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Kerala Forest Produce (Fixation of Selling Price) Act, 1978

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Kerala Forest Produce (Fixation of Selling Price) Act, 1978

An Act to provide for the fixation of the selling price of certain important forest produce, for the prohibition of the sale of such forest produce at less than the price so fixed and for matters incidental or ancillary thereto. WHEREAS it is necessary to safeguard the forest wealth of the State to the maximum extent possible; AND WHEREAS the proper regeneration and maintenance of the forests in the State is not possible unless the forest produce is sold at reasonable rates and the proceeds thereof are utilised for such purposes; AND WHEREAS the very existence of the forest depends on the proper regeneration and maintenance thereof; AND WHEREAS forest produce particularly timber including bamboo and soft wood like eucalyptus is being sold at unreasonably low rates; AND WHEREAS it is necessary for the conservation of the forests to provide for the fixation of the selling price of certain important forest produce, for the prohibition of the sale of such produce at less than the price so fixed and for matters incidental or ancillary thereto; BE it enacted the Twenty-ninth Year of the Republic of India as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Kerala Forest Produce (Fixation of Selling Price) Act, 1978.¹

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. Definitions.- In this act, unless the context otherwise requires,-

(a) "committee" means the expert committee constituted under section 4;

(b) "**forest**" means any reserved **forest** within the meaning of the Kerala Forest Act, 1961 (4 of 1962) and includes any **forest** vested in the Government under section 3 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971);

(c) "**forest produce**" means bamboos, reeds, eucalyptus, vateria indica (vellapine), dipterocarpus species (kalpine), calophyllum species (punna), cedrelatoona (chandana vembu), palaquim elipticum (pali), ailanthus malabaricum (matty), bombax malabaricum (elevu), evodia roxburghiana (kambli), dysoxylum malabaricum (vellakil), adina cordifolia (kadambu), anogeissus latifolia (vekkalee), kydia calycina (banda), macaranga peltata (uppathy or vatta), alstonia scholaris (pala) and terminalia bellerica (thanni);

(d) "prescribed" means prescribed by rules made under this Act;

(e) "selling price" with reference to any **forest produce**, means the price of that **forest produce** fixed by the Government under section 3;

¹ Received the assent of the Governor on the 19-09-1978 and published in the Kerala Gazette Extraordinary No: 606 dated 27-09-1978.

(f) "State" means the State of Kerala;

(g) words and expressions used but not defined in this Act and defined in the Kerala **Forest** Act, 1961 (4 of 1962), shall have the meanings respectively assigned to them in that Act.

3. Government to notify selling price of forest produce.- (1) The Government shall, before the end of each financial year, by notification published in the Gazette, fix the selling price of every **forest** produce for the following financial year.

(2) Notwithstanding anything contained in sub-section (1), the Government shall, as soon as may be after the commencement of this Act, by notification published in the Gazette, fix the selling price of every **forest** produce for the period commencing on the date of publication of such notification and ending with the 31st day of March, 1979.

(3) Before fixing the selling price of any **forest** produce under sub-section (1) or sub-section (2), the Government shall consult the committee and consider its recommendations.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the Government may, if they decide that it is necessary so to do, re-fix the selling price of any **forest** produce during the course of a financial year:

Provided that before re-fixing the selling price under this sub-section, the Government shall consult the Committee and consider its recommendations.

4. Constitution of expert Committee.- (1) The Government shall as soon as may be after the commencement of this Act, by notification in the Gazette, constitute an expert committee for the purpose of recommending to the Government a fair and reasonable selling price for each **forest** produce.

(2) The Committee shall consist of the following members, namely:-

(a) the Agricultural Production Commissioner, ex-officio; who shall be the Chairman of the Committee;

(b) the Chief Conservator of **Forests**, ex-officio;

(c) the Secretary to Government, Industries Department, ex-officio;

(d) the Secretary to Government Finance Department, ex-officio;

(e) the Director of Statistics, ex-officio;

(f) the Director, Kerala **Forest** Research Institute, ex-officio;

(g) the Joint Secretary to Government in charge of **Forests**, ex-officio; who shall be the Secretary of the Committee.

(3) The Committee shall, in making its recommendations, have regard inter alia to the following matters, namely:-

- (a) the market price of the **forest** produce;
 - (b) the cost of regenerating and maintaining the **forest** produce in cases where regeneration is necessary after selling the **forest** produce; and
 - (c) such other matters as may be prescribed.
- (4) The Committee shall follow such procedure as may be prescribed.

5. Forest produce to be sold a price not less than the selling price.- (1) After the date of the publication of the notification under sub-section (2) of section³, no **forest** produce shall be sold by the Government or any **forest** officer at a price which is less than the selling price of that **forest** produce.

(2) The sale of any **forest** produce in contravention of sub-section (1) shall be null and void and shall not be enforceable in a court of law.

5A. ²Additional price to be paid by industrial establishments.- (1) Any industrial establishment which purchases bamboos, reeds or eucalyptus from the Government as raw materials, in pursuance of a contract executed by it with the Government, shall pay, in addition to the price payable by it for such bamboos, reeds or eucalyptus, an additional price at the rate of twenty-five rupees per tonne of such bamboos, reeds or eucalyptus.

(2) The amount obtained by the imposition of the additional price under sub-section (1) shall, subject to such rules as may be made by the Government in this behalf, be set apart for being utilised for the generation of bamboos, reeds and eucalyptus."].

6. Exemption.- The Government may, in the public interest, by notification in the Gazette, exempt the sale of any **forest** produce-

- (a) to any company owned by the Central Government or the Government of Kerala;
- (b) not exceeding ten cubic meters, to any co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969), from the provisions of section 5, subject to such conditions and restrictions as may be specified in the notification.

6A. ³Section 5 and 5A not to apply to sale of forest produce to certain industrial establishments.- Nothing contained in section 5 or section 5A shall apply to the sale of **forest** produce as raw material by the Government to any industrial establishment in pursuance of a contract executed by it with the Government where-

- (a) the total quantity of the **forest** produce to be sold to that industrial establishment per year under such contract exceeds fifty thousand tonnes
- (b) such **forest** produce is used as raw material that industrial establishment; and
- (c) the number of persons employed in or under such industrial establishment is not less than one thousand workers:

2 Inserted by Act 19 of 1983 with effect from. 13-06-1983.

3 Inserted by Act 9 of 1989 with effect from. 24-10-1988.

Provided that the above provision shall not apply to the sale of the **forest** produce as raw materials to any industrial establishment the price of which raw materials has been fixed at a rate less than Rs.250 per tonne, including sales tax and additional sales tax.].

7. Ten per cent of selling price to be utilised for forest development.- Ten per cent of the amount obtained by the sale of **forest** produce after the commencement of this Act shall, subject to such rules as may be made under this Act, be set apart for being utilised for the development of **forests**.

8. Power to make rules.- (1) The Government may, by notification in the Gazette, make rules for the purposes of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.