

THE UNREGISTERED CASHEWNUT FACTORIES  
PROHIBITION (AMENDMENT) BILL, 2008

(As passed by the Assembly)

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*BILL*

*to amend the Unregistered Cashewnut Factories Prohibition Act, 1967.*

*Preamble.*—WHEREAS, it is expedient to amend the Unregistered Cashewnut Factories Prohibition Act, 1967 (11 of 1967) for the purposes hereinafter appearing ;

BE it enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Unregistered Cashewnut Factories Prohibition (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 13th day of December, 2007.

2. *Amendment of Section 5.*—In section 5 of the Unregistered Cashewnut Factories Prohibition Act, 1967 (11 of 1967) (hereinafter referred to as the principal Act), in clause (b) of sub-section (1), after the word “found” the words “and the machines, equipments and other instruments used or about to be used for such processing, in such premises” shall be added.

3. *Insertion of new section 5A.*—After section 5 of the principal Act, the following section shall be inserted, namely:—

“5A *Sale of cashewnuts seized.*—(1) Notwithstanding anything contained in any other provisions of this Act, where cashewnuts are seized under section 5, a report of such seizure shall without unreasonable delay, be made to the Revenue Divisional Officer having jurisdiction over the area in which such cashewnuts are seized, and whether or not a prosecution is instituted for the contravention of the provisions of this Act, in respect of such cashewnuts, the Revenue Divisional Officer may if he thinks it expedient so to do, direct the cashewnuts so seized to be produced before him for inspection.

(2) Where the Revenue Divisional Officer, on receipt of a report of seizure of cashewnuts and on inspection under sub-section (1), is of the opinion that the cashewnuts seized are subject to speedy and natural decay or it is otherwise expedient in the public interest so to do, he may order the same to be sold either to the Kerala State Cashew Development Corporation or to the Kerala State Cashew Workers’ Apex Industrial Co-operative Society Ltd. at the prevailing market rate or in public auction as the situation justifies.

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(3) Where the Revenue Divisional Officer, so order the sale of any cashewnuts seized under this section, he shall prepare an inventory of such seized cashewnuts containing such details relating to their description, quality, quantity, mode of packing and other particulars as the Revenue Divisional Officer may consider relevant to prove the identity of the cashewnuts seized in any proceedings under this Act, and make an application to any Magistrate for the purpose of,—

(a) certifying the correctness of the inventory so prepared ; or ;

(b) taking, in the presence of such Magistrate, photographs of such cashewnuts and certifying such photographs as true.

(4) Where an application is made under sub-section (3), the Magistrate shall, as soon as may be, allow the application.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 (Central Act 1 of 1872) or the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) any Court trying an offence under this Act, shall treat the inventory and the photographs of the seized cashewnuts certified by the Magistrate, as primary evidence in respect of such offence.

(6) Where any cashewnuts are sold under sub-section (2), the sale proceeds thereof, after deducting the expenses if any of such sale or other incidental expenses relating thereto shall be kept under revenue deposit subject to the orders of the Court if a prosecution is instituted for the contravention of this Act, or of the concerned Inspector who seized the cashewnuts if no prosecution is instituted.

(7) No order for sale of cashewnuts shall be passed under this section, unless the person from whom the same is seized, is given an opportunity of being heard in the matter.”.

4. *Amendment of section 6.*—For section 6 of the principal Act, the following section shall be substituted, namely :—

“6. *Penalties.*—If any person contravenes or attempts to contravene or abets the contravention of the provisions of section 4, or of any rule made under this Act, he shall be punished with imprisonment for a term which may extend to two years but which shall not be less than six months and with a fine which may extend to one lakh rupees but which shall not be less than twenty five thousand rupees and in the case of repeated contravention with an additional fine which may extend to ten thousand rupees for every such contravention.” .

5. *Amendment of section 8.*— In section 8 of the principal Act, after the words “were found”, the words “and the machines, equipments and other instruments used for such contravention” shall be inserted.

6. *Repeal and Saving.*—(1) The Unregistered Cashewnut Factories Prohibition (Amendment) Ordinance, 2008 (25 of 2008) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

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