



Business Reform Action Plan 2016 Response by Government of Maharashtra

Area 4a: Construction Permit Enablers

73: Publish online detailed information on replanting requirements for plots with varying tree populations

Response:

Yes

Remarks:

The statement which mentions replanting equal number of trees which are cut down (felled) is available online. A copy of section 3 (1b) of the Maharashtra felling of Trees (Regulation) Act, 1964, [http://www.mahaforest.nic.in/act_rule_file/1353397454Felling%20of%20trees%20\(Regulation\)%20Act,%201964,Amended%20upto%201989.pdf](http://www.mahaforest.nic.in/act_rule_file/1353397454Felling%20of%20trees%20(Regulation)%20Act,%201964,Amended%20upto%201989.pdf), where the replanting requirement is mentioned. Refer to page 3 to the following statement, "the Tree officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant such trees or additional trees, as the case may be, at such places in the land as may be specified in the order, and the owner or occupier of the land shall comply with the order by planting such trees or additional trees in the ensuing planting season.

Please refer to the replanting requirement highlighted in the screenshot below found at the following URL: <http://www.mahaforest.nic.in/internal.php?id=40>

Supporting Documents:

The screenshot displays the Maharashtra Forest Department website. The main content area lists requirements for tree felling, including: 8. Caste Certificate from Tahsildar/Naib Tahsildar, if the applicant belongs to scheduled tribe, the certificate is to be from SDO, Revenue. 9. Details of trees as per Survey No. 10. Permission from Collector in case of trees within 30 meters of the extreme edge of the bank or any water course, spring or tank.* 11. Permission from Collector in case if the tree growth in the uncultivable land is less in proportion to 20 trees per acre.* 12. Undertaking to plant trees as specified by tree officer. A note states: *As per the Maharashtra Land Revenue (Regulation of right to trees etc.) Rules 1967. (Note: If the authorised officer to issue the certificate is different than indicated above, then certificate from such authorised officer of the concerned department need to be attached.)

The 'Replanting requirement' section is highlighted with a green box and contains the text: 'As per section 3(1B) of the Maharashtra felling of Trees (Regulation) Act, 1964, the permission to fell trees shall be granted subject to the condition that the applicant shall plant equal number of trees of the same or any other species as the Tree Officer may direct, on the same site or other suitable place in the vicinity in the ensuing plantation season.'

Below this, the 'Inspection procedure, guidelines and timelimit' section is visible, featuring a table with columns for S.No., Particulars, and Time.

At the bottom of the page, there is a visitor count of 000142964 and a copyright notice: © Content Owned by Maharashtra Forest Department, Government of Maharashtra. Other links include Terms & Conditions, Privacy Policy, Copyright Policy, Hyperlinking Policy, Accessibility Statement, Disclaimer, and Help.

MAHARASHTRA ACT No. XXXIV OF 1964. ¹

[THE MAHARASHTRA FELLING OF TREES (REGULATION) ACT, 1964]

(Received the assent of the Governor on the 4th September 1964; assent first published in the Maharashtra Government Gazette, Part-IV, on the 7th September 1964.)

Amended by Mah. 31 of 1967.

Amended by Mah. 17 of 1987.

Amended by Mah. 19 of 1969.

Amended by Mah. 26 of 1989.

An Act to make better provision for regulating the felling of certain trees in the State of Maharashtra, for the purpose of the preservation thereof.

WHEREAS, it is expedient to make better provision for regulating the felling of certain trees in the State of Maharashtra, for the purpose of the preservation thereof, and for the protection of the soil against erosion and to provide for matters connected therewith; It is hereby enacted in the Fifteenth Year of the Republic of India as follows, namely :—

1. (1) This Act may be called the Maharashtra Felling of Trees (Regulation) Act, 1964. Short title and extent.

(2) It extends to the whole of the State of Maharashtra but excluding an urban area.

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

Definitions.

²[(a) "Code" means the Maharashtra Land Revenue Code, 1966;]

²[(b)] "Collector" includes a Revenue Officer appointed by the State Government to exercise the powers and perform the functions of the Collector under this Act;

²[(c)] "Forest-Officer" means a Forest Officer within the meaning of the Indian Forest Act, 1927;

³[* * * *]

(d) "Revenue Officer" means a Revenue Officer within the meaning of the ⁴[Code];

(e) "to fell a tree" includes burning or cutting or lopping a tree, to cause substantial damage or destruction thereto;

(f) "tree" means any tree specified in the Schedule; and the State Government may, by notification in the *Official Gazette*, and to or modify the Schedule, after considering the necessity for the protection of any variety of trees; and the provisions of sub-section (2) of section 15 in so far as they relate to laying before, and modification by the State Legislature shall apply in relation to such notification as they apply in relation to any rule made under that section;

⁵[(ff) "Tree Officer" means a 'Forest Officer' not below the rank of a Range Forest Officer;]

¹ For Statement of Objects and Reasons, See *Maharashtra Government Gazette, 1964, Part-V, P. 197.*

² Clauses (a) and (b) were re-lettered as clauses (b) and (c) and before clause (b) as so re-lettered clause (a) was inserted by Mah. 17 of 1987, s. 2 (a).

³ Existing clause (c) was deleted, *ibid.*, s. 2 (b).

⁴ This word was substituted for the words "relevant Code" *ibid.*, s. 2 (c).

⁵ Clause (ff) was inserted by Mah. 26 of 1989 *ibid.*, s. 2.

(g) "urban area" means the area within the limits of a municipality, Municipal Corporation, Municipal Committee, Town Committee, or notified area committee or Cantonment constituted under any law for the time being in force; and includes a local area which is specified by the State Government in the *Official Gazette*, being an area which has a population of not less than five thousand and has not less than three-fourths of male workers engaged in non-agricultural pursuits;

(h) words and expressions used but not defined in this Act shall have the meanings, respectively, assigned to them in the ¹[Code.]

Restriction
on felling
of trees.

3. (1) Notwithstanding any custom, usage, or law for the time being in force, or the decree or order of a Court, or anything contained in any instrument to the contrary, no person shall fell any tree or cause such tree to be felled in any land, whether of his ownership or otherwise, except with the previous permission in writing of a ²[Tree Officer] duly empowered by the State Government in that behalf ^{3*} * * *

⁴[(1A) If any person wishes to fell a tree, he shall apply in writing to the ⁵[Tree Officer] empowered under sub-section (1) for permission in that behalf.

(1B) The ⁵[Tree Officer] on receipt of an application—

(a) shall acknowledge the application within seven days;

(b) may, after due enquiry, either grant or refuse the permission, applied for in accordance with the provisions of rules made under section 15 :

Provided that, no such permission shall be refused if the tree is dead, diseased or windfallen, or if it has silviculturally matured, ⁶[or if it constitutes obstruction to traffic, or if it is substantially damaged or destroyed by fire, lightning, rain, or other natural causes,] or if it constitutes an obstruction to efficient cultivation :

⁷[Provided further that such permission shall be granted subject to the condition that the applicant shall plant equal number of trees of the same or any other species as the Tree Officer may direct on the same site or other suitable place in the vicinity in the ensuing planting season;]

(1C) If the ⁵[Tree Officer] fails to inform that applicant of his decision within ⁸[sixty days] from the date of acknowledgement of the application, or from the date of receipt of the application, if the application is not acknowledged, the permission applied for shall be deemed to have been granted.]

(2) Any person aggrieved by an order of the ⁵[Tree Officer] refusing to grant permission under ⁹[sub-section (1B)] may, within thirty days of the receipt of such order, appeal to the Collector. Subject to such rules of procedure as may be prescribed, the Collector may, after giving such person a reasonable opportunity of being heard, pass such order on the appeal as he thinks just and proper.

¹ This word was substituted for the words "relevant Code" by Mah. 17 of 1987, s. 2 (d).

² These words were substituted for the words "Revenue Officer not below the rank of a Deputy Collector" by Mah. 26 of 1989, s. 3 (a).

³ The portion beginning with the words "and in accordance with the Provisions of rules" and ending with the words "or if it constitutes an obstruction to efficient cultivation" was deleted by Mah. 31 of 1967, s. 2 (a).

⁴ Clauses (1A) to (1C) were inserted, *ibid.*, s. 2 (b).

⁵ These words were substituted for words "Revenue Officer" by Mah. 26 of 1989, s. 3 (b), (c) (i), (d) (i) and (e) (i) respectively.

⁶ These words were inserted, *ibid.*, s. 3 (c) (ii).

⁷ The proviso was added, *ibid.*, s. 3 (c) (iii).

⁸ These words were substituted for the words "ninety days", *ibid.*, s. 3(d) (ii).

⁹ These words, brackets, figures and letters were substituted for the words, brackets and figures "sub-section (1)", *ibid.*, s. 3(e) (ii).

¹[3A. (1) If in the opinion of the Tree Officer the number of trees in any land (other than the land falling in any permanent drought-prone area identified by the State Government) is not adequate according to the standards prescribed by rules made under section 15, the Tree Officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant such trees or additional trees, as the case may be, at such places in the land as may be specified in the order ; and the owner or occupier of the land shall comply with the order by planting such trees or additional trees in the ensuing planting season.

Power of Tree Officer to order planting of trees.

(2) It shall be the duty of the owner or occupier of the land who is required by an order made under sub-section (1) to plant a tree or trees to ensure that they grow properly and are well preserved.

(3) Where the owner or occupier fails to comply with an order made under sub-section (1) the Tree Officer may, after giving a reasonable opportunity to such owner or occupier of making representation and without prejudice to any other action which may be taken against the defaulter under this Act take necessary action himself and recover the expenditure incurred therefor from the owner or occupier, as the case may be, after giving a notice of demand for the amount payable by him. If the amount is not paid within the time specified by the Tree Officer in the notice, it shall be recovered along with interest at six per cent. per annum and other incidental expenses, if any.]

4. Any person who, ²[without permission being granted or deemed to have been granted] to fell any tree, fells any such tree or causes it to be felled, shall be liable to such penalty not exceeding one thousand rupees as the ³[Tree Officer] empowered under section 3 may, after holding an enquiry and giving such person an opportunity of being heard, deem fit to impose; and the ³[Tree Officer] may further order that any such tree to be felled (which is not the property of Government) shall be forfeited to the State Government ⁴[along with the tools, boats, vehicles or other conveyances used in felling and removing, any such tree.]

Penalty for felling trees in contravention of section 3.

5. (1) Every Revenue Officer, Forest Officer and Police Officer shall be bound—
(a) to give immediate information of any contravention of section 3 to the officer empowered under that section and of the intention or preparation to commit such contravention which may come to his knowledge;

Contravention of section 3 to be reported by certain officers.

(b) to take all reasonable measures in his power to prevent such contravention which he may know or have reason to believe is about or likely to be committed.

(2) Any Revenue Officer, not below the rank of an Aval Karkun or Naib-Tahsildar, Forest Officer not below the rank of a Range Forest Officer and Police Officer not below the rank of a Sub-Inspector may enter upon any land, where he has reason to believe that any tree has been or is being felled, in contravention of section 3 and seize such felled tree or any loppings thereof, together with its produce and tools, boats, ⁵[vehicles and other conveyances] used in committing such contravention, place on such property a mark indicating that the same has been so seized and shall make a report of such seizure to the ⁶[Tree Officer empowered] under section 3.

(3) Where any property is seized under sub-section (2), the officer seizing it, shall keep the property in his own custody, or in the custody of any of his subordinates, and shall be responsible for the due custody thereof :

¹ This section was inserted by Mah. 26 of 1989, s. 4.

² These words were substituted for the words "without obtaining permission" by Mah. 31 of 1967, s. 3.

³ These words were substituted for words "Revenue Officer" by Mah. 26 of 1989, s. 5 (a).

⁴ These words were added, *ibid*, s. 5 (b).

⁵ These words were substituted for the words "vehicle or cattle", *ibid*, s. 6 (a) (i).

⁶ These words were substituted for the words "Revenue Officer empowered", *ibid*, s. 6 (a) (ii).

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Provided that, where the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer seizing it may sell it at once :

Provided further that, where such property cannot conveniently be removed, the officer seizing it may, at the instance of the person interested in the property, leave it at the place where it has been seized in the charge of the person interested in the property or in the charge of any respectable person as will undertake to keep such property on his entering into a bond with one or more sureties in an amount not less than the value of the property, that he will take proper care of such property, and produce it when called for.

(4) If the property so seized is not ordered to be forfeited to the State Government under section 4, that property shall be returned to the person from whom it was seized.

(5) If any claim is set up by a third person to the property seized as aforesaid, the ¹[Tree Officer] empowered under section 3 shall inquire into claim and may admit or reject it, after hearing such person in respect thereof.

Procedure in cases to be dealt with under this Act. ²[6. Subject to the provisions of this Act and the rules made thereunder, the provisions of Chapters XII and XIII of the Code shall apply in relation to cases dealt with under this Act as those provisions apply in relation to cases of unauthorised felling of trees dealt with under the Code.]

Award of penalty or confiscation not to interfere with other punishments. 7. The award of any penalty or confiscation of any property under this Act shall not prevent the inflicting of any punishment to which the person affected thereby is liable under any other law.

Inquiries and proceedings to be judicial proceedings. 8. All inquiries and proceedings before any ¹[Tree Officer] shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. XLV
of
1860.

Officers to be public servants. 9. The Officers exercising powers or discharging any duties or functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV
of
1860

Execution of order for payment of money. 10. Any sum the payment of which has been directed by any ¹[Tree Officer] or State Government under this Act shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

Bar of proceedings. 11. No suit or proceedings shall lie against the State Government or against any person empowered to exercise powers or to perform duties or discharge functions under this Act, for anything in good faith done or purporting to be done under this Act.

¹ These words were substituted for the words "Revenue Officer" by Mah. 26 of 1989, s. 6(b), s. 7 and s. 8, respectively.

² This section was substituted for the original by Mah. 17 of 1987, s. 4.

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12. Subject to such conditions (if any) as may be imposed, the State Government may, if it is necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any local area from all or any of the provisions of this Act. Exemption.

13. Nothing in section 3 shall apply to the felling of any tree for preventing damage to person or property or for abating any nuisance on one's own land. Savings.

14. The provisions of this Act shall be in addition to the provisions of any other law for the time being in force prohibiting or regulating the felling of trees. Provisions of this Act to be in addition to any other law for the time being in force.

15. (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act. Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the *Official Gazette*, the rule shall, from the date of such notification, 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 any thing previously done or omitted to be done under that rule.

SCHEDULE

[See section 2 (f)]

1. *Terminalia Chebula* (Hirda).
- ¹[2. *Teak*]
- ²[3. *Madhuca Latifolia* (Mahua, Mhowra or Mahu)]
4. *Tamarindus Indica* (Tamarind, Chinch or Imli).]
- ³[5. *Mangifera Indica* (Mango)]
6. *Artocarpus Integrifolia* (Jack)].
- ⁴[7. *Acacia Catechu* (Khair)].

¹ Entry 2 was added *vide* G. N., R. & F. D., No. TRS. 1165/152115, dated the 19th January 1968.

² Entries 3 and 4 were added *vide* G. N., R. & F. D., No. TRS. 1069/17631/B, dated the 27th December 1969.

³ Entries 5 and 6 were substituted *vide* G. N., R. & F. D., No. TRS. 1080/36954/929-G-7, dated the 9th January 1981.

⁴ Entry 7 was added *vide* G. N., R. & F. D., No. TRS. 1169/187626-B, dated the 7th December 1970.

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- ¹[8. *Santalum* (Sandal).]
- ²[9. *Pterocarpus marsupium* (Bija).
10. *Adina cordofolia* (Haldu).
11. *Ougelia dalbergioides* (Tiwas).]
- ³[12. *Terminalia tomentosa* (Ain).]
- ³[13. *Terminalia Peniculata* (Kinjal or Kindal).]
- ⁴[14. *Hardwickia binata* (Anjan).
15. *Syzigium cumini* (Jambhul).]
- ³[16. Mangrove.

Explanation.—For the purposes of this entry, “Mangrove” includes *Rhizophora mucronata* (Lamk), *Rhizophora apiculata* (Biam), *Ceriops candolleana* (Ara), *Kandelia rheedei* (Wight), *Bruguiera gymnorhiza* (Lamk), *Lumnitzera recemosa* (Willd), *Sonneratia apetala* (Buch Ham), *Sonneratia acida* (Dinn), *Avicenia officinalis* (Linn), *Avicenia marina* (Linn), *Acanthus ilicifolius*, *Aegiceras majus* and *Salvadora persica* (Linn).]

¹ Entry 8 was added *vide* G. N., R. & F. D., No. TRS. 1165/152115-B, dated the 15th May 1973.

² Entries 9, 10 and 11 were added *vide* G. N., R. & F. D., No. TRS. 1165/152115-B, dated the 9th March 1974.

³ Entries 12, 13 and 16 were added *vide* G. N., R. & F. D. No. TRS. 1085/812399/G-7, dated the 28th January 1987.

⁴ Entries 14 and 15 were added *vide* G. N., R. & F. D., No. TRS. 1075/4962-G-6, dated the 16th January 1976.