

Forest (Conservation) Act, 1980

(with amendments made in 1988)

I. Forest (Conservation) Act, 1980 with Amendments Made in 1988

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

Be it enacted by Parliament in the Thirty-first Year of the Republic of India as follows:-

1. Short title, extent and commencement.

- (1) This Act may be called the Forest (Conservation) Act, 1980.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall be deemed to have come into force on the 25th day of October, 1980.

2. Restriction on the dereservation of forests or use of forest land for non-forest purpose.

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

- (i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;
- (ii) that any forest land or any portion thereof may be used for any non-forest purpose;
- (iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;
- (iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

Explanation - For the purpose of this section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for-

- (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

- (b) any purpose other than reafforestation;

but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.

3. Constitution of Advisory Committee.

The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to-

- (i) the grant of approval. under Section 2; and
- (ii) any other matter connected with the conservation of forests which may be referred to it by the Central Government.

3A. Penalty for contravention of the provisions of the Act.

Whoever contravenes or abets the contravention of any of the provisions of Section 2, shall be punishable with simple imprisonment for a period which may extend to fifteen days.

3B. Offences by the Authorities and Government Departments.

- (1) Where any offence under this Act has been committed -
 - (a) by any department of Government, the head of the department; or
 - (b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority;

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 the head of the department or any person referred to in clause (b), liable to any punishment 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 punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) 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, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

4. Power to make rules.

- (1) The Central Government may, by notification in the Official Gazette, makes rules for carrying out the provisions of this Act.
- (2) Every rule 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 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.

5. Repeal and saving.

- (1) The Forest (Conservation) Ordinance, 1980 is hereby replaced.
- (2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

6. Application of Forest (Conservation) Act , 1980.

1.1 Definition.

- (i) The term ‘Forest land’ mentioned in Section 2 of the Act refers to reserved forest, protected forest or any area recorded as forest in the government records. Lands which are notified under Section 4 of the Indian Forest Act would also come within the purview of the Act. (Supreme Court’s Judgment in NTPC’s case). **It would also include “Forest “ as understood in the dictionary sense (Supreme Court order dated 12.12.1996 in WP No.202/1995-Annexure-I). All proposals for diversions of such areas to any non- forest purpose, irrespective of its ownership , would require the prior approval of the Central Government.**

Clarification;- The term “forest” shall not be applicable to the plantations raised on private lands, except notified private forests. However, felling of trees in these private plantation shall be governed by various State Acts and Rules. Felling of trees in notified private forests will be as per the working plan/management plan duly approved by Government of India.

- (ii) The “tree” for the purpose of this Act will have the same meaning as defined in Section 2 of the Indian Forest Act, 1927 or any other Forest Act may be in force in the forest area under question.

1.2 Clarification

- (i) The cases in which specific orders for de-reservation or diversion of forest areas in connection with any project were issued by the State Government prior to 25.10.1980, need not be referred the Central Government. However, in case

where only administrative approval for the project was issued without specific orders regarding dereservation and/or diversion of forest lands, a prior approval of the Central Government would be necessary.

- (ii) Harvesting of fodder grasses, legumes etc which grow naturally in forest areas, without removal of the tree growth, will not require prior approval of the Central Government. However, lease of such areas to any organization or individual would necessarily require under the Act.
- (iii) The forest policy, as well as provisions of the Forest (Conservation) Act, 1980, do not interfere in any manner or restrict the Nistar, recorded rights, concessions and privileges of the local people for bonafide domestic use as granted by the State Government under India Forest Act, 1927 or State Forest Act/Regulations. However, it has to be ensured that while allowing such rights, concessions and privileges to be exercised, the right holders do not resort to felling of trees or break up the forest floor so as to procure stones, minerals, or take up constructions, etc. The forest produce so obtained shall be utilized for any commercial purposes.

The collection of such forest produce should be manual and should be transported through local modes or transport like bullock carts, camel carts, etc and no mechanized vehicles shall be allowed to be used in transporting such forest produce and only in exceptional cases with approval of concerned Divisional Forest Officers, tractors mounted with trolley may be used.

Clarification:- The Supreme Court has passed an order on 14.02.2000 restraining removal of dead, diseased, dying or wind- fallen trees, drift wood and grasses etc from any National Park or Game Sanctuary...” Annexure-II A may be referred to. In view of this rights and concessions cannot be enjoyed in the Protected Area (Pas).

1.3 Investigation and Survey.

- (i) Investigation and surveys carried out in connection with development projects such as transmission lines, hydro-electric projects, seismic surveys, exploration for oil drilling, mining etc will not attract the provisions of the Act as long as these surveys do not involve any clearing of forest or cutting of trees, and operations are restricted to clearing of bushes and lopping of tree branches for purpose of signing.
- (ii) If, however, investigation and surveys involve clearing of forest area or felling of trees, prior permission of the Central Government is mandatory.
- (iii) Notwithstanding the above, survey, investigation and exploration shall be carried out in wildlife sanctuaries, national parks and sample plots demarcated by the Forest Department without obtaining the prior approval of the Central Government, whether or not felling of trees is involved.

Clarification:- The Supreme Court has passed several orders regarding taking up of non- forestry activities in the National Parks/Sanctuaries. Annexure-II A may be referred to. In view of this, the State Government should not submit any proposal for diversion of forest land in National Parks and Sanctuaries without seeking prior permission of the Indian Board for Wildlife (Now National Board of Wildlife) and Supreme Court.

- (iv) The work of actual construction would however, fully attract the provisions of the Act and prior clearance of the Central Government must be obtained even if such work does not require felling of trees.
- (v) Prospecting of any minerals, done under prospecting licence granted under MMDR Act, which requires collection/removal of samples from the forest land, would be a stage between survey & investigation and grant of mining lease and as such permission under Forest (Conservation) Act 1980 would be required. However, test drilling upto 10 bore holes of maximum 4” diameter per 100sq.km. for prospecting, exploration or reconnaissance operations, without felling of trees, shall not attract the provisions of the Act. In all other cases involving more number of drilling of bore holes, prior permission of the Central Government under the Act would be required.
- (vi) It is clarified that the permission to survey, exploration or prospection would not ipso facto imply any commitment on the part of the Central Government for diversion of forest land.

1.4 Explanation Regarding Non-Forest purpose.

- (i) Cultivation of tea, coffee, species, rubber and palm is a non- forestry activity, attracting the provisions of the Act.
- (ii) Cultivation of fruit-bearing trees or oil-bearing plants or medicinal plants would also require prior approval of the Central Government except when.
 - (a) The species to be planted are indigenous to the area in a question; and
 - (b) Such planting activity is part over all Afforestation programme for the forest area in question.

1.5 Tusser Cultivation

- (i) *Tusser cultivation in forest areas by the tribals as a means of their livelihood without undertaking monocultural Asan or Arjun plantation shall be treated as a forestry activity. Therefore, no prior approval of the Central Government under the Act is necessary.
- (ii) *Tusser cultivation in forest areas for which specific plantation of Asan or Arjun trees are undertaken for providing host trees to the silk cocoons shall be treated as forestry activity not requiring prior approval of the Central Government provided such plantation activity does not involve any felling or existing trees; provided further that while undertaking such plantations, at least three species are planted, of which no single species shall cover more than 50% of the planted area
- (iii) Plantation of mulberry for silkworm rearing is a non- forestry activity the provisions of the Act.

1.6 Mining

- (i) Mining including underground mining is a non- forestry activity. Therefore, prior approval of the Central Government is essential before a mining lease in respect of any forest area. The Act would apply not only to the surface area which is used in the mining but also to the entire underground mining area beneath the forest. A renewal of an existing mining lease in a forest area also requires the prior approval of the Central Government. Continuation or resumption of mining operation on the expiry of a mining lease without prior approval would amount to contravention of the Act.

- (ii) The advice of the Ministry of Law, Government of India in regard to the Supreme Court Order in Civil Appeal NO>2349 of 1984 dated.7.5.1985 is at Annexure-III
- (iii) Boulders, bajri, stone, etc., in the riverbeds located within forest areas would constitute a part of the forest land and their removal would require prior approval of the Central Government.

LAW DEPARTMENT'S ADVICE IN REGARD TO MINING LEASES

- i. In respect of the mining operations being carried out on forest lands leased before the commencement of the Forest (Conservation) Act,1980 during the continuance of the lease period, the approval of the Central Govt. under Section 2 of the said Act is not required.
- ii. A renewal of a lease is really the grant of a fresh lease. [See State of Tamil Nadu Vs Hind Stones etc. delivered on February 5, 1981 (S.C. Reports pp 742-70) and Samatha Vs State of Andhra Pradesh and others delivered on July 11, 1997]. The prior approval of the Central Govt. in terms of section 2 of the Forest (Conservation)Act,1980 would be required when a mining lease granted before the commencement of the said Act is renewed after its coming into force.
- iii. As held by the Supreme Court in State of Bihar Vs. Banshi Ram Modi (supra), prior approval of the Central Govt. in terms of Section 2 of the Forest (Conservation)Act,1980 would not be required for mining and winning any new mineral from a forest land leased for mining before the commencement of the said Act during the leased period originally granted, if the said land is already broken up or cleared before the commencement of the Act. Otherwise, the prior approval of the Central Govt. under Section 2 of the said Act would be required.

1.7 Clarification on Sub-clause 2 (iii) of the Act.

- (i) the Sub-clause shall not be attracted when any forest land or any portion thereof is assigned to any authority, corporation, agency or any other organization wholly owned, managed or controlled by the concerned State/Union Territory Government and/agency, which has been assigned such forest land shall not reassign it or any part thereof to any other organization or individual.
- (ii) Any scheme or protect which involves assignment of any forest land by way of lease or similar arrangement, for any purpose whatsoever, including afforestation, to any private person or to any authority/agency/organization not wholly owned, managed or controlled by the Government (such as private or joint sector ventures) shall attract the provisions of this sub-clause.

1.8 Clarification on sub-clause 2(iv) of the Act

- (i) Sub-clause 2(iv) of the Act prohibits clearing of naturally grown trees in forest land for the purpose of using it for reforestation. The provisions of this subclause will be attracted if the forest area in question bears naturally grown trees and are required to be clear-felled, irrespective of this size, for harnessing existing crop and/or raising plantation through artificial regeneration techniques, which may include copping, pollarding or any other mode of vegetative propagation.

- (ii) All proposals involving clearing of naturally grown trees in any forest area, including for the purpose of reforestation, shall be sent by the concerned State/UT Government in the form of Management Plans/Working Plan to the Regional Chief Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.
- (iii) All proposals in respect of sanction of Working Plans/Management Plans shall be finally disposed of by the Regional Office, under Section 2 of the Act. While examining the proposal, the Regional Office would ensure that the final decision is in conformity with the National Forest Policy, Working Plan guidelines and other relevant rules and guidelines issued by the Central Government from time to time. The Regional Office will however, invariably seek prior clearance of the Ministry whenever the proposal involves clearfelling of forest area having density above 0.4 irrespective of the area involved. Also , prior clearance would be required when the proposal is for clear felling of an area of size mote than 20ha. In the plains and 10ha in the hilly region, irrespective of density.
- (iv) In national parks and sanctuaries where felling are carried for improvement of Wildlife and its habitat only, forest would be managed according to a scientifically prepared management plan approved by the Chief Wildlife Warden, provided that the removed forest produce shall be used for meeting bona fide needs of the people living in and around the National Park/Sanctuary and shall not be used for any commercial purposes. But in case where large scale felling/removal of timber and non timber products is required in a national park/sanctuary, which need disposal through sales, approval of the Central Government would be necessary. However, this shall be subject to the orders of the Supreme Court, which may be referred to at Annexure-II A.

1.9 Clarification of Section 3 B of the Act.

- (i) Each case of the violation of the Act shall be reported by the concerned State/Union Territory Government to the Central Government.
- (ii) The report of violation shall be described in a self-contained note and supported by requisite documents, including particularly the manes and designations of the officials/persons who are prima- facie responsible for the contravention of the Act
- (iii) In case it is not possible to fix the responsibility for commission/omission of any action leading to the violation of the Act, a full explanation with relevant document shall appended to the report.

Any person and/or authority nominated by the Central Government may be required to discharge any of the duties, including prosecution under the Act in (3) dated 18.9.90 shall be strictly followed. These are included in Annexure IV-C.

- (iv) any Court as may be deemed appropriate for this purpose. In such an eventuality, the Government of the concerned State/Union Territory shall make available all such records or documents as may be called upon by the investigation officer.

Clarification :- The provisions of this Section are applicable to the cases where the State Government or any authority passes any other for promoting activities covered by Section 2 of the Forest (Conservation) Act,1980 without prior approval of the Central Government. Cases of illicit felling/encroachment/illegal

mining , etc have to dealt under the provisions of the Indian Forest Act,1927, State Acts , Environment (Protection) Act,2986, etc.

1.10 Diversion of Forest Land for Regularisation of Encroachments.

- (i) Detailed guidelines issued in this regard vide this Ministry's letter NO.13-1/90-FP(1) dated 18.9.90 shall be strictly followed. These are included in Annexure IV.
- (ii) The State Government/UT Administrations may send the proposals as follows:-
 - (a) A consolidated proposal for the whole State in the prescribed application form.
 - (b) Detailed information as per the enclosed Table/format – Annexure –IV A . Division wise proposals, maps, names encroachers, etc. should be kept ready at Division level, which may be made available whensoever required for inspection and need not be appended with the consolidated proposal.
 - (c) Detailed compensatory Afforestation scheme with areas proposed for raising compensatory Afforestation Division-wise, phased planning, fund requirement, commitment of the State Government to provide funds for the purpose, etc Maps of proposed areas for compensatory afforestation should be kept already at Division level, which may be made available whensoever required for inspection
 - (d) A time plan foe eviction of ineligible encroachers.

1.11. Regularisation Of Encroachments On Forest Land

1. Encroachment of forest land for cultivation and other purposes continues to be the most pernicious practice endangering forest resources throughout the country. Statistical information compiled by Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of States had regularised such encroachments periodically and approximately 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Government to regularise encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.
- 2 The National Forest Policy, 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularised. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments some of whom have expressed that they stand committed to regularise encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old

encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

3. All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below:

1.12. PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENT HAD TAKEN A DECISION BEFORE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980, TO REGULARIZE 'ELIGIBLE' CATEGORY OF ENCROACHMENTS.

- 1.1 Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act, on 25.10.80.
- 1.2 All such cases should be individually reviewed. For this purpose the State Government may appoint a joint team of the Revenue, Forest and Tribal Welfare Department for this work and complete it as a time-bound programme.
- 1.3 In case where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gaon Sabha with a view to avoid disputes in future.
- 1.4 All encroached lands proposed for regularisation should be properly surveyed.
- 1.5 Encroachments proposed to be regularised must have taken place before 25.10.1980. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.
- 1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.
- 1.7 The encroacher must be eligible to avail the benefits of regularisation as per the eligibility criteria already fixed by the State.
- 1.8 As far as possible scattered encroachments proposed to be regularised should be consolidated/relocated near the outer boundaries of the forests.
- 1.9 The outer boundaries of the areas to be denotified for regularisation of encroachments should be demarcated on the ground with permanent boundary marks.
- 1.10 All the cases purposed to be regularised under this category should be covered in one proposal and it should give district-wise details.

1.11 All cases of proposed regularisation of encroachments should be accompanied by a proposal for compensatory afforestation as per existing guidelines.

1.12 No agricultural practices should be allowed on certain specified slopes.

1.13. 'INELIGIBLE' CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN A DECISION PRIOR TO THE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980.

1 Such cases should be treated at par with post 1980 encroachments and should not be regularised.

1.14. ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.1980.

1.1 In no case encroachments which have taken place after 24.10.1980 should be regularised. Immediate action should be taken to evict the encroachers. The State/UT Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No. 6-21/89-FP dated 1.6.90, but such benefits should not extend to fresh encroachers..

CLARIFICATION

1. A reference is invited to the guidelines issued by this Ministry for regularisation of certain cases of forest encroachments reproduced above. The relevant paragraph 1.1 of the guidelines, which clarifies the cases of encroachments, which subject to specified conditions, would be eligible for regularisation, is reproduced below:

"Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decisions either wholly or partially before enactment of the Forest (Conservation) Act on 25.10.1980.

2. Doubts have been raised as to whether all encroachments that had taken place up to 25.10.1980 could be regularised in accordance with an eligibility formula by which some earlier encroachments were regularised.

3. A perusal of the paragraph reproduced above will make it clear that there are 2 pre-conditions for any encroachments to be considered for regularisation. These are:-

(a) The State Government should have taken the decision on regularisation of encroachments before 25.10.1980; and

(b) that the decision should be with reference to some eligibility criteria (normally expected to be related to social and economics status of encroachers, location and extent of encroachment, cut off date of encroachment, etc.)

4. It would be seen that the encroachments which are proposed to be considered for regularisation, subject to the prescribed conditions, are those which fulfilled the eligibility criteria evolved by the State Government as per decision taken before 25.10.1980 for regularisation of encroachments. The objective is limited to permitting implementation of decisions taken before 25.10.1980 which could not be implemented because the enactment of Forest (Conservation) Act, 1980 intervened. It is therefore quite clear that while all encroachments that can be considered as eligible for regularisation would have taken place before 25.10.1980, all encroachments that had taken place before 25.10.1980 would not be eligible for regularisation - they may be ineligible because either they do not meet the eligibility criteria or are not covered by any decision taken before 25.10.1980. Thus, if the decision on regularisation of encroachments in a State covered only encroachments up to a date earlier than 25.10.1980, the guidelines on regularisation of encroachments do not envisage that the State Government would now survey encroachments between that date and 25.10.1980 and propose regularisation. The latter encroachments though occurring before 25.10.1980 are not covered by any regularisation decision taken prior to that date and hence can not be considered for regularisation at this juncture.
5. Accordingly, the State Governments may take up for implementation only such decision of pre 25.10.1980 period which could not be implemented because of Forest (Conservation) Act, 1980 intervening and propose regularisation of encroachments as per those decisions and in accordance with the eligibility criteria laid down in those decisions. No encroachments not covered by any pre 25.10.1980 decisions - even though they might have occurred prior to that - should now be considered for regularisation in terms of our guidelines.

1.15 Review of Disputed Claims over Forest Land, arising out of Forest Settlement

Detailed guidelines issued in this regard vide this Ministry's NO>13-1/90-F.P(2) dated 18.9.90 shall be strictly followed. These are included in Annexure IVB.

1.16 Disputes Regarding Pattas/Leases/Grants involving Forest Land – Settlement thereof.

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P. (3) dated 18.9.90 shall be strictly followed. These are included in Annexure IV –C

1.17 Conversion of Forest Villages into Revenue Villages.

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P.(5) dated 18.9.90 shall be strictly followed. These are included in Annexure IVD.

II. Forest (Conservation) Rules, 2003 (with amendments made in 2004)

Forest (Conservation) Rules, 2003

Ministry of Environment and Forests

Notification

New Delhi, the 10th January, 2003

G.S.R.23(E):- In exercise of the powers conferred by sub-section (1) of section 4 of the Forest (Conservation) Act, 1980 (69 of 1980), and in supersession of the Forest (Conservation) Rules, 1981, except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

1. Short title, extent and commencement.-

1. These rules may be called the Forest (Conservation) Rules, 2003.
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.- In these rules, unless the context otherwise requires:-

- a. "Act" means the Forest (Conservation) Act, 1980 (69 of 1980);
- b. "Committee" means the Advisory Committee constituted under section 3 of the Act;
- c. "Chairperson" means the Chairperson of the Committee;
- d. "Member" means a member of the Committee;
- e. "Nodal Officer" means any officer not below the rank of Conservator of Forests, authorised by the State Government to deal with the forest conservation matters under the Act;
- f. "Regional Office" means a Regional Office of the Central Government in the Ministry of Environment and Forests established as part of the Ministry to deal with the forest conservation matters under the Act;
- g. "Section" means a section of the Act;
- h. "User Agency" means any person, organisation or Company or Department of the Central or State Government making a request for diversion or de-notification of forest land for non-forest purpose or using forest land for non-forest purpose in accordance with the permission granted by the Central Government under the Act or the rules.

3. Composition of the Committee.-

(1) The Committee shall be composed of the following members:-

- i. Director General of Forests, Ministry of Environment and Forests - Chairperson.
- ii. Additional Director General of Forests, Ministry of Environment and Forests- Member.
- iii. Additional Commissioner (Soil Conservation), Ministry of Agriculture- Member.
- iv. Three eminent experts in forestry and allied disciplines (non-officials)- Members.

- v. Inspector General of Forests (Forest Conservation), Ministry of Environment and Forests - Member Secretary

(2) Additional Director General of Forests shall act as the Chairperson in the absence of Director General of Forests.

4. Terms of appointment of non-official members shall be as follows.-

- i. a non-official member shall hold his office for a period of two years;
- ii. a non-official member shall cease to hold office if he becomes of unsound mind, becomes insolvent or is convicted by court of law on a criminal offence involving moral turpitude;
- iii. a non-official member may be removed from his office if he fails to attend three consecutive meetings of the Committee without any sufficient cause or reasons;
- iv. any vacancy in the membership caused by any reason mentioned in clauses (ii) and (iii) shall be filled by the Government for the unexpired portion of two years term.
- v. travelling and daily allowance shall be payable to the non-official members of the Committee at the highest rate admissible to the Government servants of Group 'A' under the rules and orders made by the Central Government and for the time being in force.

Provided that the payment of travelling allowance and daily allowance to a member who is a Member of the Parliament or a Member of a State Legislature shall be regulated in accordance with the Salary, Allowances and Pension of Members of Parliament Act, 1954 (30 of 1954) or the respective provisions of law pertaining to the member of the concerned State Legislature.

5. Conduct of business of the Committee.-

- i. The Chairperson shall call the meeting of the Committee whenever considered necessary, but not less than once in a month.
- ii. The meeting of the Committee shall be held at New Delhi.
- iii. In a case where the Chairperson is satisfied that inspection of site or sites of forest land proposed to be used for non-forest purposes shall be necessary or expedient in connection with the consideration of the proposal or proposals received under sub-rule (3) of rule 6, he may direct that the meetings of the Committee to be held at a place other than New Delhi from where such inspection of site or sites is necessary.
- iv. The Chairperson shall preside over every meeting of the Committee at which he is present.
- v. Every question upon which the Central Government is required to be advised shall be considered in the meeting of the Committee provided that in urgent cases if the meeting cannot be convened within a month, the Chairperson may direct that papers may be circulated and sent to the members for their opinion within the stipulated time.
- vi. The quorum of the meeting of the Committee shall be three.

6. Submission of the proposals seeking approval of the Central Government under section 2 of the Act.-

(1) Every user agency, who wants to use any forest land for non-forest purposes shall make his proposal in the appropriate Form appended to these rules, i.e. Form 'A' for proposals seeking first time approval under the Act and Form 'B' for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier, to the concerned nodal officer authorized in this behalf by the State Government, alongwith requisite information and documents, complete in all respects, well in advance of taking up any non-forest activity on the forest land.

(2) Every State Government or other authority, after having received the proposal under sub-rule (1) and after being satisfied that the proposal requires prior approval under section 2 of the Act, shall send the proposal to the Central Government in the appropriate forms, within ninety days of the receipt of the proposal from the user agency for proposals seeking first time approval under the Act and within sixty days for proposals seeking renewal of leases where approval of the Central Government under the Act had already been obtained earlier:

Provided that all proposals involving clearing naturally grown trees in forest land or portion thereof for the purpose of using it for reafforestation shall be sent in the form of Working Plan or Management Plan.

(3) The proposal referred to in sub-rule (2) above, involving forest land of more than forty hectare shall be sent by the State Government to the Secretary to the Government of India, Ministry of Environment and Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi-110 003, with a copy of the proposal (with complete enclosures) to the concerned Regional Office.

(4) The proposal referred to in sub-rule (2) above, involving forest land up to forty hectare shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.

(5) The proposal referred to in sub-rule (2) above, involving clearing of naturally grown trees in forest land or portion thereof for the purpose of using it for reafforestation shall be sent to the Chief Conservator of Forests or Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests.

7. Committee to advise on proposals received by the Central Government.-

(1) The Central Government shall refer every proposal, complete in all respects, received by it under sub-rule (3) of rule 6 including site inspection report, wherever required, to the Committee for its advice thereon.

(2) The Committee shall have due regard to all or any of the following matters while tendering its advice on the proposals referred to it under sub-rule (1), namely:-

- a. Whether the forests land proposed to be used for non-forest purpose forms part of a nature reserve, national park wildlife sanctuary, biosphere reserve or forms part of the habitat or any endangered or threatened species of flora and fauna or of an area lying in severely eroded catchment;

- b. Whether the use of any forest land is for agricultural purposes or for the rehabilitation of persons displaced from their residences by reason of any river valley or hydro-electric project ;
- c. Whether the State Government or the other authority has certified that it has considered all other alternatives and that no other alternatives in the circumstances are feasible and that the required area is the minimum needed for the purpose; and
- d. Whether the State Government or the other authority undertakes to provide at its cost for the acquisition of land of an equivalent area and afforestation thereof.

(3) While tendering the advice, the Committee may also suggest any conditions or restrictions on the use of any forest land for any non-forest purpose, which in its opinion, would minimise adverse environmental impact.

8. Action of the Central Government on the advice of the Committee.—

The Central Government shall, after considering the advice of the Committee tendered under rule 7 and after such further enquiry as it may consider necessary, grant approval to the proposal with or without conditions or reject the same within sixty days of its receipt.

9. Proceedings against persons guilty of offences under the Act.—

(1) The Central Government may, by notification, authorize any officer not below the rank of Conservator of Forests or the concerned forest officer having territorial jurisdiction over the forest land in respect of which the said offence is said to have been committed, to file complaints against the person (s) prima-facie found guilty of offence under the Act or the violation of the rules made thereunder, in the court having jurisdiction in the matter.

Provided that no complaint shall be filed in the court, without giving the person (s) or officer (s) or authority (s) against whom the allegations of offence exist, an opportunity to explain his or their conduct and to show cause, by issuing a notice in writing of not less than sixty days, as to why a complaint should not be filed in the court against him or them for alleged offences.

(2) The officer authorised by the Central Government in sub-rule (1) may require any State Government or its officer or any person or any other authority to furnish to it within a specified period any reports, documents, statistics and any other information related to contravention of the Act or the rules made thereunder, considered necessary for making a complaint in any court of jurisdiction and every such State Government or officer or person or authority shall be bound to do so.

APPENDIX
(See Rule 6)
FORM – ‘A’
Form for seeking prior approval under section 2 of the proposals
by the State Governments and other authorities
PART-I
(to be filled up by user agency)

1. Project details:
 - (i) Short narrative of the proposal and project/scheme for which the forest land is required.
 - (ii) Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
 - (iii) Cost of the project:
 - (iv) Justification for locating the project in forest area.
 - (v) Cost-benefit analysis (to be enclosed).
 - (vi) Employment likely to be generated.
2. Purpose-wise break-up of the total land required:
3. Details of displacement of people due to the project, if any:
 - i. Number of families.
 - ii. Number of Scheduled Castes/Scheduled Tribe families
 - iii. Rehabilitation plan. (to be enclosed)
4. Whether clearance under Environment (Protection) Act, 1986 required? (Yes/No).
5. Undertaking to bear the cost of raising and maintenance of compensatory afforestation and/or penal compensatory afforestation as well as cost for protection and regeneration of Safety Zone, etc. as per the scheme prepared by the State Government (undertaking to be enclosed).
6. Details of Certificates/documents enclosed as required under the instructions.

Signature

(Name in Block letters)

Designation

Address (of User Agency)

Date:- _____

Place:- _____

State serial No. of proposal _____

(To be filled up by the Nodal Officer with date of receipt)

INSTRUCTIONS (for Part-I):-

1. *The project authorities may annex a copy of the approved project/plan in addition to filling Col. 1 (i) e.g. IBM approved mining plan for major minerals/CMPDI plan with subsidence analysis reports, etc.*
2. *Map has to be in original duly authenticated jointly by project authorities and concerned DCF – Col. 1 (ii).*
3. *Complete details of alternative alignments examined especially in case of project like roads, transmission lines, railway lines, canals, etc. to be shown on map with details of area of forest land involved in each alternative to be given - Col. 1 (iii).*
4. *For proposals relating to mining, certificate from competent authority like District Mining Officer about non-availability of the same mineral in surrounding/nearby non-forest areas.*
5. *In case the same company/individual has taken forest land for similar project in the State, a brief detail of all such approvals/leases be given as an enclosure along with current status of the projects.*

The latest clarifications issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information do not fit in the given columns, the same shall be annexed separately.

PART-II

(To be filled by the concerned Deputy Conservator of Forests)

State serial No. of proposal _____

7. Location of the project/Scheme:
 - i. State/Union Territory
 - ii. District.
 - iii. Forest Division
 - iv. Area of forest land proposed for diversion (in ha.)
 - v. Legal status of forest
 - vi. Density of vegetation.
 - vii. Species-wise (scientific names) and diameter class-wise enumeration of trees (to be enclosed. In case of irrigation / hydel projects enumeration at FRL, FRL-2 meter & FRL-4 meter also to be enclosed.)
 - viii. Brief note on vulnerability of the forest area to erosion.
 - ix. Approximate distance of proposed site for diversion from boundary of forest.
 - x. Whether forms part of National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. (If so, the details of the area and comments of the Chief Wildlife Warden to be annexed).
 - xi. Whether any rare/endangered/unique species of flora and fauna found in the area- if so details thereof.
 - xii. Whether any protected archaeological/heritage site/defence establishment or any other important monument is located in the area. If so, the details thereof with NOC from competent authority, if required.
8. Whether the requirement of forest land as proposed by the user agency in col. 2 of Part-I is unavoidable and barest minimum for the project. If no, recommended area item-wise with details of alternatives examined.
9. Whether any work in violation of the Act has been carried out (Yes/No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.
10. Details of compensatory afforestation scheme:
 - i. Details of non forest area/degraded forest area identified for compensatory afforestation, its distance from adjoining forest, number of patches, size of each patch.
 - ii. Map showing non-forest/degraded forest area identified for compensatory afforestation and adjoining forest boundaries.
 - iii. Detailed compensatory afforestation scheme including species to be planted, implementing agency, time schedule, cost structure, etc.
 - iv. Total financial outlay for compensatory afforestation scheme.
 - v. Certificates from competent authority regarding suitability of area identified for compensatory afforestation and from management point of view. (To be signed by the concerned Deputy Conservator of Forests).
11. Site inspection report of the DCF (to be enclosed) especially highlighting facts asked in col. 7 (xi, xii), 8 and 9 above.

12. Division/District profile:

- i. Geographical area of the district.
- ii. Forest area of the district.
- iii. Total forest area diverted since 1980 with number of cases.
- iv. Total compensatory afforestation stipulated in the district/division since 1980 on (a) forest land including penal compensatory afforestation,

(b) non-forest land.
- v. Progress of compensatory afforestation as on (date) _____
on

(a) forest land

(b) non-forest land.

13. Specific recommendations of the DCF for acceptance or otherwise of the proposal with reasons.

Signature

Name

Official Seal

Date:- _____

Place:- _____

PART-III

(To be filled by the concerned Conservator of Forests)

14. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/No). If yes, the date of inspection & observations made in form of inspection note to be enclosed.
15. Whether the concerned Conservator of Forests agree with the information given in Part-B and the recommendations of Deputy Conservator of Forests.
16. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature

Name

Official Seal

Date:- _____

Place:- _____

PART-IV

(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest department)

17. Detailed opinion and specific recommendation of the State Forest Department for acceptance of otherwise of the proposal with remarks.

(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Signature

Name & Designation

(Official Seal)

Date:- _____

Place:- _____

PART- V

(To be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under Secretary)

18. Recommendation of the State Government:

(Adverse comments made by any officer or authority in Part-B or Part-C or Part-D above should be specifically commented upon)

Signature

Name & Designation

(Official Seal)

Date:-_____

Place:-_____

GENERAL INSTRUCTIONS:-

1. On receipt of proposal, Nodal Officer shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, area in hectare, serial number and date of receipt.
2. If the space provided above is not sufficient to specify any information, please attach separate details/documents.
3. While forwarding the proposal to the Central Government, complete details on all aspects of the case as per Form prescribed above read with the clarifications issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. Incomplete or deficient proposals shall not be considered and shall be returned to the State Government in original.
4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding/covering letter.

FORM – ‘B’

(See Rule 6)

Form for seeking prior approval under section 2 of the proposals by the State Governments and other authorities in respect of renewal of leases, which have been earlier granted clearance under Forest (Conservation) Act, 1980

PART-I

(to be filled up by user agency)

1. Letter No. & date vide which clearance under Forest (Conservation) Act, 1980 accorded by the Central Government (copy to be enclosed):
2. Project details:
 - (i) Short narrative of the proposal and project/scheme for which the forest land is required.
 - (ii) Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
 - (iii) Cost of the project:
3. Purpose-wise break-up of the total land required (already broken & to be broken):
4. Details of Certificates/documents enclosed as required under the instructions.

Signature

(Name in Block letters)

Designation

Address (of User Agency)

Date:- _____

Place:- _____

State serial No. of proposal _____

(To be filled up by the Nodal Officer with date of receipt)

PART-II

(To be filled by the concerned Deputy Conservator of Forests)

State serial No. of proposal_____

5. Location of the project/Scheme:

- i. State/Union Territory
- ii. District.
- iii. Forest Division
- iv. Area of forest land proposed for diversion (in ha.)
- v. Legal status of forest
- vi. Density of vegetation.
- vii. Species-wise (scientific names) and diameter class-wise enumeration of trees in unbroken area.
- viii. Whether forms part of National Park, wildlife sanctuary, biosphere reserve, tiger reserve, elephant corridor, etc. (If so, the details of the area and comments of the Chief Wildlife Warden to be annexed).

6. Whether any work in violation of the Act has been carried out (Yes/No). If yes, details of the same including period of work done, action taken on erring officials. Whether work in violation is still in progress.

7. Site inspection report of the DCF (to be enclosed) in respect to status of compliance of conditions stipulated during earlier approval.

8. Division/District profile:

- i. Geographical area of the district.
- ii. Forest area of the district.
- iii. Total forest area diverted since 1980 with number of cases.
- iv. Total compensatory afforestation stipulated in the district/division since 1980 on (a) forest land including penal compensatory afforestation, (b) non-forest land.
- v. Progress of compensatory afforestation as on (date) _____
on
(a) forest land
(b) non-forest land.

9. Specific recommendations of the DCF for acceptance or otherwise of the proposal with reasons.

Signature

Name

Official Seal

Date:-_____

Place:-_____

PART-III

(To be filled by the concerned Conservator of Forests)

10. Whether site, where the forest land involved is located has been inspected by concerned Conservator of Forests (Yes/No). If yes, the date of inspection & observations made in form of inspection note to be enclosed.

11. Whether the concerned Conservator of Forests agree with the information given in Part-B and the recommendations of Deputy Conservator of Forests.

12. Specific recommendation of concerned Conservator of Forests for acceptance or otherwise of the proposal with detailed reasons.

Signature

Name

Official Seal

Date:- _____

Place:- _____

PART-IV

(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest department)

13. Detailed opinion and specific recommendation of the State Forest Department for acceptance of otherwise of the proposal with remarks.

(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon).

Signature

Name & Designation

(Official Seal)

Date:- _____

Place:- _____

PART- V

(To be filled in by the Secretary in charge of Forest Department or by any other authorised officer of the State Government not below the rank of an Under Secretary)

14. Recommendation of the State Government:

(Adverse comments made by any officer or authority in Part-B or Part-C or Part-D above should be specifically commented upon)

Signature

Name & Designation

(Official Seal)

Date:- _____

Place:- _____

INSTRUCTIONS (for Part-I):-

1. The project authorities may annex a copy of the approved project/plan in addition to filling Col. 2 (i) e.g. IBM approved mining plan for major minerals/CMPDI plan with subsidence analysis reports, etc.
2. Map has to be in original duly authenticated jointly by project authorities and concerned DCF – Col. 2 (ii).
3. In case the same company/individual has taken forest land for similar project in the State, a brief detail of all such approvals/leases be given as an enclosure along with current status of the projects.
4. Item-wise requirement (Col. 3) should be separately shown for broken up and fresh areas.
5. The latest clarifications issued by the Ministry under Forest (Conservation) Act, 1980 may be kept in mind. In case such information do not fit in the given columns, the same shall be annexed separately.

GENERAL INSTRUCTIONS:-

1. On receipt of proposal, Nodal Officer shall issue a receipt to the user agency indicating therein the name of the proposal, user agency, area in hectare, serial number and date of receipt.
2. If the space provided above is not sufficient to specify any information, please attach separate details/documents.
3. While forwarding the proposal to the Central Government, complete details on all aspects of the case as per Form prescribed above read with the clarifications issued by the Ministry of Environment and Forests, Government of India, New Delhi should be given. Incomplete or deficient proposals shall not be considered and shall be returned to the State Government in original.

4. The State Government shall submit the proposal to the Central Government within stipulated time limits. In case of delay while forwarding, the reasons for the same to be given in the forwarding/covering letter.

(File No. 5-5/98-FC)

Sd/-

(DR. V.K. BAHUGUNA)

Inspector General of Forests (Forest Conservation)

Note:- The principal rules were published vide G.S.R. No. 719 dated the 1st August, 1981 in part II, Section 3, sub-section (i) of the Gazette of India and subsequently amended vide:

1. G.S.R. 14, dated the 28th December, 1987
2. G.S.R. 640(E), dated the 26th June, 1989
3. G.S.R. 563 (E), dated the 21st May, 1992.

CHECK LIST FOR PROPOSAL FOR DIVERSION OF FOREST LAND UNDER FCA

1. Proposal in Part-I duly filled in by User Agency.
2. Location map of the Proposed Site, duly signed by both U/A and DFO.
3. Index Map in Survey of India toposheet (1:50,000) or (1:25,000) duly signed by both UA and DFO concerned.
4. Joint Site Inspection Report (User Agency and DFO)
5. Lay out Plan.
6. Undertaking by U.A to pay cost of C.A.
7. Undertaking by U.A. to pay royalty of timber and / or operational cost for extraction of timber from the project site, as the case may be.
8. Undertaking by U.A. to pay N.P.V.
9. E.I.A. Report.

SPECIMEN OF UNDERTAKING TO PAY THE NPV

The Department of (User Agency) hereby undertakes to pay the net present value (NPV) of the forest land admeasuring ha. situated at in Divisions, diverted for (purpose), as per the rate specified in the **(Order No. 199 dt. 9.11.2004)** published in Andaman & Nicobar Gazette. The department further undertakes to pay the difference of amount in case there is any upward revision of NPV.

Signature of the Authorised Officer of the Department with Seal

Forest (Conservation) Amendment Rules, 2004

**(published in Gazette of India : Extraordinary on 3rd February,2004
and Corrigendum on 9th February,2004)**

G.S.R.94(E) – In exercise of the powers conferred by Sub-section (1) of Section 4 of the Forest (Conservation) Act,1980 (69 of 1980), the Central Government hereby makes the following rules to amend the Forest (Conservation) Rules,2003, namely :-

1. (1) These rules may be called the Forest (Conservation) Amendment Rules, 2004.
(2) Rules 1,2,3,5,6 (except Sub-rule (5) of rule 6) and 7 of these rule shall come into force on the date of their publication in the Officer Gazette; whereas, rule 4 of these rules and sub-rule(5) of rule 6 of the principal rule, as contained in rule 5 of these rules, shall come into force on the expiry of 180 days from the date of such publication.
2. In the Forest (Conservation) Rules, 2003 (hereinafter referred to as the said rules), in rule 2, for clause (b), the following clause shall be substituted, namely ;-

(b) “Committee” means the Forest Advisory Committee constituted under section 3 of the Act.
3. In the said rules, for rule3, the following rule shall be substituted, namely “3
Composition of the Forest Advisory Committee :-
(1) The Forest Advisory Committee shall be composed of the following members, namely :-
(i) Director General of Forests, MoEF - **Chairperson**
(ii) Additional Director General of Forests - **Member**
(iii) Additional Commissioner (Soil Conservation),
Ministry of Agriculture - **Member**
(iv) Three non-official members who shall
be experts one each in Mining Civil
Engineering and Development Economics- **Member**
(v) Inspector General of Forests (FC),MoEF - **Member- Secretary**
- NB** The Additional Director General of Forests shall act as Chairperson in the absence of the Director General of Forests”
4. In said rules, after 3, the following, rule shall be inserted, namely Constitution of the Regional Empowered Committee :-
(1) A Regional Empowered Committee shall be constituted at each of the Regional Offices and shall consist of the following members, namely ;
(i) Regional Chief Conservator of Forests (Central) - **Chairperson**
(ii) Three non-official members who shall be
experts one each in Mining, Civil Engineering
and Development Economics - **Member**
(iii) Conservator of Forests / Deputy
Conservator of Forests in the Regional Office - **Member-Secretary**
- (2) The term of appointment of non-official Members shall be as specific in rule 4 of these rules.

5. In the said rules, for rule 6, the following rule shall be substituted, namely – “6. Submission of proposals seeking approval of the Central Government under Section 2 of the Act.

(1) Every User Agency who want to use any forest land for non- forestry purpose, shall make it proposal in the relevant Form appended to these rules, i.e Form 'A' for proposal seeking renewal of lease, where approval under the Act, and Form 'B' for proposal seeking renewal of lease, where approval of the Central Government under the Act had already been obtained, to the Nodal Officer of the concerned State Government or the Union Territory Administration, as the case may be, along with requisite information and documents, complete in all respects.

(2) The User Agency shall endorse a copy of the proposal, along with a copy of the receipt obtained from the office of the Nodal Officer, to the concerned Divisional Forest Officer or the Conservation Division of the Ministry of Environment and Forests, Paraya nran Bhawan, CGO Complex, New Delhi – 110 003.

(3) (a) After having received the proposal, the State Government or, the Union Territory Administration, as the case may be, shall process and forward it to the Central Government within a period of two hundred and ten days of the receipt of the proposal including the transit period.

(b) The Nodal Officer of State Government or as the case may be, the Union Territory Administration, after having received the proposal under sub-rule (1) and on being satisfied that the proposal is completed in all respects and require prior approval under Section 2 of the Act, shall send the proposal to the concerned Divisional Forest Officer within a period of 10 days of the receipt of the proposal :

Provided that on the determination regarding completeness of the proposal or the expiry of the days, whichever is earlier, the question of completeness or otherwise of the proposal shall not be raised.

(c) If the Nodal Officer of the State Government or the Union Territory Administration, as the case may be, find that the proposal is incomplete, he shall return it within the period of ten days as specified under clause (b), to the User Agency and this time period shall not be counted for any future reference.

(d) The Divisional Forest Officer or the Conservator of Forests shall examine the factual details and feasibility of the proposal, certify the maps, carry out site inspection and enumeration of the trees and forward his findings in the 4 Format specified in this regard to the Nodal Officer within a period of ninety days of the receipt of such proposal from him.

(e) (i) The Nodal Officer, through the Principal Chief Conservator of Forests, shall forward the proposal to the State Government or the Union Territory Administration, as the case may be, along with recommendations, within a period of thirty days of the receipt of such proposal from the Divisional Forest Officer or the Conservator of Forests.

(ii) The State Government or the Union Territory Administration, as the case may be shall forward the complete proposal, along with its recommendations, to the Regional Office or the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi- 100 003, as the case may be, in the specified Forms within a period of sixty days of the receipt of the proposal from the Nodal Officer.

Provided that all proposals involving clearing of naturally grown trees on the forest land or a portion thereof for the purpose of using it for reforestation shall be sent in the form of Working Plan or Management Plan.

Provided further that the concerned State Government or as the case may be, the Union Territory Administration, shall simultaneously send the intimation to the User Agency about forwarding of the proposal, along with its recommendation, to the Regional Office or the Ministry of Environment and Forests, as the case may be.

(f) If the proposal, along with the recommendations, is not received from the concerned State Government or the Union Territory Administration, as the case may be, till fifteen days of the expiry of the time limit as specified under clause (a), it shall be construed that the concerned State Government or as the case may be, the Union Territory Administration, has rejected the proposal and the concerned State Government or the Union Territory Administration shall inform the User Agency accordingly :

Provided that in case the State Government or the Union Territory Administration, as the case may be, subsequently forward the proposal, along with its recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be the proposal shall not be considered by the Central Government unless an explanation for the delay to the satisfaction of the Central Government is furnished, together with action taken against any individual held to be responsible for the delay.

- (4) The proposal referred to in clause (e)(ii) of sub-rule (3), involving forest land up to forty hectares other than the proposal relating to mining and encroachments, shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, along with its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests , Government of India , who shall within a period of forty- five days of the receipt of the proposal from the concerned State Government or the Union Territory Administration, as the case may be (a) decide the diversion proposal up to five hectares and (b) process, scrutinize and forward diversion proposals or more than five hectares and up to forty hectares, along with the recommendations, if any to the Ministry of Environment and Forests, Paryavaan Bhawan, CGO Complex New Delhi – 100 003, for obtaining the decision of the Central Government and inform the State Government or the Union Territory Administration, as the case may be, and the User Agency concerned.

- (5) The Regional Empowered Committee shall decide the proposal involving diversion of forest land up to forty hectares other than the proposal to mining and encroachment within forty-five days of the receipt of such proposal from the State Government or the Union Territory Administration, as the case may be;

Provided that the Central Government may, if consider it necessary, enhance or reduce the limit of the area of the forest land.

- (6) The proposal referred to in clause(e)(ii) of sub-rule(3), involving forest land of more than forty hectares, and all proposal relating to mining and encroachments irrespective of the area of the forest land involved, shall be forwarded by the concerned State Government or as the case may be, the Union Territory Forests, Paryavaran Bhawan, CGO Complex, New Delhi-100-003”

6. In said rules, in rule 7 :-

(i) in sub-rule(1) for the words, brackets and figures “sub-rule(3) of rule 6:”the words brackets and figure “sub-rule(6) of rule 6” shall be substituted.

(ii) After sub-rule(1), the following sub-rule shall be inserted, namely :-

“(1A) These proposals shall be processed and put up before the Committee and the recommendations of the Committee shall be placed within a period of ninety days of the receipt of such proposals from the State Government or the Union Territory Administration, as the case may be, before the Central Government for its decision” (iii) in sub-rule(2), in clauses © and (d), at both places, for the words, “or the other authority”. The words “or the Union Territory Administration, as the case may be shall be substituted.

7. In the said rules, rule 8 shall be omitted.

(F. No.5-5/98-FC)

Dr. V. K. BAHUGUNA

Inspector General of Forests (Forest Conservation)

Note: The Principal rules were published in the Gazette of India vide number G.S.R.2.3(E) dated the 10 January,2003.

III. CIRCULAR

It is brought to the notice of all concerned that as per the provision of Forest (Conservation) Amendment Rules`2004 published by the MOE&F vide Notification No.G.S.R 94(E) dated 3.2.2004 in the Extra Ordinary Gazette of India, the following procedure shall be adopted for receipt and disposal of proposal formulated for diversion of forest land for non forestry purposes.

1. Every User Agency who want to use any forest land for non-forestry, shall make its proposal in the relevant Form appended (Annexure ‘A’, Annexure ‘B’, Annexure ‘C’) to these circular, i.e. Part-I of Form ‘A’ for proposals seeking first time approval under the Act, and Part-I of Form ‘B’ for proposals seeking renewal of leases, where approval of the Central Government under the Act had already been obtained, to the Nodal Officer

under FCA of the A & N Administration as the case may be, along with requisite information and documents, complete in all respects.

2. The User Agency shall endorse a copy of the proposal, along with a copy of the receipt obtained from the Office of the Nodal Officer, to the concerned Divisional Forest Officer or the Conservator of Forests Central, GOI, MOE&F, Eastern Regional Office, Bhuneshwar-751023 as well as the Monitoring Cell of the Forest Conservation Division of the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003.
3. After having received the proposal, the A & N Administration, shall process and forward it to the Central Government within a period of two hundred and ten days of the receipt of the proposal including the transit period. The time period taken for each authority in the A & N Administration for possessing the proposal shall be as under:
 - (a) The Nodal Officer of A & N Administrations, after having received the proposal and on being satisfied that the proposal is complete in all respects and requires prior approval under Section 2 of the Act, shall send the proposal to the concerned Divisional Forest Officer within a period of ten days of the receipt of the proposal:
Provided that on the determination regarding completeness of the proposal or the expiry of ten days, whichever is earlier, the question of completeness or otherwise of the proposal shall not be raised.
 - (b) If the Nodal Officer of A & N Administration finds that the proposal is incomplete, he shall return it within the period of ten days to the User Agency **and this time period shall not be counted for any future reference.**
 - (c) **The concerned Divisional Forest Officer and the concerned Conservator of Forests shall examine the factual details and feasibility of the proposal, certify the maps, carry out site-inspection and enumeration of the trees and forward his findings in the Format specified in this regard to the Nodal Officer within a period of ninety days of the receipt of such proposal from him.**
 - (d) The Nodal Officer, through the Principal Chief Conservator of Forests, shall forward the proposal to the A & N Administration , along with his recommendations, within a period of thirty days of the receipt of such proposal from the Divisional Forest Officer / the Conservator of Forests.
 - (e) The A & N Administrations shall forward the complete proposal, along with its recommendations, to the Regional Office or the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003, as the case may be, in the specified Forms within a period of sixty days of the receipt of the proposal from the Nodal Officer:

Amount payable by User Agencies

1. Cost of Compensatory Afforestation.
2. Cost of Catchment Area Treatment.
3. Net Present Value.
4. Royalty of tree standing at the project site / cost of operation for extraction of trees , if any

NET PRESENT VALUE

ORDER

Whereas the Hon'ble Supreme Court of India, vide its order dated 30th October, 2002 and 1st August, 2003 in the I.A No. 566 of Writ Petition (C) No. 202 of 1995, has directed that the Net Present Value (NPV) shall be realized in respect of forest land diverted for non -forestry purposes from all User Agencies.

And, whereas the Ministry of Environment and Forests, Govt. of India has further issued guidelines vide letter No. 5-1/98-FC (Pt-II) dated 18.9.2003 for realization of Net Present Value @ Rs. 5.80 lakhs/Ha. being the minimum and Rs. 9.20 lakhs/Ha. being the maximum limit depending upon the quality and density of the forest land diverted.

Now, therefore, the Andaman and Nicobar Administration hereby orders for realisation of the NPV from the User Agencies at the following rates for use of forest land for non-forestry purposes

1. Forest land with canopy density below 0.1 - Rs. 5.80 lakhs/Ha.
2. Forest land with canopy density 0.1 and 0.4 - Rs. 7.5 lakhs/Ha.
3. Forest land with canopy density above 0.4 - Rs. 9.2 lakhs/Ha.

The Net Present Value is payable as soon as in-principle approval under the Forest (Conservation) Act, 1980 is communicated by the Ministry of Environment and Forests and on realization of the Net Present Value, in full, the final approval shall be accorded by the Ministry of Environment and Forests.

**Secretary
Environment and Forests
Andaman and Nicobar Administration**

IV. Compensatory Afforestation

4.1 Compensatory Afforestation

- (i) Compensatory afforestation is **one of the most important conditions** stipulated by the Central Government while approving proposals for de-reservation or diversion of forest land for non-forest uses. **It is essential that with all such proposals, a comprehensive scheme for compensatory afforestation is formulated and submitted to the Central Government.**
- (ii) The detailed compensatory afforestation scheme along with details of non-forest/degraded forest area identified for compensatory afforestation, map, etc. is required to be submitted in the prescribed form.

4.2 Land for Compensatory Afforestation

- (i) Compensatory afforestation shall be done over equivalent area of non-forest land.
- (ii) As far as possible, the non-forest land for compensatory afforestation should be identified contiguous to or in the proximity of Reserved Forest or Protected Forest to enable the Forest Department to effectively manage the newly planted area.
- (iii) In the event that non-forest land of compensatory afforestation is not available in the same district, non-forest land for compensatory afforestation may be identified anywhere else in the State/UT as near as possible to the site of diversion, so as to minimise adverse impact on the micro-ecology of the area.
- (iv) Where non-forest lands are not available or non-forest land is available in less extent to the forest area being diverted, compensatory afforestation may be carried out over degraded forest twice in extent to the area being diverted or to the difference between forest land being diverted and available non-forest land, as the case may be.
- (v) The non-availability of non-forest land for compensatory afforestation would be accepted by the Central Government only on the Certificate from the Chief Secretary to the State/UT Government to that effect.
- (vi) As an exception to 3.2(i) above, compensatory afforestation may be raised over degraded forest land twice in extent of the forest area being diverted/dereserved in respect of following types of proposals :-
 - (a) For extraction of minor minerals from the river beds.(However, if forest area to be diverted is above 500 hectares, compensatory afforestation over equivalent area of degraded forest shall be required to be done instead of twice the area being diverted subject to a minimum of 1000 hectares compensatory afforestation).

- (b) For construction of link roads, small water works, minor irrigation works, school building, dispensaries, hospital, tiny rural industrial sheds of the Government or any other similar work excluding mining and encroachment cases, which directly benefit the people of the area - in hill districts and in other districts having forest area exceeding 50% of the total geographical area, provided diversion of forest area does not exceed 20 hectares.
 - (c) For laying of transmission lines upto 220 KV.
 - (d) For mulberry plantation undertaken for silk-worm rearing without any felling of existing trees.
 - (e) For diversion of linear or 'strip' plantation declared as protected forest along the road/rail/canal sides for widening or expansion of road/rail/canal.
 - (f) Laying of telephone/optical fibre lines. (Annexure- XVI)
- (vii) No compensatory afforestation shall be insisted upon in respect of the following :-
- (a) For clearing of naturally grown trees in forest land or in portion thereof for the purpose of using it for reforestation.
 - (b) Proposals involving diversion of forest land up to one hectare. (However, in such cases, plantation of ten times the number of trees likely to be felled will have to be carried out by way of compensatory afforestation or any number of trees specified in the order).
 - (c) For underground mining in forest land below 3 metres. (However, in respect of forest area required for surface right, compensatory afforestation shall be required as per relevant provisions).
 - (d) Cases of renewal of mining lease, for the forest area already broken/used for mining, dumping or overburden, construction of roads, ropeways, buildings, etc. For the balance area, compensatory afforestation shall be required to be done as stipulated, provided that no compensatory afforestation had been stipulated and done in respect of this area at the time of grant/renewal of lease earlier.
- (viii) Special provisions for Central Government Projects.
- (a) Compensatory afforestation may be raised on degraded forest land twice in extent of forest area being diverted. Certificate of Chief Secretary regarding non-availability of non-forest land for compensatory afforestation will not be insisted.
 - (b) The user agency will deposit the amount for compensatory afforestation with the concerned State Govt. on receiving the

demand and the actual transfer/use of forest land will be effected only after the receipt of the demanded amount.

- (c) The State Governments will identify 'blank forest' or degraded forest lands for compensatory afforestation. The State Governments of Madhya Pradesh and Rajasthan will identify such degraded forest land in their States for compensatory afforestation of central projects in their respective States as indicated by the Chief Secretaries of these two States in the meeting of Committee of Secretaries held on 15.11.96.
- (d) The pool of degraded forest land in Madhya Pradesh and Rajasthan will also be available for the Central Government projects of other States if the concerned State Government fail to identify the requisite land, as mentioned at (a) above, for compensatory afforestation in its own territory within one month of the submission of the proposal to the State Government.
- (e) While identifying the pool of degraded forest land, blank forest lands in reserved forests in compact/sizeable blocks should be identified as first priority as "plantation bank". An appropriate treatment plan with choice of species should be prepared by the beneficiary States. Only when such areas are not available, the choice of compensatory afforestation will fall on protected, unprotected forests and unclassified forests in declining order of priority.
- (f) The Nodal Officer (Forest Conservation), State Forest Department will identify the pool of such degraded forest lands in consultation with the concerned Chief Conservator of Forests (C), Regional Offices of the MOEF. (Annexure-IX)

4.3 Elements of Schemes for Compensatory Afforestation

- (i) The scheme for compensatory afforestation should contain the following details :-
 - (a) Details of equivalent non-forest or degraded forest land identified for raising compensatory afforestation.
 - (b) Delineation of proposed area on suitable map.
 - (c) Agency responsible for afforestation.
 - (d) Details of work schedule proposed for compensatory afforestation.
 - (e) Cost structure of plantation, provision of funds and the mechanism to ensure that the funds will be utilized for raising afforestation.
 - (f) Details of proposed monitoring mechanism.

4.4 Lands Identified for Compensatory Afforestation to be Transferred to the Forest Department

- (i) Equivalent non-forest land identified for the purpose are to be transferred to the ownership of the State Forest Department , and declared as protected forests so that the plantation raised can be maintained permanently. The transfer must take prior to the commencement of the project.
- (ii) The compesatory afforestation should clearly be an additional plantation activity and not a diversion of part of the annual plantation programme.
- (iii) In each case where the afforestation target is over 500 hectares in plains, and 200 hectares in hills, a Monitoring Committee shall be established with a nominee of the Central Government to oversee that the stipulations, including those pertaining to compensatory plantation are carried out.

4.5 Special Fund

- (i) The State/UT Government should create a special fund to which the individual user agency will make its deposits for compensatory afforestation. The Forest Department, or any other technically competent agency which is assigned the job of compensatory afforestation should fully utilise this amount for implementation of the afforestation scheme approved by the Government of India, and keep separate and meticulous account thereof.

4.6 Some Clarifications

1. Delegation of Powers

- (i) All proposals involving diversion/dereservation of forest land up to 20 hectares, and proposals for clearing of naturally grown trees in forest area or portion thereof shall be sent by the concerned State/UT Government to the concerned Regional Office of MOEF.
- (ii) Chief Conservator of Forests of the concerned Regional Office shall be competent to finally dispose of all proposals (including decision regarding violation of Act) involving diversion/dereservation of forest land up to 5 hectares, except in respect of proposals for regularisation of encroachments and mining (including renewal of mining leases). Similarly, proposals involving clearing of naturally grown trees in forest area or portion thereof for reforestation shall also be finally disposed of by the Chief Conservator of Forests of the concerned Regional Office, subject to guidelines/instructions issued in this regard (refer to para 1.8) and any other instructions issued from time to time.
- (iii) In the absence of Chief Conservator of Forests, these powers shall be exercised by the concerned Conservator of Forests of the Regional Office in case the post of Chief Conservator of Forests is vacant due to transfer, long leave, etc. (In respect of Regional Office at Chandigarh, these powers shall be exercised by Conservator of Forests of the Regional Office of Chandigarh).

- (iv) A list of all cases finally disposed of and a list of cases rejected along with reasons thereof for rejection would be required to be sent every month to the MOEF by the Regional Office.
- (v) In respect of proposals involving diversion of forest area above 5 hectares and up to 20 hectares and all proposals for regularisation of encroachments and mining up to 20 ha., the proposals shall be examined by the Regional Chief Conservator of Forests/Conservator of Forests in consultation with an Advisory Group consisting of representatives of the State Government from Revenue Department, Forest Department, Planning and/or Finance Department and concerned Department whose proposal is being examined. The views of the Advisory Group shall be recorded by the Regional Chief Conservator of Forests and along with the same, the proposal shall be sent to Secretary, MOEF for considering and final decision. It is to be clarified that views of this Advisory Group in no way shall be binding while deciding the proposal. The meeting of the Advisory Group may be held at the State Capital. The proposal will not be deferred for want of quorum.

2. Two Stage Clearance of Proposals

Forestry clearance will be given in two stages. In Ist stage, the proposal shall be agreed to in principle, and after receipt of compliance report from the State Government in respect of compliance of the stipulated conditions regarding transfer and mutation of non-forest area identified for compensatory afforestation, if any, and transfer of funds in favour of Forest Department, etc., formal approval under the Act shall be issued.

4.7 Anticipatory Action by the State / UT Governments

Cases have come to the notice of the Central Government in which permission for diversion of forest land was accorded by the concerned State Government in anticipation of approval of the Central Government under the Act and/or where work has been carried out in forest area without proper authority. Such anticipatory action is neither proper nor permissible under the Act which clearly provides for prior approval of the Central Government in all cases. Proposals seeking ex-post-facto approval of the Central Government under the Act are normally not entertained. The Central Government will not accord approval under the Act unless exceptional circumstances justify condonation. However, penal compensatory afforestation would be insisted upon by the MOEF on all such cases of condonation.

The penal compensatory afforestation will be imposed over the area worked/used in violation. However, where the entire area has been deforested due to anticipatory action of the State Government, the penal compensatory afforestation will be imposed over the total lease area. (Annexure-XXI)

4.8 Projects Involving Forest as well as Non-forest Lands

Some projects involve use of forest land as well as non-forest land. State Governments/project authorities sometimes start work on non-forest lands in anticipation of the approval of the Central Government for release of the forest lands required for the projects. Though the provisions of the Act may not have

technically been violated by starting of work on non-forest lands, expenditure incurred on works on non-forest lands may prove to be infructuous if diversion of forest land involved is not approved. It has, therefore, been decided that if a project involves forest as well as non-forest land, work should not be started on non-forest land till the approval of the Central Government for release of forest land under the Act has been given.

4.9 Diversion for Construction of Houses

(i) On a proposal for construction of houses the late Prime Minister had observed:

"Destruction of our forest has already caused great damage to our environment. Therefore, I am not at all in favour of use of forest land for construction of houses. The State Government should find other land for such purposes."

The Central Government will not entertain any proposal for diversion of forest land for construction of residential or dwelling houses.

(ii) Diversion of forest land for construction of other buildings also will not be normally considered. However, such diversion may be allowed for construction of schools, hospitals/dispensaries, community halls, cooperatives, panchayats, tiny rural industrial sheds of the Government etc., which are to be put up for the benefit of the people of that area, but such diversion should be strictly limited to the actually needed area and further it should not exceed one hectare in each case.

4.10 Excavation of Minor Minerals from the River Beds

- (i) Extraction of minor minerals like boulders, bajri, stone, shell, etc. from the river beds shall not be permitted if the river bed is in a national park or a wildlife sanctuary unless such extraction is for the benefit of the forest or wildlife.
- (ii) There shall be no labour camp in the forest area for the labour involved in the extraction work.
- (iii) Extraction of minor minerals shall be from the middle of the river bed after leaving one fourth of the river bed on each bank untouched.

4.11 Safety Zone for Mining Operations

Forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion. However, it should be indicated separately in the proposal. Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and a half times of the safety zone area in degraded forest elsewhere. (see Annexure-XXIV)

4.12 Catchment Area Treatment Plan for Irrigation Projects

Proposals for diversion of forest land for major and medium irrigation projects shall invariably be accompanied by detailed catchment area treatment plan.

However, in respect of minor irrigation project, catchment area treatment plan will not be insisted.

4.13 Special Arrangement in case of Large Projects

In case of large projects, depots for fuel wood should be set up by project authorities who will also arrange alternate fuel like coal, kerosene, biogas, LPG, electricity etc. The supply should be free of cost to the labourers and free or at subsidised rates to the other staff as may be determined by the project authorities.

4.14 Site Inspection

- (i) The proposed forest area shall be inspected by a responsible Forest Officer of the State Government. If the area is very important from the forestry angle, the territorial Conservator should himself inspect the area and give complete information relating to the forest and aspects of wildlife. The scientific names of important timber species should be given while describing composition of the forest crop. If the area is relatively less important, the DFO could inspect the area. The Inspecting Officers should clearly record in item 13 of the proforma if any violation is observed like tree felling, land breaking etc., in that area by the user agency. In any case the recommendations of the Chief Conservator of Forests should be categorical and specific and should be sent with photographs of inspected sites, highlighting the aspects observed, especially when the area is large or is sensitive and fragile.
- (ii) In respect of proposals involving diversion of forest land above 40 hectares, site inspection shall also be carried out by Regional Office of this Ministry. State/UT Governments are required to send copy of all such proposals to concerned Regional Office to facilitate timely inspection of such proposals.

4.15 Complete Details

While forwarding the proposal to the Central Government, complete details in all aspects of the case should be given. Incomplete and deficient proposal will not be considered and will be returned to the State Government in Original.

4.16 Specific Time Limits

- (i) **To ensure speedy disposal of proposals, specific time limits have to be laid down for disposal of references at various levels. Efforts should be made to dispose of each reference at the State Governments level within a maximum period of 60 days. Specific instructions may be issued in this regard to officers at all levels.**
- (ii) **Cases which are complete in all respects shall be disposed of within 90 days by the Central Government.**

4.17 Quarterly Progress Report

In all cases the States will submit quarterly reports regarding the implementation of the stipulations laid down by the Government of India while approving the

project and future clearance of projects of the States and Union Territories concerned will depend upon the fulfillment of the stipulations.

4.18 Rejection/Reopening of Cases

In cases where the State Government is requested to furnish clarifications or additional information relating to a proposal, all particulars should be made available to the Central Government within 60 days. If such particulars are not received within a maximum of 90 days, the proposal may be rejected by the Central Government for non-furnishing of essential information. Such cases could be reopened provided the following conditions are satisfied:

- (a) all the required information has been made available.
- (b) delay in providing the information is satisfactorily explained, and
- (c) there is no change in the proposal in terms of scope, purpose and other important aspects.

4.19 Nodal Officer

- (i) Separate cells for dealing with diversion of forest land cases should be opened at the State Government and PCCF levels. A whole-time senior officer not below the rank of Conservator of Forests should head the cell, who should be designated as the Nodal Officer.
- (ii) The Nodal Officer should receive cases from the user agencies and entertain all correspondence from them. He should scrutinise and process the case and after obtaining views/certificate of the Chief Conservator of Forests, should put up the case to State Government. Besides office staff, the Nodal Officer should also be given sufficient field staff to facilitate timely processing. The State Government while forwarding cases to the Central Government may endorse copies to the Chief Conservator of Forests and the Nodal Officer. The Central Government may also, while corresponding with the State Government, send copies to the Nodal Officer. The Nodal Officer should also obtain all additional information required by the Central Government about the proposals from the concerned authorities directly and endorse a copy directly to the Central Government.
- (iii) While approving a proposal the Government of India stipulates certain conditions to reduce the environmental damage on account of forest loss. The conditions must be enforced. Their non-compliance should be reported by the Nodal Officer to Regional Office who should inspect the site from time to time.
- (iv) In case of opencast mining, it should be the responsibility of the Nodal Officer and his staff to ensure that all necessary inputs like creation of nursery, storage of top soil for reuse and methodology for its reforestation, choice of species etc. are so planned and implemented that the mined area is fully afforested by the time mining operations are completed.

- (v) The Nodal Officer should monitor the implementation of the conditions of compensatory afforestation and the survival ratio of the seedlings planted.

4.20 Lease period for mining lease

- (i) The approval under the Forest (Conservation) Act, 1980 for diversion of forest land for grant/renewal of mining leases shall normally be granted for a period co-terminus with the period of mining lease proposed to be granted/renewed under MMRD Act, 1957 or Rules framed thereunder, but not exceeding 30 years. While recommending cases for approval under the FC Act, the user agency/State Government shall indicate the period for which the mining lease is proposed to be granted/renewed under MMRD Act or Rules framed thereunder. However, in the event of non compliance of stipulations to the satisfaction of the MOEF, the clearance accorded may be summarily withdrawn.
- (ii) The conditions stipulated while giving approval under the Forest (Conservation) Act, 1980 for diversion/renewal of forest land for mining purposes shall be renewed/monitored every five years. If it is found that the lessee has violated or is not complying with the stipulated conditions, then the approval given under the Forest (Conservation) Act, 1980 shall be revoked. Concerned Chief Conservators of Forests(C), Regional Offices of the Ministry will issue a certificate regarding fulfillment of these conditions after carrying out the monitoring. These guidelines shall be applicable retrospectively for all the mining leases which have more than five years of lease period left. (Annexure-XIII)
- (iii) The Regional Office will monitor the main parameters/conditions of formal approval as frequently as possible at least once in a year. At least once in five years a comprehensive monitoring as to the effect of mining on air and water pollution will also be carried out. Regional Offices should send such reports/certificates in respect of the monitoring mechanism indicated above to this Ministry, so that a view can be taken on continuation of mining lease beyond five years.

4.21 Renewal of Mining Lease - Temporary Working Permission

In respect of renewal of mining leases, temporary working permission may be granted by the Central Government to continue working in already broken up area upto maximum period of one year, even without formal approval for the renewal, provided:

- (a) The user agency has submitted the required proposal with complete details to the Forest Department at least one year prior to the expiry of existing lease period.
- (b) The state Government has sent the formal proposal to the Central Government for renewal of mining lease prior to the expiry of the existing lease, alongwith particulars and reports as are required to be furnished in the normal course of renewal.

- (c) The temporary working permission will be confined to areas already broken up prior to the expiry of the lease, and no fresh area will be broken up until formal renewal is granted.

4.22 In respect of proposals related to renewal of mining leases, the Central Government would grant one year working permission for already broken up areas so as to enable the State Government to comply with the conditions.

This period can be extended by one more year subject to submission of reasonable progress report from the State Government as regards to the steps taken to comply with the stipulated conditions.

Ministry of Environment and Forests

New Delhi, the 09th February, 2004

V. CORRIGENDUM

G.S.R.107(E).-In the Forest (Conservation) Amendment Rules, 2004 published in the Official Gazette of India, Extraordinary Part II-Section 3-Sub-section (i) vide G.S.R. No. 94 (E) dated 03rd February, 2004, sub-rules (4) and (6) of rule 6 of the said rules as contained in rule 5 of the Forest (Conservation) Amendment Rules, 2004 shall be read as follows :

“(4) The proposal referred to in clause (e) (ii) of sub-rule (3), involving forest land upto forty hectares shall be forwarded by the concerned State Government or as the case may be, the Union territory Administration, alongwith its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Office of the Ministry of Environment and Forests, Government of India, who shall, within a period of forty five days of the receipt of the proposal from the concerned State Government or the Union territory Administration, as the case may be (a) decide the diversion proposal upto five hectares other than the proposal relating to mining and encroachments, and (b) process, scrutinise and forward diversion proposal of more than five hectares and upto forty hectares including all proposals relating to mining and encroachments upto forty hectares, along with the recommendations, if any, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi – 110003, for obtaining the decision of the Central Government and inform the State Government or the Union territory Administration, as the case may be, and the User Agency concerned.

(6) The proposal referred to in clause (e) (ii) of sub-rule (3), involving forest land of more than forty hectares shall be forwarded by the concerned State Government or as the case may be, the Union territory Administration, alongwith its recommendations, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi - 110003.”

[File No. 5-5/98-FC]

(Dr. V.K. BAHUGUNA)

Inspector General of Forests (Forest Conservation)

Note : The Forest (Conservation) Amendment Rules, 2004 were published in the Gazette of India vide number G.S.R. 94 (E) dated the 03rd February, 2004.

VI. GUIDELINES FOR LAYING TRANSMISSION LINES

1. THROUGH FOREST AREAS

- 1. Where routing of transmission lines through the forest areas can not be avoided, these should be aligned in such a way that it involves the least amount of tree cutting.
- 2. As far as possible, the route alignment through forest areas should not have any line deviation.
- 3. (i) The maximum width of right of way for the transmission lines on forest land shall be as follows:

Transmission Voltage (KV)	Width of Right of Way (Mts)
11	7
33	15
66	18
110	22
132	27
220	35
400	52
800	85

- (ii) Below each conductor, width clearance of 3 mts. would be permitted for taking the tension stringing equipment. The trees on such strips would have to be felled but after stringing work is completed, the natural regeneration will be allowed to come up. Felling/pollarding/pruning of trees will be done with the permission of the local forest officer whenever necessary to maintain the electrical clearance. One outer strip shall be left clear to permit maintenance of the transmission line.
- (iii) In the remaining width the right of way up to a maximum of 85 metres (for 800 KV lines) trees will be felled or lopped to the extent required, for preventing electrical hazards by maintaining the following:

Voltage (KV)	Minimum clearance between conductors and trees (Mts)
11	2.6
33	2.8
66	3.4
110	3.7

132	4.0
220	4.6
400	5.5

The sag and swing of the conductors are to be kept in view while working out the minimum clearance mentioned as above.

(iv) in the case of transmission lines to be constructed in hilly areas, where adequate clearance is already available, trees will not be cut.

- Where the forest growth consists of coconut groves or similar tall trees, widths of right of way greater than those indicated at SI. No.3 may be permitted in consultation with the CEA.

VI. Category of Proposals for which Cost-Benefit Analysis is Applicable

SNo	Nature of Proposal	Applicable/not applicable	Remarks
1.	All categories of proposals involving forest land up to 20 hectares in plains and up to 5 hectares in hills.	Not applicable	These proposals are to be considered on case by case basis and value judgement.
2.	Proposal for defence installation purposes and oil prospecting (prospecting only)	Not applicable	In view of National Priority accorded to these sectors, the proposals would be critically assessed to help ascertain that the utmost minimum forest land above is diverted for non-forest use.
3.	Habitation, establishment of industrial units, tourist lodges/complex and other building construction	Not applicable	These activities being detrimental to protection and conservation of forest, as a matter of policy, such proposals would be rarely entertained.
4.	All other proposals involving forest land more than 20 hectares in plains and more than 5 ha. in hills including roads, transmission lines, minor, medium and major irrigation projects, hydel projects mining activity, railway lines, location specific installations like micro-wave stations, auto repeater centres, T.V. towers etc.	Applicable	These are cases where a cost-benefit analysis is necessary to determine when diverting the forest land to non-forest use is in the overall public interests.

VII. Parameters for Evaluation of Loss of Forests

Nature of proposal				
SNo.	Parameters	Roads, Tr.lines & Railway lines	Minor irrigation projects, quarrying of stones/metals	Medium & major Irrigation, hydro electric, large mining & other mic. projects
1.	Loss of value of timber, fuelwood and minor forest produce on an annual basis, including loss of man-hours per annum of people who derived livelihood & wages from the harvest of these commodities	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms
2.	Loss of animal husbandry productivity, including loss of fodder	- do -	- do -	- do -
3.	Cost of human resettlement	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms
4.	Loss of public facilities and administrative infrastructure (Roads, buildings, schools, dispensaries, electric lines, railway etc) on forest land, or which would require forest land if these facilities were diverted due to the project.	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms
5.	Environmental losses : (Soil erosion, effect on hydrological cycle, wildlife habitat, microclimate upsetting of ecological balance).		Though technical judgment would be primarily applied in determining the losses, as a thumb rule the environmental value of one hectare of fully stocked forest (density 1.0) would be taken as Rs. 126.74 lakhs to accrue over a period of 50 years. The value will reduce with density, for example, if density is 0.4, the value will work out at Rs. 50.696 lakhs. So if a project which requires disforestation of 1 hectare of forest of density 0.4 gives monetary returns worth over Rs. 50.6966 lakhs over a period of 50 years, may be considered to give a positive cost benefit ratio. The figure of assumed environmental value will change if there is an increase in bank rate; the change will be proportional to percentage increase in the bank rate.	
6.	Suffering to oustees		The social cost of rehabilitation of an oustee (in addition to the cost likely to be incurred in providing residence, occupation and social services to him) be worked out as 1.5 times of what he should have earned in two years had he been not shifted.	

VIII. Parameters for Evaluation of Benefit, notwithstanding Loss of Forests

Nature of proposal				
SNo.	Parameters	Roads, Tr. lines & Railway lines	Miner projects	Irrigation/hydel projects & others
1.	Increase in productivity attributable to the specific project.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.	To be quantified & expressed in monetary terms.
2.	Benefits to economy	Value judgement	- do -	- do -
3.	No. of population benefited	- do -	Value judgement	Value judgement
4.	Employment potential	- do -	- do -	- do -
5.	Cost of acquisition of facility on non-forest land wherever feasible	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms
6.	Loss of (a) agricultural & (b) animal husbandry production due to diversion of forest land	- do -	- do -	- do -
7.	Cost of rehabilitating the displaced persons as different from compensatory amounts given for displacement	To be quantified & expressed in monetary terms	To be quantified & expressed in monetary terms	- do -
8.	Cost of supply of free fuel-wood to workers residing in or near forest area during the period of construction	- do -	- do -	- do -
