

THE KARNATAKA SUPPLY OF FOREST PRODUCE BY GOVERNMENT (REVISION OF AGREEMENTS) ACT, 1987

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STATEMENT OF OBJECTS AND REASONS

Act 26 of 1989.- For scientific working of reserve forest, working plans covering period 15-20 years are drawn up. During the last 40 years, several changes have taken place due to inaccessible areas getting to be accessible, revenue forest being transferred to the Forest Department and surrendered Cardamon Genimalai areas being resumed by the Forest Department. In the revised working plan drawn up, these facts have been taken into consideration as also the need to set aside blocks of forests for being constituted as forest sanctuaries and biosphere reserves. These changes have resulted in revising the working system necessitating extraction to be taken up by Governmental agency in lieu of by the concessionaire industries.

During 1981, the Forest Act was amended empowering the Government to abrogate the rates entered into in the agreements to prescribe new rates and to revise these rates once in two years. It is felt that considering the escalation in the prices covering certain individual species, Government be vested with the powers to revise the rates at lesser intervals.

Hence this Bill.

(Obtained from LAW 22 LGN 87.)

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KARNATAKA ACT No. 26 OF 1989.

(First published in the Karnataka Gazette Extraordinary on the Thirtieth day of November, 1989)

THE KARNATAKA SUPPLY OF FOREST PRODUCE BY GOVERNMENT (REVISION OF AGREEMENTS) ACT, 1987.

(Received the assent of the President on the Third day of September, 1989)

An Act to confer the Government of Karnataka with powers to revise and cancel certain agreements relating to the supply of forest produce by it and matters relating thereto.

WHEREAS it is considered necessary that the State Government should have the powers to revise, alter or cancel, from time to time the terms of certain agreements relating to supply of forest produce to ensure the principles of scientific management of forest based upon the working plan prescriptions, working schemes or sequences revised from time to time and silvicultural requirements and to ensure that the prices paid therefor are fair and no loss of income is caused to the State and also that it should have the powers to cancel agreements with a view to protect and maintain ecological balances and to protect and improve the environment and to safeguard the forests and the wildlife in the State of Karnataka and to provide for matters relating thereto;

BE it enacted by the Karnataka State Legislature in the Thirty-eighth year of the Republic of India as follows :-

1. Short title and commencement.- (1) This Act may be called the Karnataka Supply of Forest Produce by Government (Revision of Agreements) Act, 1987.

(2) It shall come into force at once.

2. Definitions.- (1) In this Act, unless the context otherwise requires,-

(a) "agreement" shall include any contract, licence, bond, deed or grant or other document, whereby the Government agrees or has agreed to sell or supply any forest produce to any purchaser or to permit any forest produce to be collected and removed by any purchaser for consideration for a long term period, on terms and conditions specified therein.

(b) "forest produce" shall have the meaning assigned to it in the Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964);

(c) "long term period" means any period exceeding twelve months;

(d) "price" includes the price or rate or value paid or to be paid, whether as consideration or otherwise, to the State Government by any person for the sales or supply of forest produce;

(e) "purchaser" means any person, including any company or association or body of individuals whether incorporated or not, who purchases or is supplied or granted or obtains any forest produce from the State Government under any agreement and the word 'purchaser' shall be construed accordingly.

(2) Words and expressions used in this Act, but not defined, shall have the meaning assigned to them in the Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964).

3. Power of State Government to revise agreements for sale or supply of forest produce.- Notwithstanding anything contained in any law for the time being in

force or in any agreement subsisting on the date of commencement of this Act or in any agreement which may be entered into by the State Government with any purchaser on or after the date of commencement of this Act, it shall be lawful for the State Government, by order published in the official Gazette, to add to, substitute, delete, modify, or otherwise amend any of the terms and conditions of any such agreement, for one or more of the following purposes, namely:-

(a) to provide for a revision or a periodical revision of the price of the forest produce agreed to be sold or supplied, where such agreement does not provide for any such revision or periodical revision, as the case may be, and, where such periodical revision is provided in the agreement, to provide for reducing or enhancing the period of revision:

Provided that the price once fixed shall not be liable to be revised by the State Government for a period atleast for twelve months from the date on which such fixation has come into force.

(b) to provide for modifying the quantity of forest produce agreed to be sold or supplied to the purchaser, having regard to the availability of such forest produce;

(c) to provide for modifying, limiting, altering, shifting or cancelling the areas allotted to or permitted to be worked by, the purchaser, having regard to the availability of forest produce or to secure the principles of scientific management of forest based upon the working plan prescription, working schemes or sequences and silvicultural requirements;

(d) to provide for the working of the forest or extraction of trees therefrom by the State Government or a corporation owned or controlled by it, instead of the purchaser or his agent with a view to ensure better working of forest and extraction of trees;

(e) to protect and maintain ecological balance in the State of Karnataka;

(f) to protect and improve the environment and to safeguard the forests and wild life in the State of Karnataka:

Provided that the State Government may, in furtherance of the purposes specified in clauses (e) and (f), cancel or modify any agreement subsisting on the date of commencement of this Act or entered into thereafter, after giving the purchaser a reasonable opportunity to show cause why the agreement should not be cancelled or modified and may pending the showing of such cause, stay the implementation or further implementation of any such agreement.

4. The price of forest produce sold or supplied to purchasers not to exceed market value.- (1) The price for sale or supply of the forest produce, to be fixed at the time of any revision of the price under section 3 shall not exceed the market value of the forest produce at the time of such revision, as may be determined by the State Government in the prescribed manner.

(2) Where the price is fixed at the time of revision for the period exceeding twelve months at a time, the State Government may provide for an annual increase in the price towards anticipated escalation in the market value of the forest produce during the period the revised price is to remain in force.

5. Power of Government to terminate agreements.- (1) Notwithstanding anything contained in any law for the time being in force or in any agreement subsisting on the date of commencement of this Act or in any agreement, which may be entered into by the State Government with any purchaser on or after the commencement of this Act, the

State Government may terminate any such agreement at any time, for breach, by the purchaser, of any of the terms and conditions of the agreement, as amended from time to time, after giving him a reasonable opportunity to show cause why the agreement should not be terminated and after giving him a notice of one month for such termination.

(2) The decision of the State Government in such cases shall be final.

6. Purchaser may terminate agreement after giving one month's notice.- If any amendment made in the terms and conditions of an agreement under section 3 or any revision made in the price under that section, is not acceptable to the purchaser, he may, at his option, by giving to the State Government one month's notice in writing, within a period of three months from the date on which the amendment in the terms and conditions or the revision in the price, as the case may be, is communicated to him, terminate the agreement and accordingly the agreement shall stand terminated at the end of the notice period.

7. Effect of other laws.- Save as provided in this Act, the provisions of this Act shall be in addition to and not in derogation of any other laws.

8. Power to make rules.- (1) The State Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Act.

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

(a) for giving notice of the amendment proposed to be made in agreement or of any revision of price proposed to be made under section 3 and for affording the purchaser an opportunity of showing cause against the proposal.

(b) the principles on which, the manner in which and the authority by which, the market value shall be determined for the purposes of section 4.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule thereafter shall 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 that rule.

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(The above translation of the “ಕರ್ನಾಟಕ ಅರಣ್ಯ ಉತ್ಪನ್ನವನ್ನು ಸರ್ಕಾರದಿಂದ ಸರಬರಾಜು ಮಾಡುವ (ಒಪ್ಪಂದಗಳ ಪರಿಷ್ಕರಣೆ) ಅಧಿನಿಯಮ, 1987 (1989ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 26)” was published in the official Gazette (Extraordinary) Part IV-2B dated 14-1-1991 as No. 13 under clause (3) of Article 348 of the Constitution of India.)

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