

THE KERALA FOREST (AMENDMENT) BILL, 2008

(As passed by the Assembly)

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*BILL*

*further to amend the Kerala Forest Act, 1961*

*Preamble.*—WHEREAS, it is expedient to amend the Kerala Forest Act, 1961 for the purposes hereinafter appearing;

BE it enacted in the Sixty-First Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Forest (Amendment) Act, 2010.

(2) It shall come into force at once.

2. *Insertion of new Chapter VI A.*— In the Kerala Forest Act, 1961 (4 of 1962), after Chapter VI, the following chapter shall be inserted, namely:—

“CHAPTER VI A

PROVISIONS RELATING TO SANDAL WOOD

47A. *Definitions.*— In this Chapter, unless the context otherwise requires,—

- (a) “sandalwood” means any portion of sandal (*santalum album*) tree and includes bark, leaves and roots thereof, whether containing heartwood or not and whether in the form of roots, billets, pieces (sawn or otherwise) chips, (whether coloured or not and whether mixed with other ingredients or not) sawdust, spent wood, flakes, pulp or derivatives of sandalwood such as sandalwood oil ;
- (b) “authorised officer” means the Principal Chief Conservator of Forests or any other officer not below the rank of Divisional Forest Officer authorised by the Government for the purpose of this Chapter;
- (c) “prescribed” means prescribed by rules made under this Act.

47B. *Restriction on cutting and sale of sandal trees.*— (1) Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court, no owner of any land, including a plantation and no person claiming under him or any other person shall, without previous permission in writing of the authorised officer, cut, uproot, remove or sell any sandal tree in the land in his possession or ownership.

(2) The permission under sub-section (1) shall not be refused if the tree is dead or wind fallen or constitutes a danger to life or property or such cutting is to enable the owner of the land in which the tree stands to use the area cleared for the construction of a building for his own use :

“Provided that before taking a decision under Sub-section (2), a report as to the genuineness of the matter shall be obtained from a committee for each district consisting of three members as may be authorised by the Government in that behalf.”

(3) Where the owner of the sandal tree which is dead or in respect of which permission under sub-section (1) is obtained, makes a request in writing, the authorised officer shall cause to cut, remove and sell such tree in such manner as may be prescribed.

*47C. Prohibition of possession and transport of sandalwood and sandal wood oil.*—(1) Notwithstanding anything contained in any law for the time being in force or in any Judgment, decree, or order of any court, no person shall,—

- (i) possess or transport any quantity of sandal wood in excess of one kilogram; or
- (ii) possess or transport any quantity of sandal wood oil in excess of one hundred millilitre :

“Provided that the authorised officer may issue licence for the possession or transport of sandalwood in excess of one kilogram to religious institutions, artisans, licensed manufacturers and registered practitioners of indigenous medicines or any corporation or society owned or controlled by the Government for their *bona fide* purposes, on payment of such fees, in such manner and subject to such restrictions and conditions as may be prescribed:

Provided further that the authorised officer may issue licence for the possession or transport of sandal wood oil in excess of one hundred millilitre to the licensed manufacturers of cosmetics, drugs and other material in which sandalwood oil is an essential ingredient, for their *bona fide* purposes, on payment of such fees, in such manner and subject to such restrictions and conditions as may be prescribed.

(2) Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court, no person except the Government or public sector undertakings owned by Government shall disintegrate

or attempt to disintegrate sandalwood in mills or by other contrivance, manufacture or distil, or attempt to manufacture or distil oil from sandal wood or re-distil, refine or sell oil extracted from sandalwood.

(3) The authorised officer may cancel or suspend any licence granted under sub-section (1), if he is satisfied, after giving an opportunity to the holder thereof being heard, that the licensee has contravened, or failed to comply with any of the provisions of this Chapter or the rules made thereunder or any of the terms and conditions of the licence.

(4) Any person aggrieved by the decision of the authorised officer refusing to grant or renew a licence or cancelling or suspending such a licence under this section may, within such time and in such manner as may be prescribed appeal to the Government and the Government may make such order as they may think fit.

*47D. Declaration of stock etc. of sandalwood and sandalwood oil.*—Every person having possession of a quantity of sandalwood in excess of one kilogram or sandalwood oil in excess of one hundred millilitre on the date of commencement of this Act, shall, within ninety days from such date, declare and surrender such quantity of sandalwood and sandalwood oil to the authorised officer in the manner as may be prescribed:

Provided that the authorised officer may, after such enquiry as he may deem fit, grant licence for possession of sandalwood or sandalwood oil to such persons subject to the provisions in sub-section (1) of section 47C.

*47E. Price to be paid by the authorised officer.*—Where any quantity of sandalwood is offered under section 47B or any quantity of sandalwood or sandalwood oil surrendered under section 47D, the authorised officer shall pay the price thereof at the rates, as may be fixed by the Government from time to time.

*47F. Restriction on purchase, sale etc. of sandalwood and sandalwood oil.*—(1) No person shall purchase, receive or acquire sandalwood or sandalwood oil otherwise than from the Government or the authorised officer or public sector undertakings owned by Government or any other agency authorised by Government on this behalf.

(2) No licensee under this Chapter, shall keep in his control, custody or possession or acquire, receive, sell or offer for sale or process or transport sandal wood or sandalwood oil except in accordance with the conditions of the licence granted.

*47G. Penalty for offences in regard to sandalwood.*—(1) In any case of forest offence having reference to the cutting, uprooting or removal of a sandal tree or any part of sandal tree, the offender on conviction, shall be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with fine which shall not be less than ten thousand rupees but may extend to twenty five thousand rupees :

Provided that in case of a second or subsequent offence, the term of imprisonment shall not be less than five years and the amount of fine shall not be less than twenty thousand rupees.

(2) Whoever contravenes the provisions of sub-section (1) and sub-section (2) of section 47C, shall on conviction, be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with fine which shall not be less than twenty-five thousand rupees but may extend to rupees one lakh :

Provided that in case of second or subsequent offence, the term of imprisonment shall not be less than five years and the amount of fine shall not be less than fifty thousand rupees.

(3) Whoever contravenes the provisions of section 47D and section 47F shall on conviction be punishable with imprisonment for a term which shall not be less than three years but may extend to seven years and with fine which shall not be less than twenty five thousand rupees but may extend to rupees one lakh :

Provided that in case of a second or subsequent offence, the term of imprisonment shall not be less than five years and the amount of fine shall not be less than fifty thousand rupees.

*47 H. Seizure of sandalwood, sandalwood oil etc. and confiscation thereon.*—Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court, where an offence is believed to have been committed in respect of any sandalwood, the sandalwood oil, mill, distilling unit, boiler-plant, tools, ropes, chains, boats, vehicles or any other contrivance used in the manufacture or distillation of sandalwood oil, or in the process of sale of sandalwood or sandalwood oil shall be liable to be seized under section 52 and the provisions contained in sections 61A, 61B, 61C, 61D, 61E and 61F shall *mutatis mutandis* apply to the seizure and confiscation thereof.”

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