

Legal Literacy Manual

Legal rights, responsibilities, prohibitions and provisions for local communities dependent on forest-based livelihoods.

Uttarakhand



Why this manual?

This manual is intended to clarify and create greater awareness around the legal rights, responsibilities, prohibitions and other provisions for local communities, which directly affect the environment and forest-based livelihoods for the communities of Uttarakhand.

Usually, these laws are drafted in difficult language, and with complex frameworks, that are not always readily understandable to non-lawyers. It is not always possible, especially in the remote regions of Uttarakhand, to access or understand legal obligations or responsibilities. It is important and necessary that these are known by all stakeholders, to empower them to work towards common goals, which are also set out in law. This manual aims to democratise such legal knowledge, and enable -

- The achievement of the SECURE-Himalaya project goals, through a greater convergence between the mandate of law, and the actions of local communities as various stakeholder groups;
- Better governance and stewardship of the project landscapes' natural resources and habitats, by all stakeholders involved; and
- Local communities to become more actively involved in the governance and decision-making mechanisms that are provided in law

What does this manual contain?

This manual contains the rights (Part I), and responsibilities and obligations (Part II), in the state of Uttarakhand, chiefly for local rural communities in the state of Uttarakhand – as well as other local-level authorities.

These are drawn from the central and state level statutory laws, as well as Rules/Regulations/Notifications issued by the central or state government, and judgments of High Courts/Supreme Court. All of these forms of laws are mandatory for all stakeholder groups to know and abide by. In this manual, an attempt is made to present them in a simple, reader-friendly form, to make them easier to understand and apply.

Rights, which Part I of this manual attempts to collect and simplify, are understood and included in a broader sense. Other than rights which are explicitly granted or provided in laws, this Part also contains rights of persons which may be in the form of corresponding obligations of other institutions or authorities, specifically towards those persons, or even specific privileges or exemptions that they are given under laws – to enable better enforcement through empowerment.

How should this manual be used?

- This manual is primarily intended to be used as a (i) training tool, and (ii) for personal reference.
- When used as a training tool, the trainer should proceed module-wise, with each law (Act+Rules, or just Act, or just Rules, or Guidelines, or Notification, or Judgment) comprising one module. For efficient and effective training, not more than 4 modules should ideally be covered in one day.
- While training communities, it may be useful to identify from among the participants/trainees, the interest groups which are relevant to that law (for Part I – the groups which are contained in the column ‘Who is empowered?’ and for Part II – those contained in ‘Who is obligated?’). Identification will help trainees relate to the content, and facilitate interaction with the trainers.
- For further information or clarifications regarding a module, additional information contained in the SECURE-Law Compendium may be used by the trainers.
- The Hindi translation of this Manual can be distributed among the communities to use as a personal reference handbook, once they have been trained.
- Expansions of acronyms and abbreviations are given as footnotes throughout the manual (where they are used, rather than an index in the beginning) – to make cross-referencing simpler.
- In certain places, important clarifications and definitions are also provided in the form of footnotes.
- An index of key legal concepts and terms is provided at the end of each part, for reference purposes. Each topic can be found at the page numbers which are mentioned alongside. It may be present either directly, or by implication. For example, the terms 'Municipality' and 'Panchayat' (in the index), will be indexed back to all references made directly to them, AND ALSO to any provision in the manual which mentions 'local-level authorities'.

- Part I -
Rights

What kinds of rights do you have under law?

There are different kinds of laws – some specific to certain land categories such as forests – which guarantee different kinds of rights to different categories/classifications of people. These classifications have to pass the test of Part III of the Constitution of India – they cannot be arbitrary or discriminatory, and must be created only to serve the rightful purpose of the law.

For ease of understanding, the rights available have been classified and marked as applicable to 3 types of areas -

FOREST AREAS

(i.e. notified forests under the Indian Forest Act as applicable to Uttarakhand)



PROTECTED AREAS



NON-FOREST NON-PROTECTED AREAS



1. Under the Indian Forest Act, 1927 (as applicable to the state of Uttarakhand) -

FOREST AREAS

| Section | Who is empowered? | Rights |
|----------|--|--|
| 10,11,12 | Persons residing in/ using land which is subsequently notified as a reserved forest | As determined by the Forest Settlement Officer – may be with regard to shifting cultivation, land, pasture or forest produce |
| 17 | Persons residing in/ using land which is subsequently notified as a reserved or protected forest | In case the claim is rejected under sections 10-12, an appeal can be filed under the officer empowered by the state government through gazette notification (usually a senior officer of the Revenue Department, Collector or above) |
| 28 | Village communities living around or proximate to forest areas | State Governments can assign to any village community, its rights over any reserved forest (and may also cancel such assignment), which will then be called a village forest. The Uttarakhand Panchayati Van Rules have been issued under this section |
| 29 | Persons exercising rights on land which is subsequently notified as a protected forest | Only the rights which are entered into government records, as existing before notification of the forest, will continue to exist. |

2. Under the Forest (Conservation) Act, 1980 and Rules, 2003 –

FOREST AREAS 

PROTECTED AREAS 

NON-FOREST
NON-PROTECTED AREAS 

| Section | Who is empowered? | Rights |
|---------|-------------------|--|
| 6 | Gram Sabha | In the processing of an application for Forest Clearance, the proposal is forwarded by the Nodal Officer to the concerned DC and DFO. The DC must ensure that the process for recognition of rights under the Forest Rights Act, 2006 is complete and the consent of the Gram Sabhas is obtained, and forward his findings to the CF . |

3.

Under the Forest Rights Act, 2006 (and Forest Rights Rules, 2007)

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Section | Who is empowered? | Rights |
|---------|---|--|
| 3 | Scheduled tribes primarily residing in and depending on the forest for livelihood needs (including pastoralists) ¹ , and any other persons/communities who have been residing in and depending on the forest for livelihood needs for at least 3 generations (75 years) as on December 13, 2005 ² | <p>Gives an indicative (not exhaustive) list of the various kinds of rights that are intended to be recognised through the mechanism established by this law. These include:</p> <ul style="list-style-type: none">a) Right to hold and live in forest land under individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or OTFDs,b) community rights such as nistar, by whatever name called,c) rights of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries,d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (settled/transhumant) and traditional seasonal resource access of nomadic or pastoralist communities,e) rights including community tenures of habitat and habitation for primitive tribal groups/pre-agricultural communities, |

¹Forest-Dwelling Scheduled Tribes (FDSTs)

²Other Traditional Forest Dwellers (OTFDs)

- f) rights in or over disputed lands under any nomenclature, where claims are disputed,
- g) rights for conversion of pattas or leases or grants issued by any local authority or any State Government on forest lands to titles,
- h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests - into revenue villages,
- i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally conserving for sustainable use,
- j) rights which are recognised under any laws of states/Autonomous Councils or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any state,
- k) right of access to biodiversity or community right to intellectual property and traditional knowledge related to biodiversity or cultural diversity,
- l) any other traditional rights enjoyed by forest dwelling STs or OTFDs which are not enumerated herein excluding rights of hunting/trapping/extracting parts from the bodies of animals,
- m) right to in situ rehabilitation or alternative land in cases where STs or OTFDs have been illegally displaced from forest land or any description, prior to 13.12.2005

| Section | Who is empowered? | Rights |
|---------|--|--|
| 4(2) | Scheduled tribes primarily residing in and depending on the forest for livelihood needs (including pastoralists), and any other persons/communities who have been residing in and depending on the forest for livelihood needs for at least 3 generations (75 years) as on December 13, 2005 | FDSTs or OTFDs cannot be evicted from their customary forest lands falling within National Parks or Wild Life Sanctuaries, unless the process under section 6 for recognition or vesting of rights is completed, and it has been determined by the Forest Department that the impact of their presence is such as to cause irreversible harm to the species within the protected area, and threaten their survival - i.e. coexistence is not possible. It is also mandatory that the Gram Sabha has given its free and informed consent to the rehabilitation package, which will provide secure alternative livelihoods. The habitats which they are thus evicted from, shall thereafter not be diverted by any Government or Government entity for other uses. |
| 5 | Forest rights holders (i.e. members of Forest-dwelling Scheduled Tribes or Other Traditional Forest Dwellers, whose claims have been examined and granted under this Act) | Empowers forest rights holders, Gram Sabhas, and village level institutions, to <ul style="list-style-type: none"> a) protect wild life, forest and biodiversity, b) ensure that adjoining catchment areas, water sources and other ESAs are adequately protected, c) ensure that the habitat of FDSTs/OTFDs is preserved from any destructive practices affecting their cultural and natural heritage, d) ensure that the decisions taken in Gram Sabha to regulate access to CFRs and stop activities adversely impacting wild life/forests/biodiversity are complied with. |

| Section | Who is empowered? | Rights |
|---------|-------------------------------|--|
| 6 | Gram Sabhas (at hamlet level) | They are the nodal bodies for the initiation of the claims process, for the determination of the nature and extent of individual or community rights within its jurisdiction. It is to receive claims, consolidate and verify them and then delineate the area of every claim on a map (in such form as may be prescribed). After a resolution has been passed on such information, the claims are then forwarded to the Sub-Divisional Level Committee (which is constituted by the State Government as per Rule 5 of the Rules). |

4. Under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in cases of land acquisition by governments under this law)



| Section | Who is empowered? | Rights |
|---------|-------------------------|---|
| 4 | Panchayat/ Municipality | The Panchayat/Municipality of the affected area must be consulted by the appropriate government ⁴ for carrying out the SIA ⁵ study, when lands are being acquired under this law for a public purpose. This notification of consultation and commencement of the SIA shall be made available in the local |

⁴ Defined as per section 3(e)

⁵ Social Impact Assessment

language to the concerned local self-government, and to the offices of the concerned District Collector, Sub-Divisional Magistrate and Tehsil, and shall be published widely in the affected area and on the website of the appropriate Government. (Except for Irrigation Projects)

5 Project affected persons A public hearing has to be held as part of the SIA process, at the affected area, with due notice of the date, time and venue adequately publicised, to ascertain the views of the affected families which have to be included in the SIA report. (Except for Irrigation Projects)

8 Project affected persons The appropriate government has to ensure that - there is a bona fide purpose for the land acquisition, the potential benefits of the proposed project outweigh the social costs and adverse impacts as per the SIA report, the bare minimum required area of land is acquired, there is no previously acquired land lying unused in the area and if there is, it is used for the current purpose. Only that area, which would ensure minimum displacement of people, minimum disturbance to infrastructure, ecology and people, should be recommended.

10 Affected farmers/ owners of multi-cropped irrigated land The acquisition of multi-cropped irrigated land should not be done ordinarily, only in exceptional situations and as a last resort (must be recorded in writing). In case this is done, either an equal amount of culturable wasteland shall be developed for agricultural purposes, or an amount equivalent to the value of the land acquired shall

be deposited with the appropriate government for investment in agriculture for enhancing food security.

14 Project affected persons Where the preliminary notification under section 11 is not issued within 12 months from the date on which the Expert Group's appraisal of the SIA Report is submitted, the SIA report shall be deemed to have lapsed, and a fresh SIA shall be required to be undertaken. The appropriate government has the power to extend this twelve month period if justifiable circumstances exist, for reasons which are to be recorded in writing and uploaded on its website.

15 Project affected persons The appropriate government has to provide an opportunity to any person having a right in any lands covered under the section 11 preliminary notification, within 60 days of its publication, to object to - the area or suitability of the land to be acquired, the public purpose justification and/or the findings of the SIA report. These objections are to be made in writing to the Collector, who shall also afford to such objectors a hearing (either in person or through a representative), and shall make a report of these objections, proceedings and her/his recommendations and submit this to the appropriate government. The decision of the appropriate government on this shall be final.

| Section | Who is empowered? | Rights |
|---------|--|---|
| 16 | Project affected persons | A rehabilitation and resettlement scheme has to be drawn up by the Administrator (appointed as per section 43) - beginning with a survey of the affected families, which shall also require to be recorded: family-wise particulars of lands and properties being acquired, livelihood dependencies and losses, list of public utilities, amenities, infrastructural facilities likely to be affected (where resettlement is involved), common property resources being acquired. It shall be publicised widely in the affected area and discussed in the concerned Gram Sabhas/ Municipalities. A public hearing shall be conducted at the affected area, after due notice is given regarding the date, time and venue (at every Gram Sabha/ Municipality, more than 25% of whose area is being acquired). |
| 42 | Project affected persons whose rights have been recognized under the Forest Rights Act, 2006 | In cases where community rights (not individual) have been settled under the Forest Rights Act, 2006, a monetary amount equivalent to the same shall be paid to displaced individuals, in proportion to their interest/title/right in the land. |
| 45 | Project affected persons | One woman, SC and ST members from the affected area, NGO representative working in the affected area, Chairpersons of Panchayats/ Municipalities or their nominees – all are mandatory members of project-level Rehabilitation and Resettlement Committees. |

| Section | Who is empowered? | Rights |
|---------|--------------------------|---|
| 51 | Project affected persons | Any project affected person may refer to the Land Acquisition, Rehabilitation and Resettlement Authority (one person – retired/serving district judge, or legal practitioner of 7 years' experience) any grievance with any aspect of the Collector's Award (made under section 31) |
| 74 | Project affected persons | Appeals may be filed against the decision of the Authority (created under section 51), before the High Court |
| 101 | Project affected persons | Any land acquired under this law, which is unused for a period of 5 years, will be returned to the original owners/legal heirs/land bank. |

5. Under the Guidelines for the Notification of Eco-Sensitive Zones, 2011

FOREST AREAS ▲

PROTECTED AREAS (◁)

NON-FOREST
NON-PROTECTED AREAS ◻◻

| Clauses | Who is empowered? | Rights |
|---------|--|---|
| 6 | Representative from Panchayat / Municipality | Member of ESZ Committee, along with the concerned Wildlife Warden, a local self government representative, an ecologist, and a revenue department official, to suggest (i) the extent of ESZ around the PA, (ii) the requirement of the ESZ, (iii) best management methods and (iv) broad based thematic activities to be included in the region's Master Plan. |

6. As held by the Supreme Court through its judgment in the case of Orissa Mining Corporation v. Ministry of Environment and Forests and others (2013) –

FOREST AREAS 

PROTECTED AREAS 

**NON-FOREST
NON-PROTECTED AREAS** 

| Paragraph | Who is empowered? | Rights |
|-----------|--|--|
| 40-48 | Indigenous people, Gram Sabha | The Supreme Court discussed the rights and entitlements of indigenous peoples (includes forest dwelling STs and OTFDs) with reference to international legal instruments as well as the Constitution, PESA and FRA. It concluded that the Gram Sabha was conferred with a broad spectrum of powers under these instruments, to safeguard the customary cultural, religious and forest rights of these peoples. |
| 51 | Forest-dwelling Scheduled Tribes and OTFDs | While interpreting the Forest Rights Act, it has to be kept in mind that it is a social welfare legislation. The Act protects a wide range of forest dwellers and STs including the customary rights to use forest land as a community forest resource and not restricted merely to property rights or areas of habitation. |
| 64-65 | Gram Sabha | "The Gram Sabha has a role to play in safeguarding the customary and religious rights of STs and other TFDs under the Forest Rights Act. Section 6 of the Act confers powers on the Gram Sabha to determine the nature and extent of "individual" or "community rights". In this connection, reference may also be made to Section 13 of the |

Act coupled with the provisions of PESA, which deals with the powers of the Gram Sabha... Therefore, Gram Sabha functioning under the Forest Rights Act read with Section 4(d) of PESA has an obligation to safeguard the traditions and customs of the STs and other forest dwellers, their cultural identity, community resources etc..."

7. As per the Environmental Impact Assessment Notification, 2006 (as amended by subsequent notifications, till 2020) –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS □

| Paragraph | Who is empowered? | Rights |
|-----------------|--|---|
| 7 (ii) part III | Persons affected by any development project covered under the EIA Notification | <p>Public hearing and consultation - the third stage of EIA. Through this, the concerns of all affected persons and others having a stake in the environmental impacts of the project, are ascertained and taken into account in project planning/design.</p> <p>All Category A and B1 projects as per the Schedule require a public consultation, with some exceptions - modernization of irrigation projects, activities inside existing industrial estates/parks (which are not against the approvals already obtained by such park), expansions of roads/highways not requiring further acquisition of land, maintenance dredging (provided dredged material is disposed of within port limits), building/construction/area development projects (which do not contain any category A</p> |

activity/project) and townships, all strategic/defence/national security related projects, Category B2 projects, all linear infrastructure in border states, and all standalone pelletization plants which have been in operation on or before May 2014 and have valid permissions from SPCB/UTPCC. It is to be conducted by the SPCB/UTPCC, as per the procedure specified in Appendix IV.

The public consultation is to consist of 2 components - a public hearing (at or in close proximity to the project site) for local affected persons, and responses to be obtained in writing from other persons with a plausible stake in the environmental impacts of the proposed project (to the summary EIA report as per the Appendix IIIA format, to be placed on its website by the concerned SPCB/UTPCC).

Appendix IV Persons affected by any development project covered under the EIA Notification

Appendix IV details the procedural requirements for public hearings. After the draft EIA report (in Appendix IIIA format) is received from the proponent, the District Magistrate(s), Zila Parishad(s)/ Municipal Corporation(s) and District Industries office(s) and concerned SPCB/UTPCC shall widely publicise the same in their jurisdictions for interested persons to respond to (minimum of 30 days for this). They are to make the report available for inspection to the public, electronically or otherwise, during normal office hours until the public hearing is over.

The other mandatory elements for the conduct of a fair and effective public hearing are - a timely and effective notice of the date, time and venue of the

hearing as well as places/offices where the draft EIA report may be accessed (to be published in one major national daily and a regional vernacular daily), video recording of the entire proceedings (by the SPCB/UTPCC) to be annexed to the proceedings, fair and equal opportunity to all to raise their concerns, recording and reading over of proceedings at the end to the audience, a statement of issues raised and the applicant's response in the local vernacular to be annexed to the proceedings. All the responses received shall be forwarded to the applicant using the quickest available means.

After the public consultation process is complete, the applicant shall address all material environmental concerns raised therein, and make changes accordingly in the draft EIA and EMP (or submit a supplementary report), and then submit them for appraisal.

| | | |
|---|--|---|
| 8 | Persons affected by any development project covered under the EIA Notification | The deliberate concealment/submission of false or misleading information shall be good reason for rejection of the application for EC, or cancellation (if it has already been granted – and subject to the principles of natural justice ⁷). |
|---|--|---|

| | | |
|----|-------------------------------|---|
| 14 | Panchayats/ Municipalities | Local bodies (Municipalities, Development Authorities, Panchayats) shall stipulate environmental conditions before granting building permissions, for building and construction projects. |
|----|-------------------------------|---|

⁷ Principles of Natural Justice – (i) An order should contain the reasons for the decision it contains; (ii) No person shall be condemned/punished without being given a chance to present their case; (iii) No person/authority shall be a judge in their own cause.

8.

Under the Wild Life (Protection) Act, 1972 –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Section | Who is empowered? | Rights |
|---------|---|--|
| 18-34 | Persons living on, or having rights on, land which is to be notified as a wildlife sanctuary (not reserved forests) | Contains the process for claims and settlement of rights within, and management of, sanctuaries. The government will appoint certain officers to act as “collectors” under this law, who are mandated to conduct inquiries and confirm the existence, nature and extent of any rights on that land. These rights may be rejected or admitted, after a proclamation is issued by the collector (containing the limits of the proposed sanctuary) – and persons are invited to submit their claims and rights. After the preliminary notification is issued under section 18, rights cannot be transferred (other than through succession). Private rights can be allowed to exist inside a sanctuary – the collector will need to take the permission of the CWLW (section 24). |
| 35 | Persons living on, or having rights on, land which is to be notified as a National Park | The above provisions and procedure (for sanctuaries) will also apply for National Parks. |

| Section | Who is empowered? | Rights |
|---------|---|---|
| 36B | Panchayats having jurisdiction in area declared as conservation reserve (under section 36A), Conservation/wildlife NGOs working in the area | One member from every Panchayat which has jurisdiction over the conservation reserve area, and 3 representatives of wildlife NGOs working in the area, will be members of the Conservation Reserve Management Committee. |
| 36C | Communities or individuals who want to bring their private/community lands under community reserve (different from CCAs) | 5 representatives from the village panchayats/gram sabhas (where no panchayat), will be part of the Community Reserve Management Committee (which will make the management plan, and no land use change can occur without its authorization). |
| 38V | Scheduled Tribes, OTFDs and other local people residing in areas which are planned to be notified as part of a Tiger Reserve, Gram Sabhas | Core areas are to be kept inviolate – without affecting the rights of STs or OTFDs. In buffer areas, the aim is co-existence between wildlife and human activity. Due recognition of agricultural, livelihood, developmental and other interests of people (as determined through consultations with Gram Sabhas) must be done. |

9.

Under the Environment (Protection) Act, 1986 –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Sections | Who is empowered? | Rights |
|----------|---|--|
| 18-34 | Persons living on, or having rights on, land which is to be notified as a wildlife sanctuary (not reserved forests) | Contains the process for claims and settlement of rights within, and management of, sanctuaries. The government will appoint certain officers to act as “collectors” under this law, who are mandated to conduct inquiries and confirm the existence, nature and extent of any rights on that land. These rights may be rejected or admitted, after a proclamation is issued by the collector (containing the limits of the proposed sanctuary) – and persons are invited to submit their claims and rights. After the preliminary notification is issued under section 18, rights cannot be transferred (other than through succession). Private rights can be allowed to exist inside a sanctuary – the collector will need to take the permission of the CWLW (section 24). |
| 9 | Persons affected by the discharge of an environmental pollutant | In case the discharge of an environmental pollutant more than prescribed standards occurs OR is expected to occur, the person responsible for the discharge AND the person in charge of the place of discharge, must prevent or control the pollution caused as a result of the discharge. They are also bound to intimate the occurrence/expectation of occurrence to the authorities – mainly officer-in-charge of disaster relief operations in the district (generally the District Collector), and SPCB/UTPCC through their regional officer. |

10. Under the Air (Prevention and Control of Pollution) Act, 1981 –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS ◻

| Section | Who is empowered? | Rights |
|---------|-----------------------------------|--|
| 23 | Persons affected by air pollution | Any person in charge of premises where the emission of air pollutants in excess of prescribed standards occurs/is likely to occur, in any area, has to inform the SPCB and other relevant agencies - which are then bound to take preventive or remedial measures. |

11. Under the Water (Prevention and Control of Pollution) Act, 1974 –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS ◻

| Section | Who is empowered? | Rights |
|---------|-------------------------------------|--|
| 24 | Persons affected by water pollution | Causing/permitting to be caused - knowingly - the discharge of any polluting matter (as per standards laid down by the SPCB), or any matter which may obstruct proper flow, into any stream or well, is prohibited (unless it is for the due construction/maintenance of any building, bridge or other permanent works, or for land reclamation provided the materials deposited in the bed are not pollutants). |

| Section | Who is empowered? | Rights |
|---------|-------------------------------------|--|
| 31 | Persons affected by water pollution | The person in charge of any place where any pollutant/effluent is discharged or likely to be discharged due to any industry/operation/process which is carried on there (including any works operated by a local authority), must intimate such occurrence to the SPCB and other agencies as prescribed. |
| 32 | Persons affected by water pollution | SPCBs have emergency powers, to use when it appears that any pollutant is present in any stream/well/land due to discharge, and the SPCB feels that it is necessary to take immediate action (reasons to be recorded in writing), it may carry out operations to - remove the polluting matter through appropriate disposal, remedying/mitigating any pollution caused, or issuing directions restraining the person concerned from polluting further. This does not allow construction of permanent works for this purpose. |

12. Under the Plastic Waste Management Rules, 2016; Solid Waste Management Rules, 2016; Bio-Medical Waste Management Rules, 2016; E- Waste Management Rules, 2016; Construction and Demolition Waste Management Rules, 2016 –

FOREST AREAS ▲

PROTECTED AREAS ⌚

NON-FOREST
NON-PROTECTED AREAS ☐

No specific rights are provided under these waste management Rules issued under the Environment (Protection) Act, 1986, for local communities – but the local Panchayats/Municipalities and government authorities are duty-bound to implement proper waste collection, segregation and disposal mechanisms under each of these Rules.

13. Under the Biological Diversity Act, 2002 and (Central) Biological Diversity Rules, 2004 –

FOREST AREAS ▲

PROTECTED AREAS ⌚

NON-FOREST
NON-PROTECTED AREAS ☐

| Section | Who is empowered? | Rights |
|---------|--|--|
| 3 | Local bodies (Panchayats/ Municipalities), where biological resources are sought to be accessed. | All non-citizens, non-resident citizens (as per the Income Tax Act) and companies/bodies/organisations which are registered outside India, OR have any non-Indian as a shareholder or in management, have to compulsorily obtain approval from the NBA ⁹ before obtaining any biological resource from India/associated knowledge, for research/bio-survey/commercial |

utilisation. Rule 14 of the Rules requires that this approval be sought in Form I, along with a fee of rupees 10,000.

While considering the application, the NBA shall consult with the concerned local bodies and the approval to access (if granted) shall be in the form of an agreement (between the NBA and the applicant), with due provisions for benefit sharing etc.

| | | |
|---|---|---|
| 6 | Local communities, from where a biological resource is obtained (Benefit-claimers ¹⁰) | Any person applying for an intellectual property right (trademark or patent), in or outside India, for any invention based on any research or information on a biological resource obtained from India, must obtain the prior approval of the NBA, which shall dispose of such applications for approval within 90 days. The NBA is empowered to impose conditions while granting such approval, such as royalties or the sharing of benefits arising from such rights. Those applying for rights under the Protection of Plant Varieties and Farmers' Rights Act, 2001 are excluded from this section. |
|---|---|---|

| | | |
|----|------------------|--|
| 21 | Benefit-claimers | The NBA, while granting approvals under sections 19 and 20, shall ensure that the terms of such approvals secure equitable sharing of benefits arising out of the use of such resources/associated knowledge in accordance with mutually agreed terms between the applicant, the |
|----|------------------|--|

⁹ National Biodiversity Authority

¹⁰ They are defined under section 2(a) of the Act, as – “the conservers of biological resources, their by-products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application.” Essentially, it means the local communities/persons, (if they are able to be identified) which are the custodians or cultivators of the biodiversity in question.

local bodies and the benefit claimers (in accordance with the Guidelines). As per Rule 20, the NBA is to ensure that where the resources are accessed from a specific individual or group, the benefits are paid directly to them through the district administration.

24. Local bodies (Panchayats/ Municipalities), of area where biological resources are sought to be accessed

SBBs can restrict any Indian from doing any activity referred to in section 7 (for which the permission of the SBB is required, in such form as prescribed in the state's Biological Diversity Rules) - after consulting with local bodies concerned, if it determines that the activity is detrimental to conservation, sustainable use, or equitable benefit sharing arising out of biological resources.

37. Local bodies (Panchayats/ Municipalities), and local people, of area which is proposed as a Biodiversity Heritage Site (BHS)

Local bodies have to be consulted before the State Government can notify a BHS, and the socio-economic rehabilitation of affected people is also the responsibility of the State government (in case their rights are affected).

41 (along with Rule 22 of the Rules) BMCs (Biodiversity Management Committees)

The creation of BMCs by local bodies in their jurisdictions is required - with a Chairperson and up to 6 persons nominated by the local body (of which one third shall be women and not less than 18% from the Scheduled Tribes). The BMCs are charged with the following duties - conservation, sustainable use and documentation of local biodiversity (preparation of People's Biodiversity Registers or PBRs), and chronicling of associated traditional knowledge, local vairs, hakims etc. who are accessing

biological resources. It is further mandated that the BMCs shall be mandatorily consulted by the NBA/SBB while taking a decision on any biological resources/associated knowledge within its jurisdiction . BMCs are empowered to collect fees for biological resources collected for commercial purposes from their jurisdictions. They are also mandated to maintain a register with details of – biological resources/ associated knowledge accessed, fee imposed, benefits derived, mode of benefit sharing.

Rule 22 BMCs

PBRs are to be prepared in consultation with local people, and should contain comprehensive information on the availability, uses and other traditional knowledge associated with local biological resources (format to be specified by the NBA). The NBA and SBBs are mandated to provide guidance and technical support for their preparation

43 BMCs

The Local Biodiversity Fund is established, in every area where a local self-government is functioning (BMC jurisdiction area), to which the following sums are to be credited – grants and loans given by the State Government, NBA, SBBs, charges/fees collected by BMC, and any other receipts that may be authorised by the state government. The Fund is to be used for the conservation and promotion of biological resources within the local body's jurisdiction, and for the benefit of the local community (as far as it is consistent with conservation).

14. Under the Uttarakhand Biological Diversity Rules, 2015 (also issued under the Biological Diversity Act, 2002) –

FOREST AREAS ▲

PROTECTED AREAS ◂

NON-FOREST
NON-PROTECTED AREAS ◃

| Rules | Who is empowered? | Rights |
|-------|---|--|
| 12 | BMCs, Local communities | The Uttarakhand SBB is duty-bound to - give appropriate directions to and ensure meaningful participation of BMCs in conservation/benefit sharing, to engage legal experts for protection of intellectual property rights over information contained in PBRs, to ensure that biodiversity-livelihood projects are integrated into planning at all sectors and levels (mainstream biodiversity issues in development schemes), to sanction grants/financial aid to BMCs for specific purposes (depending on availability) |
| 14 | Benefit Claimers, Local bodies (Panchayats/ Municipalities) | Uttarakhand SBB shall consult with concerned Local Bodies before deciding on the application (for access to biological resources by Indian persons/bodies). It can grant or refuse access (after giving the applicant a hearing), and impose conditions on the access. ABS agreement will be signed between the applicant and the USBB (as per NBA guidelines). |

| Rules | Who is empowered? | Rights |
|-------|-------------------|---|
| 16 | Local Communities | Uttarakhand SBB cannot grant access to biodiversity if any of the following reasons exist – endangered species/ genus etc., endemic/rare species, negative impact on local livelihoods or culture, negative environmental impact, against national interest. |
| 18 | BMCs | The main function of BMC will be the preparation of PBRs with BCP (bio-cultural community protocols) as annexures, and to protect the information contained in these (by regulating access to PBR etc.). The SBB must provide guidance and technical support to the BMCs for the PBR preparation. The PBRs will be counter-signed by the SBB through its authorised officer. The BMC also has to maintain a register with details of access to biological resources /traditional knowledge. BMC may levy charges for access or collection of any biological resource. It shall draw up an action plan based on the PBR. It must also send reports on the Local Biodiversity Fund to the SBB (in Form 3) annually. |
| 19 | BMCs | Local Biodiversity Fund (at local body level), to be operated jointly by chairperson and secretary of BMC, to be used for conservation and promotion of biodiversity. The accounts must be maintained by the secretary BMC. The Fund will be audited every year by the SBB, and accounts have to also be submitted to the local body. |

15. Under the Disaster Management Act, 2005 –

FOREST AREAS 

PROTECTED AREAS 

NON-FOREST
NON-PROTECTED AREAS 

| Section | Who is empowered? | Rights |
|---------|---------------------------|---|
| 12 | Disaster-affected persons | The NDMA must prescribe minimum standards of relief to be provided to disaster-affected persons, including - minimum requirements to be provided in relief camps, ex gratia assistance for loss of life, damage to houses, restoration of livelihoods etc |
| 12 | Disaster-affected persons | The NDMA must prescribe minimum standards of relief to be provided to disaster-affected persons, including - minimum requirements to be provided in relief camps, ex gratia assistance for loss of life, damage to houses, restoration of livelihoods etc |

16. Under the Uttarakhand Panchayati Forest Rules, 2005 –

FOREST AREAS 

and adjoining

NON-FOREST
NON-PROTECTED AREAS 

| Rules | Who is empowered? | Rights |
|------------|--|--|
| 2(1), 6(a) | All adult residents of the village (users) | <p>The rights of users are indicated - they include rights to graze cattle, collect fodder, fuel and timber in the panchayati forest, under any law/order i.e. this may include rights recognised in the pre-existing forest under the Indian Forest Act, Forest Rights Act etc.</p> <p>However, in those panchayati forests which are originally a part of reserved forests, those whose rights are recorded in the list of rights (of the reserved forest, under the Indian Forest Act) will be users. Also, landless people who have been residing continuously in the village for 10 years will be permitted to exercise rights of users in the panchayati forest.</p> |
| 3 | Persons living in village bordering notified government forest | 1/5th of all adults, or Gram Sabha, can make an application to the SDM, to manage it as a Panchayati Van/Village Forest. |
| 4, 5 | Persons who have claims and objections to the application for Panchayati Van | The SDM shall notify a date or hearing claims and objections, and take decisions within 30 days after hearing them. |

| Section | Who is empowered? | Rights |
|---------|---|---|
| 8 | Members of General Body (which is all adult residents of the village – also known as the Forest User Group) | Any member of the General Body may file a grievance against the election of any member to Management Committee, and any Committee member may file a grievance against the election of Sarpanch, to the SDM - whose order in such case may be appealed against to the Collector. |
| 12 | Forest User Group | Based on the composite management plan (prepared by the DFO), the Management Committee shall prepare a 5-year micro-plan for the panchayati forest, with the assistance of the Deputy RO/Forester/Forest Guard, giving due consideration to the requirements of right holders and to the ecological balance of the forest. The plan shall be placed before the General Body for approval by the RFO, and then must be sanctioned by the Sub-Divisional Forest Officer. |
| 20 | Management Committee (elected by General Body from among its members) | Powers of Management Committee inside the panchayati forest - has status of forest officer, can compound a forest offence for up to Rs. 500 (plus market value of property/forest produce involved, as assessed by DFO), to regulate entry and grazing of cattle, to impound cattle under the Cattle Trespass Act, 1871, to exclude any person who has caused damage to the forest or disobeyed an order of the Committee, seize any tools/weapons used to commit forest offences, to sell forest produce and issue permits and charge fees for grazing (with approval of DFO), to extract and sell resin as per the Uttar Pradesh Resin and other Forest Produce (Regulation |

of Trade) Act, 1976 (as applicable to Uttarakhand), to contract management/ improvement works in the panchayati forest to the Self Help Group/General Body or any of its members.

21 Management Committee
The Management Committee is empowered to frame bye-laws (which must be approved by the General Body and the DFO) for distribution of forest produce, regulating grazing/cutting/ collection, levy of fees etc.

28, 29 General Body, Management Committee
Panchayati/Village Forest Fund shall be created for each panchayati forest, to which will be deposited - sale amounts from forest produce, government grants and other revenues (fees etc.). It will be managed by the Management Committee under supervision of DFO. All withdrawals will be by cheque (signed jointly by Sarpanch and Secretary of the Committee), and will need approval of the Management Committee. All withdrawals/expenditures will have to be placed before the General Body at the next meeting.

30a General Body
The General Body (Forest User Group) can enter into contracts with local Self Help Groups. In case of contracts entered into with Self Help Groups, income shall be divided as follows - 15% to Gram Panchayat, 15% to Village Forest Fund, 70% to member/members of Self Help Group to whom contract is given.

17. Under the Uttarakhand Transit of Timber and other Forest Produce Rules, 2002 –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS ↻

| Rules | Who is empowered? | Rights |
|-------|--|--|
| 3 | Persons moving forest produce for meeting their livelihood needs | The following cases are exempted from requirement of a transit pass from forest department - removal/movement of forest produce for meeting a legal right/privilege within the limits of the village, or removal of forest produce by a contractor in a department-managed forest, or in case of any exempted forest produce (as per government notification). |

18. Under the Uttar Pradesh Resin and Other Forest Produce (Regulation of Trade) Act, 1976 and Rules, 1976 –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Section | Who is empowered? | Rights |
|---------|-----------------------|---|
| 6,7 | Resin tappers | For each resin tapping unit (forest circle), an Advisory Committee will be formed of max 9 members nominated by the state government. 1/3 of its members will be from the forest department, and not more than 1/3 will be resin tappers. Its primary purpose will be to recommend a fair and reasonable price at which the forest department will buy resin. The factors to be kept in mind – price of resin for last 3 years, quality of resin, transport cost, extraction cost, wage rates for labour, cost of packing, etc. Price shall be fixed for every year, by the State Government. |
| 8 | Resin tappers/sellers | Forest Department must purchase all resin offered during normal business hours at resin depots, at the fixed price (unless it is unfit to manufacture resin products). If the resin was tapped from any government forest (reserved, protected or panchayati), only collection charges will be paid to the tapper/seller. Any person who is refused/not paid fully can complain to the DFO, who must inquire and pass an order within 30 days (to purchase at same or lower price, etc.). |

19. Under the Guidelines for the Notification of Critical Wildlife Habitats, 2018 –

PROTECTED AREAS

| Clauses | Who is empowered? | Rights |
|---------|---|--|
| 3.4 | Forest Rights holders, or communities eligible for Forest Rights, living inside a National Park/ Wildlife Sanctuary where CWH is to be identified | If rights settled under the Forest Rights Act, 2006 are to be modified or resettled outside a CWH - sections 4(2)(a) to 4(2)(f) of the Forest Rights Act are to be complied with |
| 5.1 | Gram Panchayats (in National Parks or Wildlife sanctuaries) | The Chief Wild Life Warden (CWLW) must notify an Expert Committee for carrying out the process of identification of CWH – which is to include each Sarpanch (or his/her nominee) of all Gram Panchayats which have jurisdiction over the National Park/ Wildlife sanctuary for which the CWH exercise is being carried out. |
| 6 | Forest Rights holders within the NP or WLS | Through field visits and scientific and objective criteria, the Expert Committee shall first identify areas in a NP or WLS which are required to be kept inviolate. The views of the FR holders within the NP/WLS shall then be determined through an open consultation, and the proceedings of the consultation shall be recorded and forwarded along with the final proposal of CWH to the MoEFCC. |

| Clauses | Who is empowered? | Rights |
|---------|--|---|
| 7 | Forest Rights holders within the NP/WLS | <p>Procedure for consultation under clause 6 - with due notice issued 15 days prior to the consultation date, giving all relevant details of the proposed CWH, the process followed, its implications on their forest rights, details of R&R schemes (if any) and the date, time and venue of the consultation. The notice shall be widely publicised through all local forest, tribal department and district administration offices. Provisions of conveyance shall be made for the affected people to the consultation, and the proposal shall be explained in the local language.</p> |
| 10.1 | Local communities living inside the NP/WLS | <p>for a CWH to be determined, an objective assessment of - present pressures and future demands on the forest resources, as well as present and future levels of human-wildlife conflict - need to be made, in consultation with the local communities, to evaluate long-term viability of habitation as well as livelihood dependence on the NP/WLS.</p> |

20. Under the Wetlands (Conservation and Management) Rules, 2017 –

NON-FOREST
NON-PROTECTED AREAS 

| Rules | Who is empowered? | Rights |
|-------|---|---|
| 7 | Persons living in and around, or dependent on, wetlands | Before a wetland is notified by state government/UT administration (on the recommendation of the State or UT Wetland Authority), the affected persons have to be notified and given a chance to voice their objections – which have to be considered. |

- Index -
Part I

| Keywords | Page number | Keywords | Page number |
|---|--------------------|---|-------------------------------|
| Administrative classifications | | Government Authorities | |
| • Buffer zone | 23 | • Advisory Committee (Resin Tapping) | 38 |
| • Core area | 23 | • Appropriate government (Land Acquisition Act, 2013) | 14, 15, 16 |
| • Conservation reserve, Community reserve | 23 | • Chief Wild Life Warden | 22, 39 |
| • Critical wildlife habitat | 39 | • Collector (under Wild Life (Protection) Act, 1972) | 22 |
| • Eco-sensitive zone | 17 | • Community Reserve Management Committee | 23 |
| • Forest (of any description) | 10, 11 | • Conservation Reserve Management Committee | 23 |
| • National Park | 12, 22, 39, 40 | • Conservator of Forests | 9 |
| • Protected Forest | 8, 38 | • Deputy Range Officer | 35 |
| • Reserved Forest | 8, 34, 38 | • Directorate of Tribal Affairs | 40 |
| • Resin tapping unit | 38 | • District Collector | 9, 13, 15, 20, 24, 29, 35, 40 |
| • Sanctuary | 12, 22, 39, 40 | | |
| • Tiger Reserve | 23 | | |
| • Village forest/ Panchayati Van | 8, 34, 38 | | |
| • Wasteland | 14 | | |

| Keywords | Page number | Keywords | Page number |
|---|--------------------|---|--|
| • District Industries Office | 20 | • Municipality | 13, 16, 21, 27, 29 31 |
| • District Magistrate | 20 | • National Biodiversity Authority | 27, 29 |
| • Divisional Forest Officer | 9, 35, 36, 38 | • National Disaster Management Authority, State Disaster Management Authority | 33 |
| • Expert Committee (Critical Wildlife Habitats) | 39 | • Panchayat | 13, 16, 17, 21, 23 27, 29, 31, 36, 39 |
| • ESZ Committee | 17 | • Range Forest Officer | 35 |
| • Forest Department | 12, 38, 40 | • Revenue Department | 17 |
| • Forester | 35 | • State Biodiversity Board | 29, 31, 32 |
| • Forest Guard | 35 | • State Pollution Control Board, Union Territory Pollution Control Committee | 19, 24, 25 |
| • Forest Settlement Officer | 8 | • State Wetland authority | 41 |
| • High Court | 17 | • Sub-Divisional Forest Officer | 35 |
| • Land Acquisition, Rehabilitation and Resettlement Authority | 17 | | |
| • Municipal Corporation | 20 | | |

| Keywords | Page number | Keywords | Page number |
|--|--------------------|-------------------------------------|--------------------|
| • Sub-Divisional Level Committee (under Forest Rights Act, 2006) | 13 | • Protected forest | 8 |
| • Sub-Divisional Magistrate, | 13, 34 | • Residing in sanctuaries | 22 |
| • Supreme Court | 18 | • In sanctuaries | 12 |
| • Tehsildar | 13 | Users | |
| • Wildlife Warden | 17 | • Cultural and Religious rights | 18 |
| • Zila Parishad | 20 | • Forest dwelling Scheduled Tribes | 10, 18, 23, 39 |
| Right-Holders | | • Indigenous people | 18 |
| • Benefit-claimers (under Biological Diversity Act, 2002) | 28, 31 | • Other Traditional Forest Dwellers | 10, 18, 23, 39 |
| • Farmers | 14 | • Pastoralists | 10 |
| • Forest Rights Holders (under Forest Rights Act, 2006) | 12, 16, 39 | • Protected forest | 8 |
| • Holding any rights over land | 15 | • Reserved forest | 8 |
| • In National Parks | 12, 22 | • Residing in sanctuaries | 22, 40 |
| • Owners of multi-cropped irrigated land | 14 | • Residing in National Parks | 22, 40 |
| | | • Resin tappers | 38 |

| Keywords | Page number | Keywords | Page number |
|--|-----------------------|---|--------------------|
| • Sub-Divisional Level Committee (under Forest Rights Act, 2006) | 13 | • Rehabilitation and Resettlement Committee (project-level) | 17 |
| • Village residents (Uttarakhand Panchayati Forest Rules, 2005) | 34 | • Self-Help Groups Rules, 2005) | 36 |
| | | • Van Panchayat | 8 |
| Community Institutions | | Access and Benefit Sharing | 27, 31 |
| • Biodiversity Management Committee | 29, 31, 32 | Air pollution | 25 |
| • Forest User Group/General Body (under the Uttarakhand Panchayati Forest Rules, 2005) | 35, 36 | Bio-cultural community protocol | 32 |
| • Gram Sabha | 9, 12, 16, 18, 23, 34 | Biodiversity Heritage Site | 29 |
| • Management Committee (under the Uttarakhand Panchayati Forest Rules, 2005) | 35, 36 | Biological resource | 27 |
| • NGO | 16, 23 | Cattle grazing | 34, 35 |
| | | Community Forest Resource | 12, 18 |
| | | Community Forest Rights | 16 |
| | | Customary rights | 18 |

| Keywords | Page number | Keywords | Page number |
|--|------------------------------|--|------------------------------|
| Disaster-affected persons | 33 | Public consultation | 15, 19, 20, 23 30, 39, 20 |
| Ecologically sensitive areas | 12 | Public hearing | 13, 19, 20, 21 |
| Environmental Clearance | 19 | Rehabilitation and Resettlement Scheme | 16 |
| Environmental Impact Assessment | 19 | Resin | 35 |
| Forest produce | 35, 37 | Scheduled castes | 16 |
| Land Acquisition | 13 | Scheduled Tribes | 16, 29 |
| Local Biodiversity Fund | 30, 32 | Social Impact Assessment, | 13, 15 |
| People's Biodiversity Register | 29, 30, 31, 32 | Stream, well, River, water course, tidal waters, sea waters, inland waters, groundwater | 25 |
| Pollution affected persons | 24 | Traditional Knowledge | 29, 30 |
| Project affected persons | 14, 15, 16, 16 19, 20, 21 | Transit pass | 7 |
| Project proponent (for Environmental Impact Assessment) | 20 | Village Forest Fund | 36 |
| | | Women | 16, 29 |
| | | Wetlands | 41 |
| | | Water pollution | 25, 26 |

- Part II -

Obligations & Duties

What are legal obligations and duties?

Just as there are many kinds of rights given by law, to different categories of persons, to achieve the purpose of the law – there are also duties which are prescribed. These duties and responsibilities are sometimes in the form of checks or balances to the rights, or are in the form of restrictions or regulations of behaviours, in order to achieve the purpose of the law (which that duty/responsibility is contained within). These duties, like all other elements of the law, must be in conformity with Constitutional values, and must not be in violation of them. In most cases, the obligations or prohibitions come with a penalty (which may be either civil or criminal) – which is the sanction to ensure obedience of the law.

The relevant duties and obligations prescribed under various laws, for local communities and authorities in Uttarakhand, are given in the following pages.

For ease of understanding, duties and obligations have been classified and marked as applicable to 3 types of areas -

FOREST AREAS

(i.e. notified forests under the Indian Forest Act as applicable to Uttarakhand)



PROTECTED AREAS



NON-FOREST NON-PROTECTED AREAS



1. Under the Indian Forest Act, 1927 (as applicable to the state of Uttarakhand) –

FOREST AREAS



| Section | Who is obligated? | Obligations/restrictions + Penalties |
|---------|--|---|
| 26 | Persons using or residing in reserved forests, or areas which are pending final notification as reserved forests (i.e. section 4 notification has been issued) | <p>Certain acts are prohibited in reserved forests, or forests in respect of which a section 4 notification has been issued – making fresh clearings, kindling or carrying a fire, felling or damaging trees or any forest produce, stone quarrying, unauthorised collection or removal of forest-produce, breaking land for cultivation, hunting /shooting /fishing/ poisoning water/setting traps.</p> <p>Penalties: For any of the violations under sub-sections (b) setting fire or kindling, (f) damaging any tree or forest produce, (g) quarrying, burning lime or charcoal, or removing any forest produce, and (h) clearing or breaking land inside the RF¹ for any purpose – imprisonment up to 2 years, or fine up to Rs. 5,000, or both.</p> <p>For repeat offenders – imprisonment up to 2 years, or fine of Rs. 5,000-20,000, or both.</p> <p>For violations of the other sub-sections – carrying or keeping any fire inside the forest, causing damage by negligence in felling/dragging trees, illegally hunting/</p> |

¹ Reserve Forest

shooting/fishing/poisoning water/setting traps, killing or catching wild elephants from the RF – imprisonment up to 6 months, or fine up to Rs. 1,000, or both. For repeat offenders – imprisonment up to 6 months, or fine up to Rs. 2,000, or both

30

Persons residing in, or having rights in protected forests

Section 30 empowers the State Government to issue notifications reserving trees/classes of trees within protected forests. It also has the power to close off any portion of a protected forest (for not more than 30 years), during which time the rights of private persons over such portion shall be suspended provided that the remainder of the PF is sufficient and convenient for the due exercise of those rights. The Government is also empowered to prohibit by notification, within a protected forest – quarrying, burning of lime/charcoal, collection or removal of any forest-produce, attempts at breaking up/clearing for cultivation, herding cattle etc.

Penalties: *Violation of any notification issued under section 30 is an offence, punishable with imprisonment for up to 2 years, or fine up to Rs. 5,000, or both.*

For repeat offenders – imprisonment up to 2 years, or fine up to Rs. 10,000 or both.

If a fire is caused wilfully/with gross negligence, the State Government may additionally order for suspension of all rights (to pasture or to forest produce) in that portion of the forest for a period that it will decide.

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|---|
| 35 | Persons owning, or having rights on forest or waste-lands | State Government has been given additional powers under section 35(1), to regulate or prohibit in any forest land or waste land - the breaking up or clearing of land for cultivation, pasturing of cattle, or clearing of vegetation. These restrictions may be imposed only if found necessary for any of the following purposes - protection against storms/winds/floods/avalanches/rockslides, soil preservation and erosion control, maintenance of water supply in springs/rivers/tanks, protection of infrastructure such as roads, power lines etc., or for the preservation of public health. Only after a show-cause opportunity and hearing is given to the owner, can the government construct any works on the land, for the above purposes. |
| 36 | Persons owning, or having rights on forest or waste-lands | For the purpose of any works under section 35, or disobedience or neglect of regulations/restrictions under section 35, state government (forest department) can place the land under the control of a forest-officer (after giving the owner an opportunity of hearing). However, the net profits arising from such lands have to be paid to the owners. |

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|--|---|
| 41 | Any person involved in the transport of forest produce | <p>Any neglect or disobedience of the Uttarakhand Transit of Timber and other Forest Produce Rules, 2012, is an offence</p> <p>Penalties: Imprisonment for up to 2 years, or fine up to Rs. 5,000 or both.</p> |
| 63 | Persons working/ dealing with trees or timber | <p>Anyone, who with intent (to cause damage to any person or the public, or for wrongful gain), knowingly places a false mark upon any timber/tree that it is the property of the Government/ some other person, or defaces any mark placed on timber/tree by the Forest Department, or alters/destroys/defaces any boundary mark of any forest or waste land to which this Act applies, will be guilty of an offence.</p> <p>Penalties: Imprisonment for up to 2 years, or fine ², or both</p> |

² Where the amount of fine is not specified, it is left to the discretion of the judge/magistrate.

2. Under the Forest Rights Act, 2006 (and Forest Rights Rules, 2007) –

FOREST AREAS 

PROTECTED AREAS 

NON-FOREST
NON-PROTECTED AREAS 

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|--|--|
| 5 | Forest Rights Holders, Gram Sabhas, village-level institutions | Forest Rights holders, Gram Sabhas, and village level institutions, have a duty to to (a) protect wild life, forest and biodiversity, (b) ensure that adjoining catchment areas, water sources and other ESAs are adequately protected, (c) ensure that the habitat of FDSTs/OTFDs is preserved from any destructive practices affecting their cultural and natural heritage, (d) ensure that the decisions taken in Gram Sabha to regulate access to CFRs ³ are complied with, and stop activities adversely impacting wild life/forests/biodiversity. |
| 7 | Authorities/committees, or their members/officers, acting under this Act | Acting in violation or neglect of any provision of this Act is punishable. Penalties: Fine up to Rs. 1000 |

³Community Forest Resources

3. Under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 –

| | | |
|--|---|--|
| FOREST AREAS  | PROTECTED AREAS  | NON-FOREST NON-PROTECTED AREAS  |
|--|---|--|

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|--|
| 84 | Any person involved in land acquisition proceedings | <p>If any misleading or fraudulent claim/information/document is submitted under any process under this Act, or to avail of a rehabilitation or resettlement benefit, it shall be punishable</p> <p>Penalties: <i>Imprisonment for 6 months-3 years, or with a fine up to rupees one lakh, or both.</i></p> |
| 85 | Any authority, officer or person involved in land acquisition proceedings | <p>If any of the provisions of this Act relating to payment of compensation, rehabilitation or resettlement are violated it shall be punishable</p> <p>Penalties: <i>Imprisonment for 6 months-3 years, or with fine, or both.</i></p> |

4.

Under the Guidelines for the Notification of

Eco-Sensitive Zones, 2011 –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Clauses | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|--|
| 6.3 | Persons living on the periphery of National Parks/Sanctuaries (within the proposed ESZ) | Based on the report of the ESZ Committee, the Chief Wild Life Warden will sort the activities (industry, agriculture etc.) into – Prohibited, Allowed with safeguards, and Permissible |

5.

As held by the Supreme Court through its judgment in the case of Orissa Mining Corporation v. Ministry of Environment and Forests and others (2013) –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Paragraph | Who is obligated? | Obligations/restriction + Penalties |
|-----------|-------------------|---|
| 64-65 | Gram Sabha | “...Therefore, Gram Sabha functioning under the Forest Rights Act read with Section 4(d) of PESA has an obligation to safeguard the traditions and customs of the STs and other forest dwellers, their cultural identity, community resources etc...” |

6.

Under the Wild Life (Protection) Act, 1972 –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS ☐

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|-------------------|--|
| 9 | All persons | <p>Hunting of any wild animal in Schedules I to IV is prohibited except as provided in Sections 11 and 12 (if an individual has become dangerous to human life/ diseased or injured beyond recovery, or for scientific/educational purposes). 'Hunting' has a broad definition as per section 2(16), to include killing/ poisoning any wild or captive animal (and every attempt to do so), capturing/ coursing/snaring/trapping/driving/ baiting any wild or captive animals (and every attempt to do so), injuring/ destroying/taking any part of the body of an animal/damaging or disturbing eggs or nests of birds or reptiles.</p> <p>Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both.</p> <p><i>Where the offence is in relation to a wild animal in Schedule I or Part II of Schedule II, or hunting or altering boundaries in a sanctuary or National Park, or a repeat offence, it shall be punishable with Imprisonment of 3–7 years, or fine up to Rs. 10,000, or both.</i></p> <p><i>Hunting or abetment⁴ of hunting in a Tiger Reserve is punishable with imprisonment of 3–7 years, and fine of Rs. 50,000–2,00,000.</i></p> |

⁴ Abetment – to support or assist someone in the commission of an offence

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|-------------------|---|
| 17A | All persons | <p>Picking, uprooting, damaging, destroying or collecting specified plants (Schedule VI ⁵) is prohibited from any forest land - unless by a member of a scheduled tribe, for genuine personal use.</p> <p>Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both ⁶</p> |
| 17B | All persons | <p>Any person wishing to pick/uproot/ acquire Schedule VI plants for education or research, or scientific use, has to obtain a permit from the Chief Wild Life Warden</p> <p>Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both</p> |
| 17D | All persons | <p>Dealing in any of the Schedule VI plant species, or their derivatives, cannot be carried out without a permit from the Chief Wild Life Warden</p> <p>Penalties: Punishable with imprisonment up to 3 years or fine up to Rs. 25,000 or both</p> |

⁵ Schedule VI species – Beedome’s cycad, Blue Vanda, Kuth, Ladies slipper orchid, Pitcher plant, Red Vanda.

⁶ For all subsequent offences, there is a higher penalty if they are committed in the core area of a Tiger Reserve, as per section 51(1C) - Imprisonment of 3-7 years, and fine of Rs. 50,000-2,00,000.

For all these offences, there is also a higher punishment in case of repeat offenders (i.e. who commits an offence of the same degree/culpability again).

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|--|
| 17E | All persons | <p>Anyone cultivating, or dealing in, a Schedule VI plant species, has to declare his/her stocks of such plants, to the Chief Wild Life Warden</p> <p>Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both</p> |
| 17G | All buyers of Schedule VI plants | <p>Schedule VI plants can only be purchased from licensed dealers</p> <p>Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both</p> |
| 39 | All persons in possession of scheduled ⁷ animals or scheduled animal parts | <p>All wild animals, other than vermin ⁸, which are hunted (legally or otherwise), kept or bred in captivity in contravention of this Act, or found dead or killed by mistake, animal article, trophy, meat etc. in respect of which an offence has been committed, ivory, weapons, vessels, tools etc. used for committing an offence under this Act, shall all be the property of the State Government. Where the animal is hunted in a sanctuary or National Park declared by the Central Government, the animal/ tools/meat/trophies etc. shall be the property of the Central Government. No one can acquire or transfer such property, without permission from the CWLW ⁹.</p> |

⁷ Scheduled animal, in this section of the handbook, means all animals listed in Schedules 1-4 of this Act (it has a different meaning in Chapter V-A of the Act, which is not used here).

⁸ Vermin (animals deemed to be pests or nuisance) can be notified by state governments under section 62.

⁹ Chief Wild Life Warden

Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both

Where the offence is in relation to a wild animal in Schedule I or Part II of Schedule II, Imprisonment of 3-7 years, or fine up to Rs. 10,000, or both.

40, 43 Any person in possession or control of a captive animal/trophy/skin etc.

Any person in possession or control of a captive animal/trophy/skin etc.

Any person who buys or acquires an animal which is in Schedule I or Part II of Schedule II, or its trophy or skin, or musk of a musk deer, cannot do so without the permission of the CWLW. Any person who legally possesses such an animal or article can sell or trade it.

Penalties: Imprisonment of 3-7 years, or fine up to Rs. 10,000, or both.

44 Any person cooking or serving wild meat (of scheduled animals), or dealing in scheduled animals, meat or animal articles

No one can deal in wild (scheduled) animals or animal articles, or cook or serve wild meat, without a license granted by the CWLW under this section. (Does not apply to peacock tail-feathers)

Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|---|
| 49 | Any person buying/ receiving any scheduled animal, or trophy, part or meat | <p>No one can purchase or receive any scheduled animal (other than vermin), or any trophy, part or meat thereof (other than of vermin), other than from a licensed dealer under this Act.</p> <p>Penalties: Imprisonment up to 3 years or fine up to Rs. 25,000 or both</p> <p><i>Where the offence is in relation to a wild animal in Schedule I or Part II of Schedule II, Imprisonment of 3-7 years, or fine up to Rs. 10,000, or both.</i></p> |
| 49B | Any person dealing in animals, parts, meat, trophies or articles of animals in Schedule I or Part II of Schedule II | <p>No person can deal in animals (wild or captive) in Schedule I or Part II of Schedule II, or their parts/trophies/ articles/meat etc. or in ivory. (Central government controlled bodies can be exempted)</p> <p>Penalties: Imprisonment of 3-7 years, and fine not less than Rs. 10,000.</p> |

7.

Under the Environment (Protection) Act, 1986 –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|---|
| 9 | Anyone releasing pollutants into the environment (land, water or air) | <p>In case the discharge of an environmental pollutant more than prescribed standards occurs OR is expected to occur, the person responsible for the discharge AND the person in charge of the place of discharge, must prevent or control the pollution caused as a result of the discharge. They are also bound to intimate the occurrence/expectation of occurrence to the authorities – mainly officer-in-charge of disaster relief operations in the district, and SPCB/ UTPCC through their regional officer.</p> <p>Penalties: Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both (additional Rs. 5,000 for every day, in case of violations continuing after conviction)</p> |

8. Under the Air (Prevention and Control of Pollution) Act, 1981 –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS ↻

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|---|
| 23 | Persons carrying on activities resulting in air pollution | <p>Any person in charge of premises where the emission of air pollutants in excess of prescribed standards occurs/is likely to occur, in any area, has to inform the SPCB and other relevant agencies - which are then bound to take preventive or remedial measures.</p> <p>Penalties: Imprisonment up to 3 months, or fine up to Rs. 10,000, or both.</p> |
| 37 | Persons carrying on activities resulting in air pollution | <p>Failure to comply with sections 21 (operation of industrial plant in air pollution control area without SPCBs consent), 22 (discharging air pollutants in excess of prescribed standards in air pollution control areas) or 31A (directions issued by SPCB) are all offences</p> <p>Penalties: Imprisonment of 1.5-6 years and fine.</p> <p><i>If the above failure continues beyond one year from the date of conviction, it shall be further punishable – Imprisonment of 2-7 years and fine.</i></p> |

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|-------------------|---|
| 38 | Any person | Whoever - destroys/defaces/removes any post/pillar/stake/notice etc. placed by or on behalf of the SPCB/CPCB, or obstructs any person acting on behalf of the SPCB/CPCB, or damages any works or property of the SPCB/CPCB, or fails to provide any information required to be provided under this Act, or fails to intimate to the SPCB the occurrence of air pollution, or makes any false statement under this Act - is an offence Penalties: Imprisonment up to 3 months, or fine up to Rs. 10,000, or both |

9. Under the Water (Prevention and Control of Pollution) Act, 1974 –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---------------------------------|--|
| 24 | Persons causing water pollution | Causing/permitting to be caused - knowingly - the discharge of any polluting matter (as per standards laid down by the SPCB), or any matter which may obstruct proper flow, into any stream or well ¹⁰ , is prohibited (unless it is for the due construction/maintenance of any building, bridge |

¹⁰ Section 2(j) - 'streams' include - rivers, water courses (whether dry or not), inland water (natural or artificial), and groundwater.

or other permanent works, or for land reclamation if the materials deposited in the bed are not pollutants).

Penalties: Imprisonment of 1.5-6 years and with fine.

- 31 Persons causing water pollution
- The person in charge of any place where any pollutant/effluent is discharged or likely to be discharged due to any industry/operation/process which is carried on there (including any works operated by a local authority), must intimate such occurrence to the SPCB and other agencies as prescribed.

Penalties: Imprisonment of up to 3 months, or fine up to Rs. 10,000, or both

- 32 Persons causing water pollution
- SPCBs have emergency powers, when it appears that any pollutant is present in any stream/well/land due to discharge, and the SPCB feels that it is necessary to take immediate action (reasons to be recorded in writing), it may carry out operations to - remove the polluting matter through appropriate disposal, remedying any pollution caused, or issuing directions restraining the person from polluting further. This does not allow construction of permanent works for this purpose. Failure to comply with such orders of the SPCB is an offence.

Penalties: Imprisonment of 1.5-6 years and with fine.

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|--|
| 42 | Any person | <p>The following acts - destroying/ pulling down/defacing any pillar/post/ stake/notice affixed by or under the authority of CPCB/SPCB, obstructing any person acting under the lawful authority of CPCB/SPCB, damaging any works/property of CPCB/SPCB, or fails to provide any information required to be provided under this Act, or fails to intimate to the CPCB/ SPCB the occurrence of pollution on his/her premises, or makes any false statement under this Act, or interferes with any equipment to prevent it from monitoring/measuring correctly under this Act- are offences</p> <p>Penalties: <i>Imprisonment up to 3 months, or fine up to Rs. 10,000, or both</i></p> |
| 44 | Any person carrying on any industry/ process which causes water pollution | <p>Contravention of sections 25 or 26 (carrying on any industry/operation/ process/treatment or disposal, without the prior consent of the SPCB) is an offence</p> <p>Penalties: <i>Imprisonment of 1.5-6 years and with fine.</i></p> |

10. Under the Plastic Waste Management Rules, 2016 –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS □

| Rules | Who is obligated? | Obligations/restriction + Penalties |
|-------|--|---|
| 7 | Gram Panchayats | <p>Specific responsibilities are given to Gram Panchayats, within the larger objective of setting up and co-ordinating plastic waste management in rural areas - ensuring segregation, collection, storage, transportation and processing of plastic waste, ensuring no damage is caused to the environment in this process, awareness generation among stakeholders, and ensuring that open burning of plastic waste does not take place.</p> <p>Penalties: Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both (additional Rs. 5,000 for every day in case of violations continuing after the first conviction) ¹¹</p> |
| 8 | Any person who generates plastic waste | <p>Plastic waste generators have to do the following - take steps to minimise the generation of plastic waste, to segregate waste at source in accordance with Solid Waste Management Rules, 2016, not litter plastic waste, handing over segregated waste to the the local body/</p> |

¹¹ Since these Rules were issued with the powers given to the Central Government under the Environment (Protection) Act, 1986, non-compliance or contravention of these Rules is punishable as per section 15 of the Environment (Protection) Act, 1986 - as no other specific remedy for violation is provided in the Rules.

registered waste pickers, recyclers or collection agencies, payment of user fees/charges which local bodies may charge (through bye-laws) for plastic waste management, to manage waste generated at public events involving service of food in plastic/multilayer packaging in accordance with the Solid Waste Management Rules, 2016

Penalties: *Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both (additional Rs. 5,000 for every day in case of violations continuing after the first conviction)*

| | | |
|----|----------------------------------|--|
| 14 | Shopkeepers, street vendors etc. | Rule 14 obligates retailers and street vendors to not provide plastic carry bags/multi-layer packaging which are not manufactured/labelled in accordance with these Rules - doing so shall make them liable under local body bye-laws. Those retailers and street vendors who wish to provide plastic carry bags to customers are required to be registered with the local body - the modalities for which are to be legislated by the local body through bye-laws/orders/notifications, and a fee of not less than Rs. 48,000 @ Rs. 4,000 per month to be charged towards plastic waste management for such registration (Rule 15). The carry bags shall be given on payment - and the same shall be displayed by the registered shopkeepers. The payments towards these carry bags shall be utilised by the local bodies for plastic waste management. |
|----|----------------------------------|--|

Penalties: *Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both*

(additional Rs. 5,000 for every day in case of violations continuing after the first conviction)

11. Under the Solid Waste Management Rules, 2016 –



| Rules | Who is obligated? | Obligations/restriction + Penalties |
|-------|-----------------------------------|--|
| 4 | Any person generating solid waste | All waste generators have to - segregate and store their waste into 3 parts (biodegradable/non-biodegradable/ domestic hazardous) and hand over to authorised waste collectors (construction and demolition waste is to be stored and disposed separately as per the Construction and Demolition Waste Rules, 2016), horticultural/garden waste is to be stored separately on the premises and disposed as per local body's directions, solid waste generated shall not be thrown/burned/buried on streets/public places/outside premises/ into drains or water bodies, all waste generators are to pay user fees for solid waste management (as per local body) |

¹² Since these Rules were issued in exercise of the powers given to the Central Government under the Environment (Protection) Act, 1986, non-compliance or contravention of these Rules is punishable as per section 15 of the Environment (Protection) Act, 1986 – as no other specific remedy for violation is provided in the Rules.

Penalties: Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both (additional Rs. 5,000 for every day in case of violations continuing after the first conviction) ¹²

| Rules | Who is obligated? | Obligations/restriction + Penalties |
|-------|-------------------|--|
| 15 | Gram Panchayat | <p>Panchayats are obligated to - prepare solid waste management plans as per (and within 6 months of) the state strategy/policy (and submit a copy to the relevant departments of the state or UT administration), arrange for doorstep collection of segregated SW from all households (including slums and informal settlements), commercial, industrial and other non-residential premises, provide for the recognition of organisations of waste pickers/informal waste collectors and facilitate their integration in the SWM process (through self-help groups, identity cards etc.), frame bye-laws incorporating these Rules (within 1 year of these Rules) and ensure their implementation, prescribe and collect user fees from SW generators, direct waste generators to not litter and to segregate waste at source and hand over to authorised pickers/collectors, establish hazardous waste deposition centres for domestic hazardous wastes (1 for every 20 sq. km) and direct generators to deposit such wastes here, ensure safe storage and transportation of domestic hazardous wastes to such facilities or as may be directed by the SPCB/UTPCC, provide training on SWM to waste pickers/collectors, collect waste from vegetable/fruit/poultry/fish/meat markets regularly and promote composting/bio-methanation in suitable plants which it should set up, transport segregated non-biodegradable SW to processing/</p> |

recovery/secondary storage facilities, involve communities in decentralised waste management/processing (home composting, biogas generation), provide incentives to informal waste managers for recycling, facilitate the construction-operation-maintenance of SWM facilities following MUD and CPCB guidelines and standards (preference to be given to decentralised processing, minimization of transportation costs and environmental impacts), make allocations for capital investments/operation/maintenance etc. in the annual budgets of local bodies (discretionary funds to only be allocated after these functions have been provided for), prepare annual reports in Form IV and submit to respective departments and to SPCB/UTPCC (through Commissioner/Director of Municipal Administration), provide and delegate powers to officers/local bodies for the levy of spot fines for littering, create public awareness through campaigns and educate waste generators on waste minimisation, segregation and disposal, allow only the non-usable, non-recyclable, non-biodegradable, non-combustible and non-reactive inert waste to go to the landfills (eventually achieve zero waste at landfill), etc.

Penalties: Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both (additional Rs. 5,000 for every day in case of violations continuing after the first conviction)

12. Under the Construction and Demolition Waste Management Rules, 2016 –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Rules | Who is obligated? | Obligations/restriction + Penalties |
|-------|--|--|
| 4 | Any person generating construction or demolition waste | <p>All generators of CDW have to collect and store segregated concrete, soil etc. as directed by the concerned Panchayat, to ensure that other solid waste does not get mixed with it, and to keep the waste within its premises/at a collection centre designated by the local body/deposit at processing facility so as to prevent littering and obstruction to the public or drains</p> <p>Penalties: <i>Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both (additional Rs. 5,000 for every day in case of violations continuing after the first conviction)</i></p> |
| 6 | Gram Panchayat | <p>They are mandated to - issue detailed directions for the proper management of CDW¹² within its jurisdiction in accordance with these Rules, to seek detailed plans or undertakings (as applicable) from waste generators, chalk out stages, methodology, equipment, material involved in the construction/ demolition and final clean up after completion, making arrangements for proper collection and removal of CDW, getting the CDW transported to appropriate sites for processing, giving</p> |

incentives to waste generators for salvaging/ recycling of CDW, maintain a database of generation of CDW in its jurisdiction, devise appropriate measures in consultation with expert institutions for management and recycling of CDW, disseminate information and awareness in partnership with expert institutions and NGOs, a incentivise material made out of CDW in construction activity.

Penalties: Imprisonment for up to five years, or fine up to Rs. 1,00,000, or both (additional Rs. 5,000 for every day in case of violations continuing after the first conviction)

13. Under the Biological Diversity Act, 2002 and (Central) Biological Diversity Rules, 2004 –

| | | |
|----------------|---------------------|---------------------------------------|
| FOREST AREAS ▲ | PROTECTED AREAS (↻) | NON-FOREST NON-PROTECTED AREAS (□) |
|----------------|---------------------|---------------------------------------|

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|--|---|
| 7 | Any Indian citizen who wishes to access a biological resource and is not from the Panchayat area | Persons, who are citizens of India or bodies/organisations registered in India, have to give prior intimation to the concerned State Biodiversity Board (SBB) before obtaining any biological resource for bio-survey/commercial utilisation. This section does not apply to local communities, including growers/ cultivators of biodiversity, vaid, hakims and other indigenous medicine practitioners. |

Penalties: Imprisonment up to 3 years, or fine up to Rs. 5,00,000, or both

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|--|
| 41 | Biodiversity Management Committees (BMCs) | Obligations of BMCs - conservation, sustainable use and documentation of local biodiversity within their Panchayat (preparation of People's Biodiversity Registers), and chronicling of associated traditional knowledge, and local vaid, hakims etc. who are accessing biological resources. As per Rule 22 (of the Central Biological Diversity Rules), PBRs are to be prepared in consultation with local people, and should contain comprehensive information on the availability, uses and other traditional knowledge associated with local biological resources (format to be specified by the NBA ¹³). The NBA and SBBs are mandated to provide guidance and technical support for their preparation |

14. Under the Uttarakhand Biological Diversity Rules, 2015 (also issued under the Biological Diversity Act, 2002) –

FOREST AREAS



PROTECTED AREAS



NON-FOREST
NON-PROTECTED AREAS



| Rule | Who is obligated? | Obligations/restriction + Penalties |
|------|--|--|
| 14 | Any Indian accessing biological resources and is not a local (Panchayati), in the state of Uttarakhand | Procedure for intimation to SBB to access biodiversity - by any citizen of India/company, body etc. registered in India - application in Form 1 with fees (through DD): Rs. 10,000 (for commercial use), Rs. 5000 (for bio-survey/bio-utilisation/research for commercial purpose), no fee (if survey/ |

research etc. not for commercial purpose). USBB shall consult with concerned Local Bodies before deciding on the application. It can grant or refuse access (after giving the applicant a hearing), and impose conditions on the access. ABS agreement will be signed between the applicant and the USBB (as per NBA guidelines).

Penalties: Imprisonment up to 3 years, or fine up to Rs. 5,00,000, or both

| | | |
|----|---------------------|--|
| 18 | BMCs in Uttarakhand | The main function of BMCs is the preparation of PBRs with BCP (bio-cultural community protocols) as annexures, and to protect the information contained in these (by regulating access to PBR etc.). The SBB must provide guidance and technical support to the BMCs for the PBR preparation. The PBRs will be counter-signed by the SBB through its authorised officer. The BMC also has to maintain a register with details of access to biological resources/traditional knowledge. BMC may levy charges for access or collection of any biological resource. It shall draw up an action plan based on the PBR. It must also send reports on the Local Biodiversity Fund to the SBB (in Form 3) annually. ¹⁴ |
|----|---------------------|--|

¹⁴ These are obligations for BMCs in addition to the ones given under the Central Biological Diversity Rules – both mandatorily apply to BMCs in Uttarakhand.

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---------------------|--|
| 19 | BMCs in Uttarakhand | Local Biodiversity Fund (at local body level), has to be operated jointly by chairperson and secretary of BMC, and used for conservation and promotion of biodiversity. The accounts must be maintained by the secretary, BMC. The Fund will be audited every year by the SBB, and accounts have to also be submitted to the local body. |

15. Under the Disaster Management Act, 2005 –

FOREST AREAS ▲

PROTECTED AREAS ↻

NON-FOREST
NON-PROTECTED AREAS □

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|-------------------|---|
| 41 | Panchayats | The following obligations are on the local bodies - to ensure their employees are trained for disaster management, ensure all construction projects within their jurisdiction conform to NDMA, SDMA and DDMA standards, ensure resources are maintained and available in case of disasters, and any other measures as may be necessary. |

Penalties: Section 56 makes it punishable for any officer, on which a duty is imposed under this Act, to fail to perform such duty, without lawful excuse, with imprisonment up to 1 year, or fine, or both.

16. Under the Uttarakhand Panchayati Forest Rules, 2005 –

FOREST AREAS ▲

PROTECTED AREAS ◀

NON-FOREST
NON-PROTECTED AREAS ◻

| Rule | Who is obligated? | Obligations/restriction + Penalties |
|------|--|--|
| 3 | Village/Panchayat members | To obtain a Panchayati forest - there must be an application made by at least 1/5th of all adults residing in the revenue village, or a Gram Sabha resolution - for land bordering the village which has to be a notified forest. The application shall be made to the SDM, who will then ask the Forest Department for its recommendation. The application must state the location and limits of the area applied for. It will not be entertained if more than half of the village residents object to this scheme. |
| 6(b) | Users of the Panchayati forest (those whose rights are recorded in the list of rights, plus landless people who have been residing continuously in the village for 10 years) | Duties of users - Provide help in forest fire control in the panchayati forest, inform the Management Committee about forest offences (encroachment, illegal felling, illegal grazing etc.), provide support to Management Committee for existing/planned plantations |
| 7 | Village/Panchayat members | The General Body under these Rules, consists of all adult residents of the village. It shall act as the Self Help/ Forest User Group. The Management Committee is to be constituted (unanimously if possible, otherwise by majority vote) out of this General Body, |

according to the following rules - up to 9 members (only 1 member per family) for a term of 5 years, 4 seats reserved for women (of which 1 is for SC/ST), 1 seat reserved for SC/ST (male). Management Committee, once formed, shall elect a Sarpanch from among themselves (majority vote). After this, their names and signatures shall be registered by the SDM in the Van Panchayat register.

| | | |
|----|---|--|
| 12 | Management Committee of Panchayati Forest (created as per Rule 7) | Based on the composite management plan, the Management Committee shall prepare a 5-year micro-plan for the panchayati forest, with the assistance of the Deputy RO/Forester/Forest Guard, giving due consideration to the requirements of right holders and to the ecological balance of the forest. The plan shall be placed before the General Body for approval by the RFO, and then must be sanctioned by the Sub-Divisional Forest Officer. |
|----|---|--|

| | | |
|--------|---|---|
| 12, 13 | Management Committee of Panchayati Forest | The Management Committee must manage the forest as per the micro-plan. It must prepare an annual implementation plan on the basis of the micro-plan, with the help of Forester/Forest Guard and get it approved by the RFO. |
|--------|---|---|

| | | |
|----|---|---|
| 16 | Management Committee of Panchayati Forest | The Management Committee shall meet once a month on a fixed date, the minutes are to be recorded in Hindi and sent to the RFO. Decisions shall be taken by majority vote, minimum number required for a meeting is 5. |
|----|---|---|

Deputy Ranger/Forester/Forest Guard may attend meetings but cannot vote, any one of them will be the Secretary of the Management Committee. A member of the General Body will be appointed by the Management Committee as the Additional Secretary. The Sarpanch must convene meetings of the General Body twice a year.

- 17 General Body, Management Committee
- The procedures for removal of members are laid down. By the Management Committee - prior intimation to be given to SDM by at least one-third of members and decision must be passed by at least two-thirds (for sarpanch). If any other Committee member is to be removed by the majority, the sarpanch shall inform the SDM, who will then nominate an officer to ascertain the wishes of the General Body. By the General Body - it can pass a vote of no confidence against any member of the Committee - after a majority vote is passed, the written proposal is to be taken to the SDM (signed by at least one-fifth members) 15 days before the meeting. All vacancies shall be filled as per the election criteria.
-

- 18 Management Committee of Panchayati Forest
- The exploitation/harvesting limits of forest produce will be laid out in the microplan, and should not be done until the ecological requirements are ensured. All customary rights (collection of fallen wood, grass/branch cutting etc.) will be governed by the microplan. After these 2 needs are met, the Management Committee, with the approval of the DFO, may use forest produce for meeting domestic needs of right holders, or for

local cottage industries, or for public utility works. After this is met, if the Committee feels that there are trees/ other forest produce for commercial sale, it will apply to the RFO who will forward his estimates and comments to the DFO, who will direct the ACF/ SDFO to proceed through auction/ sale etc. In special cases, one tree may be sold to right holder (sanctioned by sarpanch) at a rate determined by the CF, after obtaining majority approval of Management Committee.

Penalties: *The Collector has the power to dissolve or suspend the Management Committee, if he feels it is not discharging its duties, or is not in public interest. Such an order of the Collector can be appealed against, within 30 days, to the Commissioner. If dissolved- an officer of SDFO or higher rank shall temporarily discharge the functions of the Committee, and a new Committee has to be re-formed within 6 months.*

| | | |
|----|---|--|
| 19 | Management Committee of Panchayati Forest | Other duties of Management Committee - to use only those trees which have been scientifically approved for felling (by an official appointed by DFO), to ensure that the panchayati forest is not encroached on, to fix boundary pillars and walls, to abide by the directions and orders passed by DFO regarding conservation/improvement of forests, to utilise forest produce to the best advantage of right holders keeping in view the ecological health of the forest, to conserve the forest and prevent illicit felling, forest fires etc., ensure that catchment areas have proper vegetation |
|----|---|--|

cover for rain water conservation, to promote natural regeneration (through management of forest fires and controlled grazing by rotation), and wild life conservation.

Penalties: *The Collector has the power to dissolve or suspend the Management Committee, if he feels it is not discharging its duties, or is not in public interest. Such an order of the Collector can be appealed against, within 30 days, to the Commissioner. If dissolved- an officer of SDFO or higher rank shall temporarily discharge the functions of the Committee, and a new Committee has to be re-formed within 6 months.*

23, 24, 31 Management Committee of Panchayati Forest

In addition to maintaining registers and records (Rule 23), the Management Committee has to submit an annual report to the DFO and the Gram Sabha by April 15 (for previous financial year), containing - utilisation of panchayati forest funds, demand and realisation, income and expenditure, tree felling/ usage and other forestry work carried out. Annual budget has to be prepared by the Committee and submitted to the DFO for sanction (Rule 31).

25 Sarpanch of Management Committee

Duties of Sarpanch - convene Committee meetings, maintain order, supervise financial transactions, supervise the staff engaged (if any), ensure proper account, records and registers are maintained, to represent the Committee in legal proceedings etc.

| Section | Who is obligated? | Obligations/restriction + Penalties |
|------------|---|--|
| 28, 29 | General Body, Management Committee | Panchayati/Village Forest Fund shall be created for each panchayati forest, to which will be deposited - sale amounts from forest produce, government grants and other revenues (fees etc.). It will be managed by the Management Committee under supervision of DFO. All withdrawals will be by cheque (signed jointly by Sarpanch and Secretary of the Committee), and will need approval of the Management Committee. All withdrawals/ expenditures will have to be placed before the General Body at the next meeting. |
| 36, 37, 38 | Any person | Any report of embezzlement of money belonging to the Village Forest Fund will be notified to the Management Committee and the DFO, who shall report it to the Collector, who will then direct an enquiry (by an officer not lower than SDM). The person in question (member or sarpanch) can be suspended by the Collector and asked to hand over records, money or other property of the Committee. |
| 39 | Member/Sarpanch of Management Committee | Sarpanch/member of Managing Committee may be removed by the Collector, after enquiry, if the member/ sarpanch is - refuses/becomes incapable to perform duties, is convicted of a serious moral offence, abuses their authority, commits a forest offence, found misbehaving or being violent in any meeting, is absent for 3 continuous Committee meetings without valid reason. Before the person is removed from the Committee, he/she will be given a chance to be heard. |

17. Under the Uttarakhand Transit of Timber and other Forest Produce Rules, 2002 –

FOREST AREAS ▲

PROTECTED AREAS ◀

NON-FOREST
NON-PROTECTED AREAS ◻

| Rule | Who is obligated? | Obligations/restriction + Penalties |
|------|---|---|
| 3 | Any one transporting forest produce ¹⁵ to/ in/from Uttarakhand | <p>No forest produce shall be moved from one place to another into, from or within Uttarakhand, without a transit pass (Schedule A) issued by the Forest Department, through only the mode and route stated in the pass. The following cases are exempted – removal/movement of forest produce for meeting a legal right/privilege within the limits of the village, or removal of forest produce by a contractor in a department-managed forest, or in case of any exempted forest produce.</p> <p>Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.</p> |

¹⁵ 'Forest produce' means the same as defined in the Indian Forest Act – timber, charcoal, caoutchouc (natural rubber), catechu (kattha), wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth, myrabolams – all these are forest produce whether they are brought from a forest or not. Only if brought from a forest – trees, leaves, flowers, fruits, all other parts, other plants, wild animals, skins, tusks, horns, bones, silk, cocoons, honey, wax, all other parts and products of animals, peat, soil, rocks, minerals.

| Rule | Who is obligated? | Obligations/restriction + Penalties |
|------|---|---|
| 4 | Any one transporting forest produce to/in/ from Uttarakhand | <p>The persons authorised to issue passes for forest produce which belongs to the government are – CF, DFO, SDFO, or any person authorised in writing by CF/DFO. For other (personal) forest produce, application has to be made (Schedule B) to the DFO, who may ask for information etc. before issuing the pass (which will specify the time period, route to be taken and chowki/depot for reporting. Appeal against grant/refusal of pass shall be filed with the next highest authority.</p> <p>Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.</p> |
| 5 | Any one transporting forest produce to/in/ from Uttarakhand | <p>Rule 5 – Fees payable for different types of pass at the chowki/depot specified in the pass – Rs. 50 per ton of lorry load, Rs. 25 per cart load, Rs. 12.50 per camel load, Rs. 5 per pony load, Rs. 2.50 per human load.</p> <p>Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.</p> |

| Rule | Who is obligated? | Obligations/restriction + Penalties |
|----------------|--|---|
| 18 | Any one transporting timber in/from Uttarakhand | <p>Persons may apply to DFO for registration of private marks for timber etc. belonging to them (must be distinct from mark already registered), on payment of a fee of Rs. 200, up till September 30. In case of a dispute between registration of marks, the decision of the CF will be final.</p> <p>Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.</p> |
| 19 | Any one transporting forest produce to/in/ from Uttarakhand | <p>If forest produce has to be transported between sunset and sunrise, special permission is needed from DFO, and double rates will be charged.</p> <p>Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.</p> |
| 20, 21, 22, 23 | Any one transporting forest produce to Uttarakhand, from outside | <p>For forest produce entering Uttarakhand from outside, a foreign pass (as registered with the CF) and foreign property mark (for timber, as registered with the CF, on payment of Rs. 5000) shall be required. NOCs for exporting/ duty payment will be required to be shown when applying for the pass.</p> |

Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.

- 24 Any one transporting forest produce to/in/ from Uttarakhand Registered property marks (or similar marks) shall not be used by any person other than the authorised forest officers, and no one shall alter or deface any mark on any timber in transit.

Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.

- 25 Any one transporting forest produce to/in/ from Uttarakhand All police (Sub-Inspector and above), forest (Forest Guard and above) and revenue officers (Kanoongo and above) can stop and check any forest produce/ vehicle carrying forest produce, if he/she reasonably suspects that any offence has been committed with regard to it. The person in-charge of the forest produce shall give all information asked in connection with the forest produce. No officer can unnecessarily use this power, to cause trouble.

Penalties: Imprisonment up to 2 years, or fine up to Rs. 10,000 or both. If the offence

is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.

29, 30 Any person transporting timber on water/rivers in Uttarakhand

Transit passes for timber transport on water/rivers are issued by the DFO (in Hindi, as per the Schedule A form). They shall only be issued for timber with valid marks.

Penalties: Any violation of Rules 29–39 will be punishable with imprisonment up to 2 years or fine up to Rs. 10,000, or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.

31 Any person transporting timber on water/rivers in Uttarakhand

Fees for timber transported on water – Rs. 5 for up to 1 meter, Rs. 10 for 1–2 meters, Rs. 15 for 2–3 meters, and Rs. 20 for above 3 meters.

Penalties: Any violation of Rules 29–39 will be punishable with imprisonment up to 2 years or fine up to Rs. 10,000, or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.

| Rule | Who is obligated? | Obligations/restriction + Penalties |
|------|---|---|
| 32 | Any person transporting timber on water/rivers in Uttarakhand | <p>When timber has been set afloat on water, the person may only collect it with authorisation of the DFO of the concerned river part, and only at a notified collecting depot.</p> <p>Penalties: Any violation of Rules 29-39 will be punishable with imprisonment up to 2 years or fine up to Rs. 10,000, or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000-50,000 or both.</p> |
| 33 | Any person transporting timber on water/rivers in Uttarakhand | <p>All forest officers (Forest Guard and above) and police officers (Sub-Inspector and above) may ask any person transporting timber on water to show the transit pass. If not found/invalid, the timber shall be detained and reported to the DFO.</p> <p>Penalties: Any violation of Rules 29-39 will be punishable with imprisonment up to 2 years or fine up to Rs. 10,000, or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000-50,000 or both.</p> |

| Rule | Who is obligated? | Obligations/restriction + Penalties |
|------------|---|--|
| 34 | Any person transporting timber on water/rivers in Uttarakhand | <p>Timber cannot be stored so close to the water's edge that it may be carried away by the current, before the pass is issued.</p> <p>Penalties: Any violation of Rules 29–39 will be punishable with imprisonment up to 2 years or fine up to Rs. 10,000, or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.</p> |
| 35, 36, 37 | Any person transporting timber on water/rivers in Uttarakhand | <p>All persons who want to transport timber on water have to register their unique property marks with the DFO, on payment of Rs. 1000 (valid for 3 calendar years from the next January 1).</p> <p>Penalties: Any violation of Rules 29–39 will be punishable with imprisonment up to 2 years or fine up to Rs. 10,000, or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000–50,000 or both.</p> |

| Rule | Who is obligated? | Obligations/restriction + Penalties |
|------|---|--|
| 39 | Any person | <p>Changing/defacing/carrying tools for marking timber in a notified area under section 45¹⁶ of Indian Forest Act, without permission, is prohibited.</p> <p>Penalties: Any violation of Rules 29-39 will be punishable with imprisonment up to 2 years or fine up to Rs. 10,000, or both. If the offence is after sunset and before sunrise, or includes measures to resist lawful action, or is a repeat offence, it is punishable with imprisonment up to 2 years, and fine of Rs. 10,000-50,000 or both.</p> |
| 42 | Any person | <p>No one shall collect any wood/timber which is more than 180 cm long and 60 cm in girth from the Rule 41 areas (Jaunsar Bawar Pargana, Bhabar and Tarai area, Yamuna, Ganga, Ramganga, Sarda/Kali and their tributaries, up to 8 km on either bank)</p> <p>Penalties: Violation of any Rule from 41-48 will be punishable with imprisonment up to 2 years, or fine up to Rs. 10,000, or both.</p> |
| 43 | Any person transporting timber on water/rivers in Uttarakhand | <p>Persons/owners can collect/have their floating/stranded timber collected, only at certain places permitted by the DFO, for certain rates (to be agreed upon).</p> |

¹⁶ Areas notified under section 45 of Indian Forest Act, 1927 are where all driftwood and timber is government property by default (unless proven otherwise). Rule 41 specifies some areas notified under this - Jaunsar Bawar Pargana, Bhabar and Tarai area, Yamuna, Ganga, Ramganga, Sarda/Kali and their tributaries, up to 8 km on either bank.

Penalties: Violation of any Rule from 41-48 will be punishable with imprisonment up to 2 years, or fine up to Rs. 10,000, or both.

44, 45 Any person transporting timber on water/rivers in Uttarakhand

Timber with no marks, altered/destroyed marks or unregistered marks may be collected by the Forest Department (or authorised persons), to be handed to the owner(s) on payment of 25% of its value, plus other expenses incurred (Rule 45). If payment is not made for 10 days, it will be treated as unclaimed timber. It will bear a mark, and a pass will be issued by an officer authorised by the DFO.

Penalties: Violation of any Rule from 41-48 will be punishable with imprisonment up to 2 years, or fine up to Rs. 10,000, or both.

18. Under the Uttar Pradesh Resin and Other Forest Produce (Regulation of Trade) Act, 1976 and Rules, 1976 –

FOREST AREAS ▲

PROTECTED AREAS Ⓞ

NON-FOREST
NON-PROTECTED AREAS ◻

| Section | Who is obligated? | Obligations/restriction + Penalties |
|---------|---|--|
| 4,5 | Persons engaged in tapping and selling resin (lisa) | <p>Only those persons registered with the Forest Department can tap and manufacture resin, and only the state government/RFOs in charge of resin depots can purchase it and authorise its transport (within, into or outside the state) – either by themselves or through anyone holding a valid permit which shall be issued by the forest department for a fee. Permit application must be in Form 1 (Rule 4), made to the DFO.</p> <p>Penalties: Any offence committed under this Act will be deemed ¹⁷ a forest offence, and the resin/resin product will be deemed forest produce, and will be punished as per the Indian Forest Act, i.e. imprisonment for up to 2 years, or fine up to Rs. 5,000 or both.</p> |
| 8 | Persons engaged in tapping and selling resin (lisa) | <p>Resin which is unfit to use in manufacturing, can be refused to be purchased by the Forest Department. If the resin was tapped from any government forest (reserved, protected or panchayati), only collection charges will be paid to the tapper/seller.</p> |

¹⁷ 'Deemed' is a term used in law, to mean – a thing X which does not automatically fall under the category Y, will be treated as Y for the specific context in which it is used.

Penalties: Any offence committed under this Act will be deemed a forest offence, and the resin/resin product will be deemed forest produce, and will be punished as per the Indian Forest Act, i.e. imprisonment for up to 2 years, or fine up to Rs. 5,000 or both.

9 Persons owning chir or kail trees

Forest Department can ask any owner of a chir or kail tree which is not being tapped, to start tapping for resin, or start tapping it through the department. The tapped resin will be purchased at the fixed price by the department from the owner (after deducting tapping costs etc.).

Penalties: Any offence committed under this Act will be deemed a forest offence, and the resin/resin product will be deemed forest produce, and will be punished as per the Indian Forest Act, i.e. imprisonment for up to 2 years, or fine up to Rs. 5,000 or both.

10 Persons engaged in tapping and selling resin (lisa)

Registration of tappers of resin and manufacturers and exporters of resin/resin products, will be as per Rules 13-19. There are 2 types of tappers - government and private. Government tappers are authorised by the DFO to tap in RF, PF or panchayati forests. Private tappers are owners of chir/kail trees other than the government, who engage labour for tapping. Government tappers have to submit name, parentage and address (along with those of their labour) to the RFO. Private tappers will

have to submit application in Resin Form 8, along with Rs. 5 fee, to the RFO, who will forward it to the DFO, who will accept/reject the application. The permit (Form 9) is valid for 1 year, and private tappers have to submit by next January an account of resin tapped. Manufacturers will have to apply in Form 10, with Rs. 25 fee, to the DFO, who can reject it, or grant permit in Form 11.

Penalties: Any offence committed under this Act will be deemed a forest offence, and the resin/resin product will be deemed forest produce, and will be punished as per the Indian Forest Act, i.e. imprisonment for up to 2 years, or fine up to Rs. 5,000 or both.

**- Index -
Part II**

| Keywords | Page number | Keywords | Page number |
|---|--------------------|--|--|
| Administrative classification | | • Assistant Conservator of Forests | 81 |
| • Air pollution control area | 65 | • Central Pollution Control Board | 65, 67 |
| • Areas notified under Section 45 of the Indian Forest Act (as applicable to Uttarakhand) | 42 | • Chief Wild Life Warden | 60, 61 |
| • Forest (of any description) | 54 | • Conservator of Forests | 81, 85 |
| • National Park | 61 | • Deputy Range Officer | 79, 80 |
| • Protected Forests | 53, 94, 95 | • Directorate of Tribal Affairs | 56 |
| • Reserved Forest | 52, 94, 95 | • District Collector, | 56, 57, 64, 81, 84 |
| • Sanctuary | 61 | • District Disaster Management Authority | 78 |
| • Village forest/ panchayati van | 79, 94, 95 | • District Level Committee | 56 |
| • Waste-lands | 54 | • Divisional Commissioner (Revenue) | 81 |
| Government Authorities | | • Divisional Forest Officer | 79, 80, 83, 84, 85, 89, 90, 92, 94, 95 |
| Administrator (under Land Acquisition Act, 2013) | 57 | • Forest Department | 56, 79, 92, 94 |
| Appropriate government (under Land Acquisition Act, 2013) | 57 | • Forest Guard | 79, 80, 88, 90 |

| Keywords | Page number | Keywords | Page number |
|--|--------------------|---|--------------------|
| • Forester | 79, 80 | • State Disaster Management Authority | 78 |
| • Gram Panchayat | 56, 69 | • State Level Monitoring Committee | 56 |
| • Kanoongo (Revenue) | 88 | • State Monitoring Committee (Land Acquisition) | 57 |
| • Land Acquisition Authority | 57 | • State Pollution Control Board | 64, 65, 67, 72 |
| • Municipality | 72 | • Sub-Divisional Magistrate | 79 |
| • National Monitoring Committee (Land Acquisition) | 57 | • Sub-Divisional Magistrate | 81, 84 |
| • National Biodiversity Authority | 76 | • Sub-Divisional Level Committee | 56 |
| • National Disaster Management Authority | 78 | • Sub-Divisional Forest Officer | 81, 85 |
| • Panchayat | 72, 74, 78 | Right-Holders | |
| • Police Sub-Inspector | 88, 90 | • Forest rights holder (under the Forest Rights Act,2006) | 56 |
| • Range Forest Officer | 79, 80, 81, 95 | • In Eco-Sensitive Zones | 58 |
| • Rehabilitation and Resettlement Committee | 57 | • In forests (any description) | 54 |
| • State Biodiversity Board | 7, 18, 76 | | |

| Keywords | Page number | Keywords | Page number |
|---|--------------------|---|--------------------|
| • In Protected Forests | 53 | • Reserved Forest | 52 |
| • In Reserved Forest | 52 | • Resin Tappers | 94, 95 |
| • In waste-lands | 54 | • Solid Waste generator | 71 |
| Users | | • Trees/Timber | 55 |
| • Buyers of animal article/trophy/meat | 63 | • Village residents (uttarakhand Panchayati Forest Rules, 2005) | 79 |
| • Dealers in animals/animal parts | 61 | • Waste-lands | 54 |
| • Dealer in animals/ animal articles/ meat, Wild meat | 62 | Community Institutions | |
| • Dealers in plants | 61 | • Biodiversity Management Committee | 76, 77 |
| • Forests (any description) | 54 | • Forest User Group/General Body (under the Uttarakhand Panchayati Forest Rules, 2005), | 79, 81, 84 |
| • Forest produce | 55 | • Gram Sabha | 56, 79, 83 |
| • Indigenous communities, Vaid, Hakim | 75 | • Management Committee (under the Uttarakhand Panchayati Forest Rules, 2005) | 79, 81, 83 |
| • Owner of Chir/Kail Tree | 95 | • Panchayati Samitis | 56 |
| • Persons causing pollution | 64 | | |
| • Plastic waste generator | 69 | | |
| • Protected Forests | 53 | | |

| Keywords | Page number | Keywords | Page number |
|--|--------------------|--|-----------------------|
| • Sarpach (Management Committee) | 81, 83, 84 | Forest Chowki, Forest Depot | 86 |
| Access and Benefit Sharing | 76 | Forest produce | 85, 86, 87, 88, 94 |
| Air Pollution | 65 | Hazardous domestic waste | 72 |
| Animal article, Trophy, Meat | 61 | Hunting | 59 |
| Annual Implimentation Plan | 80 | Industry | 68 |
| Bio-cultural Community Protocol | 77 | Ivory | 63 |
| Biological Resources | 75 | Local Biodiversity Fund | 77 |
| Captive animal, Trophy, Animal skin, Musk | 62 | Micro Plan | 80, 81 |
| Consent to operate, Consent to establish | 68 | NGO | 74 |
| Construction and demolition waste | 74 | Persons Transporting Forest Produce | 55 |
| Customary Rights | 81 | People's Biodiversity Register | 76, 77 |
| Disaster Management | 78 | Plastic Waste | 69 |
| Embezzlement | 84 | Project Affected Persons | 57 |
| | | Protected Plant Species | 60 |

| | |
|---|----------------|
| Resin | 94, 95 |
| Scheduled Tribes | 58, 60 |
| Shopkeepers, Street Vendors | 70 |
| Traditional knowledge | 76 |
| Trasit Pass | 85, 89 |
| Timber | 85, 86, 87, 88 |
| Timber Property Marks | 87, 91 |
| Timber Transport, Forest Produce Transport | 87, 88 |
| Timber Transport on water | 90, 91 |
| Village Forest Fund | 84 |
| Waste pickers | 72 |
| Water Pollution | 66, 67 |

This manual is intended to clarify and bring greater awareness around the legal rights, responsibilities, prohibitions and other provisions for local communities, which directly affect the environment and forest-based livelihoods for the communities of Uttarakhand in -



FOREST AREAS



PROTECTED AREAS



**NON-FOREST
NON-PROTECTED AREAS.**

For more information contact:

SECURE HIMALAYA

C/O Chief Wildlife Warden and
State Project Director

Tel: +91 (177) 2624207/186.

Fax: +91 (177) 2625205.

Email: manoj.thakur@undp.org

www.in.undp.org