



## FOREST CONSERVATION AMENDMENT ACT, 2023 – ENVIRONMENT (MAINS)

**Q.** What are the provisions of the Forest Conservation Amendment Act, 2023? How it deviates from the previous forest laws and discuss the concerns raised by the environmentalists with respect to the latest. (15 marks, 250 words)

**News:** *Community rights and forest conservation / Explained*

### What's in the news?

- The Forest Conservation Amendment Act of 2023 has received limited attention and little discussion about its impact on forests and its inhabitants.
- From the colonial forest law in 1865 to the Forest Conservation Amendment Act, 2023, more than fifteen laws, Acts and policies have been formulated interlinking forests with legal and policy frameworks.
- However, there is little to no recognition of the rights of indigenous communities in these Acts, who are the rightful inhabitants of forest lands.

### **The Forest (Conservation) Amendment act, 2023 [Van (Sanrakshan Evam Samvardhan) Adhiniyam]:**

The act amends the Forest Conservation Act, 1980 which provides for the conservation of forest land. The act adds and exempts certain types of land from the purview of the Act. Further, it expands the list of activities permitted to be carried out on forest land.

### **Key features of the amendment act are:**

- **Restrictions on activities in forest:**
  - The original Act restricts the de-reservation of forest or use of forest land for non-forest purposes.
  - Such restrictions may be lifted with the prior approval of the central government. Non-forest purposes include use of land for cultivating horticultural crops or for any purpose other than reforestation.
  - The original Act specifies certain activities that will be excluded from non-forest purposes, i.e., the restrictions on de-reservation of forest or use of forest land for non-forest purposes will not apply.
  - These activities include works related to the conservation, management, and development of forest and wildlife such as establishing check posts, fire lines, fencing, and wireless communication.
  - The **amended act adds more activities to this list such as:**



- **zoos and safaris** under the Wild Life (Protection) Act, 1972 owned by the government or any authority, in forest areas **other than protected areas**,
- **eco-tourism** facilities,
- **silvicultural** operations (enhancing forest growth),
- **any other purpose specified by the central government.**
- Further, the central government may specify terms and conditions to exclude any survey (such as exploration activity, seismic survey) from being classified as non-forest purpose.
- **Land under the purview of the Act:**
  - The amended act provides that two types of land will be under the purview of the Act:
    - land declared/notified as a forest under the Indian Forest Act, 1927 or under any other law,
    - land not covered in the first category but notified as a forest on or after October 25, 1980 in a government record.
    - Further, the *Act will not apply to land changed from forest use to non-forest use on or before December 12, 1996 by any authority authorised by a state/UT.*
- **Exempted categories of land:**
  - The amended act also exempts certain types of land from the provisions of the Act such as forest land along a rail line or a public road maintained by the government **providing access to a habitation**, or to a rail, and roadside amenity up to a **maximum size of 0.10 hectare.**
  - Forest land that will also be exempted includes:
    - land situated **within 100 km along the international borders**, Line of Control, or Line of Actual Control, proposed to be used for construction of strategic linear project for national importance or security,
    - **land up to 10 hectares**, proposed to be used **for constructing security related infrastructure**,
    - land proposed to be used for **constructing defence related projects, camp for paramilitary forces**, or public utility projects as specified by central government (not exceeding five hectares in a left wing extremism affected area).
    - These exemptions will be subject to the terms and conditions specified by the central government by guidelines.
- **Assigning of land through a lease or otherwise:**



- Under the original Act, state government or any authority requires prior approval of the central government to direct the assigning of forest land through a lease or otherwise to any organisation (such as private person, agency, authority, corporation) not owned by the government.
- The amended act provides that such assigning may be done to any organisation (such as private person, agency, authority, corporation) subject to terms and conditions prescribed by central government.
- **Power to issue directions:**
  - The amended act adds that the central government may issue directions for the implementation of the Act to any other authority/ organisation under or recognised by the centre, state or union territory.

## Concerns raised by the environmentalists:

- **Amending the name of the Act:** To Van (Sanrakshan Evam Samvardhan) Adhiniyam (translated as Forest Conservation and Augmentation) from the existing Forest (Conservation) Act.
- **The reclassification of forest areas adds confusion:**
  - The act states that the FCA will only apply to areas recorded as forests in government records, as on or after 25 October 1980.
  - This has raised fears that the amendment will invalidate the SC's 1996 judgment in T.N. Godavarman vs Union of India, which expanded the purview of the FCA by interpreting the meaning of forest as its dictionary definition.
  - If these areas are declassified, 1,97,159sq.km of forests (27.62% of total 7,13,789 sq.km) that lie outside Recorded Forest Areas will lose all protection.
- **Framed without taking real scenario into consideration:**
  - Only 21% of India's land area has forests and only 12.37% of this is intact natural forest. While the India State of Forest Report 2021 has shown a marginal increase (2261 sq. km) in forest cover, it hides a pattern of deforestation in some parts of the country.
  - For instance, the most biodiversity-rich north-eastern hill States show a net decline of 3199 sq. km of forest cover from 2009-2019.
  - Also, this marginal increase in forest cover can be ascribed to commercial plantations, which can't replace the ecological functions performed by intact natural forests.
- **Exemptions will remove the necessity of forest clearances:**
  - In border areas, which are home to the most ecologically important ecosystems in the country.



- This will be in conflict with the rights of forest-dwelling tribes, as they will no longer be consulted before seeking forest clearances.
- **The act was referred to a joint committee (JPC) instead of the standing committee:**
  - The 31-member joint committee (18 are from the ruling party) has 21 members from the Lok Sabha and 10 from the Rajya Sabha.
  - The JPC has not suggested any changes in the original version of the Bill.
- **Concurrent List and Center-State Balance:**
  - Some State governments have argued that forest conservation falls under the Concurrent List, which means both the Center and States have a role in the matter.
  - They believe that the proposed amendments could tilt the balance towards the Center and may impact the rights and authority of the State governments in forest conservation matters.

## Government's intention:

- This is a rare opportunity for India to correct a 27-year-old policy logjam that is holding up growth and employment opportunities, without helping the country substantially conserve its forests.
- The changes are necessary considering the dynamic changes in the ecological, strategic and economic aspirations of the country.
- The amendments will Support the country's objective to increase forest and tree cover up to a third of its land area.
- Help the country achieve Net Zero emissions by 2070 and maintain or enhance forest carbon stocks through ecologically balanced sustainable development.
- Help create a carbon sink amounting to 2.5-3 billion tonnes of CO<sub>2</sub>-equivalent by 2030 under the Nationally Determined Contribution targets.
- The scope of this act can be further expanded with emerging ecological challenges of forest conservation, restoration, compensatory mechanism, mitigation measures, etc.

## WAY FORWARD

- There is a need to conduct a thorough and comprehensive assessment of the proposed amendments and their potential impacts on forests, biodiversity, and local communities.
- This assessment should consider ecological, social, and environmental factors and involve input from diverse stakeholders, including experts, NGOs, tribal communities, and State governments.
- Continue engaging in meaningful consultation and dialogue with all stakeholders to understand their perspectives and address their concerns. This will promote transparency, inclusivity, and better decision-making.