the claim of proposed charge, to the Government Attorney Office, for filing the case.

(8) Upon receipt of the case-file pursuant to sub-section (7), the concerned Government Attorney Office shall decide to or not to

institute the case pursuant to sub-section (5) and return it to the investigating officer.

(9) Upon receipt of the case-file with the decision to institute the case from the Government Attorney Office pursuant to sub-section (5) or (8), the investigating officer shall file the case, by the name of the Government of Nepal, with the case trying authority.

**63. The Government of Nepal to be plaintiff:** The Government of Nepal shall be the plaintiff in the cases under this Act.

**64. Management of goods impounded:** (1) If the owner of the forest products, tools, weapons, motor vehicles and quadruped impounded because of being related to the offence punishable under this Act is not traced out, the investigating officer shall affix a notice at a conspicuous place prescribing a time-limit of seven days, notifying that if any person has right in such goods, such person may make claim to that effect.

(2) If any person claims right in the goods referred to in sub-section (1), it shall be submitted to the case trying authority for decision.

(3) If no claim of right in the goods referred to in sub-section (1) is made or judgment is made not sustaining the claim of right, such goods shall devolve on the Government of Nepal.

**65. Perishable forest products, goods and quadrupeds may be auctioned:** (1) The Divisional Forest Officer may bring any perishable forest products, goods impounded in connection with an offence punishable under this Act or forest products, goods or

quadrupeds which are in such situation that they cannot be protected to the nearest forest office or safe place and auction the same with the permission of the adjudicating authority.

(2) The amount received from the auction sale referred to in sub-section (1) shall be credited to deposit subject to what will be decided at the time of adjudgment of such a case.

**66. Provisions relating to trial:** (1) Notwithstanding anything contained in the prevailing law, if a person who is arrested pursuant to this Act and charged with a case punishable by imprisonment for a term of one year or more seems to be the offender on the basis of the evidence available for the time being or if there is a reasonable ground to believe from such evidence that he or she is the offender, proceeding shall be taken by holding such person in custody for trial.

(2) In the case of a person other than that mentioned in sub-section (1), the case shall be tried upon releasing him or her on bail or surety of assets equivalent to the upper ceiling of fine or imprisonment that can be imposed on him or her if such bail or surety is furnished, and if he or she is able to so furnish the bail or surety, it shall be tried by holding him or her in custody.

Provided that the case shall be tried by holding in custody the offender who repeatedly commits the offence punishable by imprisonment for a term exceeding six months.

(3) While carrying out proceedings by holding the accused in detention pursuant to this Section, he or she shall not be held in

custody for a period more than the upper ceiling of the punishment imposable on him or her.

**67. Adjudicating authority:** (1) The Division Forest Officer of the Government of Nepal shall adjudicate and settle the cases under this Act which are punishable under this Act by a fine not exceeding two hundred thousand rupees or imprisonment for a term not exceeding one year or both.

(2) The cases referred to in sub-section (1) shall be adjudicated and settled by following the proceedings referred to in the Special Court Act, 1974 (2028).

(3) The employee of the rank empowered to investigate into the case may immediately fine the person who is arrested in connection with the offence punishable under this Act by a fine not exceeding one thousand rupees and release him or her by executing a deed of memorandum to that effect.

(4) Any party who is not satisfied with the decision referred to in sub-section (1) or (3) may make an appeal to the concerned District Court within thirty-five days from the date of receipt of the notice of the decision.

**68. Seized goods liable to confiscation:** (1) If any person is held to have committed any offence punishable under this Act, the load carriers, tools, weapons, quadrupeds and other instruments which have been seized in connection with the offence shall be confiscated.

(2) The load carriers, tools, weapons, quadrupeds and other instruments which have been seized in the course of investigation



into any offence punishable under this Act may, with the permission of the adjudicating authority, be auctioned and the proceeds of such auction, credited into the deposit account.

(3) Notwithstanding anything contained in sub-section (1), if it does not appear from the investigation that any person other than the offender has used such motor vehicle or allowed it to be used to assist the offender knowingly, such a vehicle or a load carrier the value of which is less than fifty thousand rupees shall not be confiscated, and one who does such act may be liable to the punishment of a fine not exceeding fifty thousand rupees, in addition to the punishment imposable under this Act.

- 69. Management of vegetation and vegetation resources:** The Government of Nepal or Provincial Government may provide any vegetation and vegetation resources confiscated in connection with any offence referred to in this Act to any public organization or body for educational and scientific study, research purposes or medicinal use or religious work or destroy the same.

## **Chapter-17**

### **Miscellaneous**

- 70. Afforestation and supply of forest products:** The Government of Nepal may make arrangement as prescribed for the promotion of afforestation, and for the supply of timbers, woods as may be required for religious works, disaster management, building of houses, cremation of dead bodies and essential development and construction works.

**71. Power to specify points:** The Government of Nepal may, by a notification in the Nepal Gazette, specify the points for import and export of forest products.

**72. Forest products-based industry to give information:** An industry that uses forest products as raw materials shall, prior to its operation, give information about business potentiality and the goods and services to be produced to the concerned Division Forest Office.

Provided that this provision shall not apply to the enterprises which operate as micro and cottage enterprises in accordance with the prevailing law on industrial enterprises.

**73. Inter-Level Coordination:** (1) The Government of Nepal may, in order to make effective the implementation of this Act, form an inter-level coordination committee consisting of representatives of the Ministry, concerned Provincial Ministry and concerned Local Level.

(2) Other provisions relating to the committee referred to in sub-section (1) shall be as prescribed.

**74. Provisions relating to study, research:** (1) The Ministry may provide any forest area to any body carrying out any research work related to forest for the purpose of research work.

Provided that in the case of the bodies under the Ministry carrying out study, research, the Department may provide a forest area.

(2) The body to which any forest area has been provided pursuant to sub-section (1) shall use the forest area in a manner to achieve protection and development of such area.

(3) Other provisions relating to the provision of forest area pursuant to this Section and study and research work shall be as prescribed.

**75. Power to declare forest seeds garden:** The Government of Nepal may declare any part of national forest as a forest seeds garden.

**76. Power to pursue agro-forest system:** Agro-forestry system may be pursued as prescribed in the land of forest area without changing the land use.

**Explanation:** For the purpose of this Section, the term “agro-forestry” mean the system of framing of food crops or fruits or grass-crops or fishery or livestock farming along with species of multi-year trees in the same land in an integrated manner.

**77. Power to impose restriction:** The Government of Nepal may, by a notification in the Nepal Gazette, impose restriction on the collection, cutting, use, transportation, sale, distribution or export of the prescribed forest products for the purposes of protection of bio-diversity, any species or environment.

**78. Saving for acts performed in good faith:** No Government employee shall be held personally liable for any acts performed by him or her in good-faith while exercising the powers conferred by this Act.

- 79. To give reward to informant:** A body or person who gives information that any offence referred to in this Act is going to be committed or assists in arresting the offender shall be provided with a reward that is ten percent of the fine imposable on the offender.
- 80. Monitoring and evaluation:** (1) The Ministry may, from time to time, carry out monitoring and evaluation as to the protection, development and use of forests to be made pursuant to this Act.
- (2) The Provincial Ministry shall, from time to time, carry out monitoring and evaluation as to the management of forests within the Province and submit a report thereof to the Ministry as well.
- (3) The Division Forest Officer shall carry out monitoring and evaluation of the forests managed by applying various forest management systems within the district and submit a report thereof to the Ministry and Provincial Ministry.
- (4) Other provisions relating to monitoring and evaluation shall be as prescribed.
- 81. Delegation of power:** The Government of Nepal may so delegate any of the powers conferred on it pursuant to this Act as to be exercisable by any body or authority under it.
- 82. Prevailing law to govern:** The matters set forth in this Act shall be governed by this Act, and other matters shall be governed by the prevailing law.
- 83. Power to frame rules:** The Government of Nepal may frame necessary rules for implementing this Act.

- 84. Power to frame procedures or directives:** The Government of Nepal may frame and enforce necessary procedures or directives for the implementation of this Act and the rules framed under this Act.
- 85. Assessment as to implementation of the Act:** The Ministry shall make assessment of impacts of the implementation of this Act after five years of the date of its commencement.
- 86. Repeal and saving:** (1) The Forests Act, 1993 (2049) is hereby repealed.
- (2) The acts and actions performed under the Forests Act, 1993 (2049) shall be deemed to have been performed under this Act.
- 87. Transfer of cases:** The cases, petitions, reports, and case-files related thereto, which are under consideration of the District Forest Officer pursuant to the Forests Act, 1993 (2049) shall be transferred to the adjudicating authority referred to in Section 67.