

Transit of Timber & other Forest Produce

Chapter VI of the Meghalaya Forest Regulation contains provisions regarding control of timber and other forest produce in transit. Under the section 40 & 41 of the Meghalaya Forest Regulation detailed rules to regulate the transport of forest produce by land and water have been framed and named as Transit rules.

The hon'ble Supreme court of India in the Para 8 of its interim order dated 15.01.1998 – in the Writ Petition (Civil) 202 of 1995 T.N. Godavarman Thirumalpad v/s. Union of India and Ors. has directed that transportation of timber including the sawn timber outside the North-Eastern Region shall be done only through railways under the strict supervision of the Forest Department.

As per the provisions of the sub-section 1 of the section 3 of the Meghalaya Forest (Removal of Timber) (Regulation) Act, 1981 no person shall remove or cause to be removed for the purpose of trade or otherwise, any timber outside the State, and no trading depot shall be set up or established at any place without a license from the competent authority:

Provided that no such license shall be granted by the competent authority-

- a) In respect of timber the size of which is below the minimum size prescribed for such timber; and
- b) In respect of timber of such categories or species of trees or groups thereof specified in the schedule to this Act.

Text of the transit Rules framed under section 40 & 41 of the Meghalaya Forest Regulation is as below as below:

Transit Rules

[Under sections 40 and 41]

Rules to regulate the transport of forest produce by land and water

1. (a) All rivers, as defined in the Assam Forest Regulation, 1891 (VII of 1891), and their banks shall be kept open for the transport of forest produce.
 - (b) Except with the written permission of the Deputy Commissioner and under the conditions imposed by him, no person shall cause diversion of the channel or obstruction on the banks or in the channel of any river used for transport of forest produce.
 - (c) The Deputy Commissioner shall have the power to order the removal of any obstruction on the banks or in the channel or the closure of any diversion of any river used for the transport of forest produce and to recover the cost thereof from the person or persons who caused the obstruction or the diversion or by sale of the forest produce causing the obstruction.
2. (a) No forest produce shall be removed except as provided in sub-rule (b) of this rule unless covered by a pass which shall be in the form of -
 - (i) a permit issued by a duly authorised Forest Officer under the rules relating to the unclassified State forest or reserved forests, allowing the holder to remove forest produce from a specified locality;
 - (ii) a certificate of origin (in the form prescribed in Appendix A) in the case of forest produce from private lands for which nothing is due to Government. Such certificate must be issued by the owner of such land or his duly authorised agent must bear such signature or stamp of the owner or his agent as has been previously registered in the local Divisional Forest Office, and such certificate shall be produced by the holder at the revenue specified therein to be dealt with as noted hereafter; or

Note: The certificate of origin must be issued in all cases whether the owner himself or any other person removes the produce.

- (iii) a transit pass (in the form prescribed in Appendix B) issued by a Forest Officer, authorised by the Divisional Forest Officer, in token of full payment of all amounts due to Government on account of the forest produce covered by it. In special cases the conservator of forest may permit the issue of transit passes by any person duly authorised by him.

Provided that no certificate of origin or other pass shall be required for the transport of home grown fati, barua, bakal and bethua bamboos. No royalty will be realised on bamboos of these kinds unless they are known to have come from Government forest.

- (b) (i) Lac intended for export can be moved within a plains district or to a plains district from a neighbouring hill district without a transit pass or permit from the place of origin to the storage godown or premises of the purchaser subject to the provisions of items(ii) and (iii) below:
 - (ii) all traders who at any time store lac exceeding 50 maunds in their godowns or premises must register such godowns or premises with the Divisional Forest Officer of the district concerned. All traders in lac not coming under this definition will remain as heretobefore under the conditions of R.2 (a).
 - (iii) all traders who register godowns or premises under (ii) will pay the royalty due on lac brought to such godowns or premises, other than lac covered by a certificate of origin, within 7 days of its receipt and receive a storage receipt for the amount;
 - (iv) transit passes will be issued free on request for export of lac against storage receipt issued under item (iii);
 - (v) the stock held in registered storage godowns or premises is subject to check at any time by any Forest Officer of the rank of Ranger. Extra-Assistant Conservator of Forests, Assistant Conservator of Forests or Deputy Conservator of Forests and all facilities, etc., for such check must be given by the owners of registered storage godowns or premises.

Note: On receipt of notice from the conservator of any change in the rate of royalty for lac, divisional forest officers will immediately notify all Deputy Commissioners and Sub-divisional Officers in whose charge lac is cultivated.

NOTES

As observed in *Anowaruddin Choudhury v. State of Assam* [(1984) 2 GLR 142], a 'transit pass' is granted to a person merely to take out of forest any kind of forest produce on payment of the dues therefore, if any, as the form prescribed the places from which such produce has to be transported; its destination as well as the route of its transport besides indicating the dates of issue and expiry; its ownership is, however, not indicated. Hence, 'transit pass' which does not show on its face that it is granted to a person in recognition of the title of such person, title to the seized elephants cannot be said to have been conclusively established merely with the help of a transit pass.

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3. The places mentioned in Appendix C to these rules, and such others as may, from time to time, be prescribed by State Government, shall be revenue stations for the purposes of these rules.
 4. (a) All forest produce in transit covered by a permit or a certificate of origin shall be taken to the nearest revenue station staffed by Government on the route of extraction except in cases provided for in R. 5, the person or persons in charge of such forest produce and detained there for examination, measurement, or counting and marking, if necessary, by the Officer-in-charge of the revenue station.
 - (b) No forest produce in transit taken to a revenue station shall be moved within such station between sunset and sunrise without the permission of the officer-in-charge of the revenue station nor shall such forest produce be moved away from the revenue station until a transit pass as prescribed in these rules has been issued by him.

- (c) In the case of forest produce in transit covered by a permit or a certificate of origin and intended to be exported beyond the district within which it has been collected, a transit pass as prescribed hereinbefore shall be obtained by the person in charge of such forest produce from the duly authorised forest officer-in-charge of a revenue station in exchange for the permit or the certificate of origin and such forest produce shall not be booked or moved by rail, steamer or boat unless recovered by such transit pass. When the destination of such forest produce is within the district, the permit or certificate of origin shall be endorsed by the duly authorised officer-in-charge of the revenue station in token of full payment of all amounts due to Government and such endorsed permit or certificate of origin shall be deemed to be the transit pass required under these rules;

Provided that it shall be within the power of the officer-in-charge of a revenue station to refuse to grant a transit pass or endorse a permit or a certificate of origin if he has reason to believe the permit or certificate of origin covering the forest produce to be false or full payment of all amounts due to Government in respect of the forest produce has not been made;

Provided also that in the case of rhinoceros horns only, no permit or transit pass shall be granted and no permit or certificate of origin shall be endorsed by any officer except a Divisional Forest Officer or a District Magistrate. Applicants for transit passes for the export of rhinoceros horns out of British India shall name the intended port of shipment and the transit passes shall be issued in duplicate, one copy shall be dispatched direct by the Divisional Forest Officer or the District Magistrate to the Collector of Customs at the port named and shipment shall be permitted only if both copies are in that officers' hands.

Note: Firewood, thatching grass, bamboos, unreserved poles and reeds may be removed from the Mohendraganj Range in the Garo Hills Division on receipt of a transit pass only, without taking out any permit.

5. Should the person or persons in charge of any forest produce in transit desire to stop, land, cut up, convert or utilise any such produce before taking the same to a revenue station, he or they shall obtain the permission in writing of the officer-in-charge of the nearest revenue station. Such officer shall, if he deems fit to grant the permission, proceed in respect of the forest produce as if it had been taken to a revenue station.
6. No fee shall be levied for transit passes granted in respect of forest produce from private land covered by a certificate of origin or in respect of forest produce covered by a *Gurkati* Permit or in respect of forest produce on which full royalty has been paid.
7. All amounts due to Government whether as royalty, duty, or on any other accounts, in respect of any forest produce in transit shall be paid in such manner as ordered by the Divisional Forest Officer.
8. All forest produce in transit may be stopped and inspected at any place by any Forest Officer and all persons in charge of such forest produce shall be bound to produce the permit, the certificate of origin, or the transit pass covering such forest produce when called upon to do so by the Forest Officer.
9. All persons in charge of forest produce in transit by the Brahmaputra River shall stop such forest produce at Dhubri for check and record.
10. Except with the previous sanction in writing of the officer in charge of the nearest revenue station, and under conditions imposed by the Divisional Forest Officer with the approval of the Conservator of Forests, no person shall establish or convert timber at a saw-mill or saw-pit. Such sanction or conditions may with the approval of the Divisional Forest Officer be rescinded or modified by the officer-in-charge of the revenue station by giving six months' notice in writing. This rule applies only to the establishment of regular saw-mill or saw-pit and does not apply to the casual sawing of timber grown on private land.

NOTES

The Transit Rules have been framed under Ss.40 and 41 of the Regulation. Section 40 deals with the power to make rules to regulate transit of forest produce and S.41 prescribe the penalties for breach of such rules.

In this rule the words “within one mile of the cold season bed of any river in the Surma Valley used for transport of timber” after the words “saw-mills or saw-pit” were deleted by Notification No. AFR. 204/50/3, dated 3rd February, 1957.

11. All traders wishing to transport timber (except bamboo and cane) from the forests, shall have their property marks registered in the Divisional Forest Office concerned in the manner hereinafter prescribed and all their timber in transit shall bear their registered property marks. No transit pass shall be issued for such timber in transit unless it bears a registered property mark.

Merchants dealing in timber already bearing the registered property marks of the traders, who transported it from the forest, are not required to register property marks for use on such timber; provided that they can produce documentary evidence to prove that they are in lawful possession of such timber.

Note. The words “traders” used in the rule does not apply to small cultivators who buy a few trees and dispose of the timber locally to regular traders.

12(a) For the registration of property mark a written application should be submitted to the Divisional Forest Officer concerned, and a sketch of the proposed mark together with a written description, and a fee of Rs.5 shall be sent with the application.

(b) No fee shall be charged for the registration in any division of a property mark which has already been registered in any other division and is still in force.

(c) The registration of a property mark shall hold good for three years from 1st April preceding the date of its first registration in whatever division it may have been issued, or being used.

- (d) A certificate in the form prescribed in Appendix E shall be granted for the registration of a property mark.
13. The Divisional Forest Officer may refuse to register any property mark or cancel one already registered for any of the following reasons:
- (i) If he considered that the mark resembles too closely nay Government mark or any property mark previously registered in favour of another person;
 - (ii) If the applicant or holder does not possess or in the opinion of the Divisional Forest Officer is not likely to possess timber requiring to be marked with a property mark;
 - (iii) If on account of a conviction for any forest offence, or for any other reason which seems to the Divisional Forest Officer to be sufficient, the holder or the applicant is not considered to be a fit person to be entrusted with such mark.
14. No timber which is in transit or intended for transit shall be marked except with a registered property mark, and no one shall supermark, alter or efface any mark on such timber, and the possession or carrying of hammers or other implements used for the impression of marks which have not been registered in the manner hereinbefore prescribed is strictly prohibited.
15. The booking or moving of timber in logs or rough hewn, sawn timber (except tea shooks), bamboos exceeding 100 in number, canes exceeding 100kaps, charcoal exceeding 5 maunds, lac, agar, elephants, elephant tusks, and any other forest produce by rail, aeroplane, steamer or boat is prohibited unless such forest produce is accompanied by a transit pass issued under these rules.

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In this rule the word “aeroplane” after the word “rail” has been inserted vide Notification No.GFR.117/50/3, dated 3rd May, 1950.

16. [Deleted]
17. Any person infringing any of the above rules may be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.