

The Karnataka Preservation Of Trees Act, 1976

KARNATAKA

India

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Act 76 of 1976

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The Karnataka Preservation Of Trees Act, 1976 Act No. 76 of 1976 An Act to make better provision for preservation of trees in the State. WHEREAS with the growing pace of urbanisation, industrialisation and increasing population, there has been indiscriminate felling of a large number of trees in the rural and urban areas of the State of Karnataka leading to erratic rainfall, recurring famines and floods, soil erosion and consequent ecological disturbances; WHEREAS It is expedient to provide for the preservation of trees in the State by regulating the felling of trees and for the planting of adequate number of trees to restore ecological balance and for matters connected therewith; BE it enacted by the Karnataka State Legislature in the Twenty-seventh Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title, extent and Commencement.-

(1) This Act may be called the Karnataka Preservation of Trees Act, 1976. (2) It extends to the whole of the State of Karnataka. (3) This section shall be deemed to have come into force on the seventeenth day of July 1976 and other provisions shall come into force on such date as the State Government may by notification appoint and different dates may be appointed for different provisions of this Act and for different urban areas or rural areas or parts thereof.

2. Definitions.-

(1) In this Act, unless the context otherwise requires, -(a) 'appointed day' in relation to any area means the date notified under subsection (3) of section 1; (aa) "Head of the Karnataka Forest Department" means the officer holding such designated post as may be notified by the State

Government from time to time.(b)'local authority' means a Municipal Corporation, or a Municipal Council or a Town Panchayat or a Taluk Panchayat;(c)'preservation of trees' means, maintenance and protection of trees to encourage normal growth and prevent damage or cutting or felling and includes planting of new trees and transplanting trees;(d)'relevant Act' means the enactment under which a local authority is constituted;(e)'rural area' means an area and of the kind specified in Schedules I and II;(f)'to fell a tree' means severing the trunk from the roots, uprooting the tree and includes burning or cutting or girdling or applying arboricides to a tree to cause substantial damage thereto or destruction thereof;(g)'tree' means any woody plant whose branches spring from and are supported upon a trunk or body and which trunk or body is not less than five and a half centimeters in diameter and not less than one meter in height from the ground level and includes palms, bamboos, stumps brushwood, canes and seedlings of such tree but does not include sandal and rosewood trees;(h)'Tree Officer' means a Forest Officer appointed as such by the the Head of the Karnataka Forest Department for the purposes of this Act;(i)'urban area' means an area comprising a larger urban area, smaller urban area or a transitional area;(j)'wood lot' means any piece of land of which trees form the main crop, the average number of such trees in each hectare being not less than twenty-five.(2)Words and expressions used herein but not defined shall have the meanings assigned to them in the relevant Act.

Chapter II

Tree authority

3. Establishment of the Tree Authority.-

(1)The State Government shall, by notification, constitute a Tree Authority for each urban area and for each rural area.(2)Such Authority shall consist of five members as follows:-(a)For urban areas,-(i)The Forest Officer incharge of a Territorial Forest Circle – chairman;(ii)The Joint Director Horticultural, having Jurisdiction;(iii)The Superintending Engineer, Communication and Building having jurisdiction;(iv)In respect of Bruhat Bangalore Mahanagara Palike a representative of the Commissioner and in respect of other Corporations and Municipalities the Commissioner of City Corporation or Municipality, as the case may be;(v)One Botanist or Ecologist nominated by the State Government.(b)For a rural area specified in Schedule-I,-(i)The Forest Officer incharge of a Territorial Forest Circle – Chairman;(ii)The Deputy Commissioner of the district or his representative not below the rank of Assistant Commissioner;(iii)The Superintending Engineer Communication and Buildings having jurisdiction; and(iv)two non-official members with background in Environmental Conservation and Protection nominated by the State Government.(c)For a rural area specified in Schedule II ,-(i)the Adhyaksha of the Taluk Panchayat;(ii)the Block Development Officer having jurisdiction;(iii)the Assistant Conservator of Forests nominated by the Divisional Forest Officer;(iv)the District Horticultural Officer having jurisdiction;(v)one member of the Taluk Panchayat nominated by the Adhyaksha:(3)The State Government shall appoint one of the members to be the Chairman.(4)The Tree Authority may co-opt in such manner and for such period as it may determine not more than three representatives of non-official organisations having special knowledge or practical experience in the preservation of trees.

4. Meetings of the Tree Authority.-

(1)The Tree Authority shall meet at least once in three months at such place and time as the Chairman may decide and shall conduct its business in such manner as may be prescribed.(2)The quorum to constitute a meeting of the Tree Authority shall be one-third of the total number of its members.

Chapter III

Officers and servants

5. Appointment of Tree Officer.-

(1)The Head of the Karnataka Forest Department may, subject to sub-section (2) appoint for each urban area and rural area one or more Forest Officers as Tree Officers for the purpose of this Act.(2)Such Tree Officer shall,-(i)in an urban area comprising of a larger urban area, be not below the rank of an Assistant Conservator of Forests;(ii)in an urban area comprising of a smaller urban area or a transitional area, be not below the rank of a Range Forest Officer;(iii)in a rural area of the kind specified in Schedule II, be not below the rank of a Range Forest Officer.(iv)in a rural area of the kind specified in Schedule I, be not below the rank of a Divisional Forest Officer.

6. Appointment of other officers.-

The Head of the Karnataka Forest Department may from time to time, appoint such other officers and servants to assist the Tree Officer as he may consider necessary who shall be subordinate to the Tree Officer.

Chapter IV

Duties of tree authority

7. Duties of Tree Authority.-

Notwithstanding anything in the relevant Act or any other law for the time being in force, the Tree Authority shall, subject to any general or special orders of the State Government, be responsible for,-(a)the preservation of all trees within its jurisdictions;(b)carrying out a census of the existing trees and obtaining, whenever considered necessary, declarations from all owners or occupants about the number of trees in their lands;(c)specifying the standards regarding the number and kind of trees which each locality, type of land and premises shall have and which shall be planted subject to a minimum of five trees per hectare in the case of rural areas;(d)development and maintenance of nurseries, supply of seeds, saplings and trees to persons who desire or are required to plant new trees or to replace trees which have been felled;(e)planting and transplanting of trees necessitated by construction of new roads or widening of existing roads or replacement of trees which have failed to come up along roads or for safeguarding danger to life and property;(f)organisation of

demonstration and extension services for the purposes of this Act and assisting private and public institutions connected with planting and preservation of trees;(g)planting and maintaining such number of trees as may be considered necessary according to the prescribed standards on roads, in public parks and gardens and on the banks of rivers or lakes or seashores; and(h)undertaking such schemes or measures as may be directed from time to time by the State Government for achieving the objects of the Act.

Chapter V

Restriction on felling of trees and liability for preservation of trees

8. Restriction on felling of Trees.-

(1)With effect on and from the appointed day, notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer:Provided that no permission shall be granted under this section for felling of trees if it involves felling of all trees in the areas proposed for cultivation or extension of cultivation of rubber or tea.(2)Any person desiring to fell a tree, shall apply in writing to the concerned Tree Officer for permission in that behalf. The application shall be accompanied by a site plan or survey sketch specifying clearly the site or survey numbers, the numbers, kind and girth of the tree sought to be cut and the reasons therefor along with the consent of the owner or occupant.(3)On receipt of the application, the Tree Officer may, after inspecting the tree and holding such inquiry as he deems necessary, either grant permission in whole or in part or refuse permission:Provided that permission shall not be refused, if the tree,-(i)is dead, diseased or wind-fallen; or(ii)has silviculturally matured; or(iii)constitutes a danger to life or property; or(iv)constitutes obstruction to traffic; or(v)is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or(vi)is required to be removed either for cultivation, extension of cultivation or change in crop cultivation in areas specified in Schedule II, (except where such removal does not involve felling of all trees in the areas proposed for cultivation, extension of cultivation or change in crop cultivation) or for the bonafide use of the applicant.(vii)felling is more than 50 that are necessitated for any public purpose like road widening, construction of road, canal, tanks, buildings etc., subject to condition that permission is issued after issue of public notice to invite objections from the public and the same is considered by the Tree Officer(4)The Tree Officer shall make all possible endeavour to dispose off the application received under this section within a period of three months from the date of its receipt:Provided that in computing the period of three months under this sub-section, the time required to obtain,-(a)opinion from revenue authorities;(b)report from the Assistant Director of Land Records;(c)measurements list of trees intended to be felled; or(d)any other relevant information as may be prescribed shall be excluded.(5)Where permission to fell a tree is granted, the Tree Officer may grant it subject to the condition that the applicant shall plant another tree or trees of the same or any other suitable species on the same site or other suitable place within thirty days from the date the tree is felled or within such extended time as the Tree Officer may allow.(6)Notwithstanding anything contained in sub-sections (1) to (5), but subject to such

conditions and restrictions as may be prescribed, for bonafide use of a family, one or more members of such family may, in the aggregate fell, in a calendar year, such number of trees as would fetch not more than 2.8 cubic meters of timber, 100 poles, 100 bamboo and 5 tons of firewood.(7)Nothing in this section shall apply to felling of Casuarina, Coconut, Erythrina, Eucalyptus', Glyrecidia, Hopea Wightina, Prosipis, Rubber, Sesbania, Silver Oak subabul trees, Areca nut, Coffee, Guava, Hebbevu (melia dubia), Ailanthus excelsa, Lemon, Maeopsis eminii, Mango, Sapota, Seemegala (Dendracalamus stocksii), Burma Bamboo (Bambusa burmanica) , Yellow Bamboo (Phyllostachys aurea), Acacia mangium, Acacia Hybrid, Acrocarpus fraxnifolius (Belanji) and Cashew.

8A. Cancellation or suspension of permission granted under section 8.-

The tree officer may cancel or suspend the permission granted under section 8 on any of the grounds specified below, after giving an opportunity of being heard to the grantee and after recording reasons therefor, namely:-(a)furnishing of false or wrong information to obtain permission;(b)discovery of defects in title;(c)misuse of felling permission;(d)non-fulfilment of conditions of felling permission;(e)violation of any provisions of this Act or the rules or orders made thereunder;(f)felling of unpermitted trees;(g)dispute between grantee and others.

9. Planting of adequate number of trees.-

(1)Every owner or occupant of a land shall, within a period of five years from the appointed day or within such extended period as the Tree Authority may specify, plant trees so as to conform to the standards prescribed by the said Tree Authority under clause (c) of section 7.(2)If in the opinion of the tree Officer the number of trees in any land is not adequate according to the standards referred to in sub-section (1), the Tree Officer may, by order giving a reasonable opportunity to the owner or occupier of the land of making representation, require him to plant such trees, or additional trees, as the case may be, and at such places in the land as may be specified in the order.(3)The owner or occupier of the land shall comply with such order within thirty days from the receipt thereof or such extended time as the Tree Officer may allow in this behalf.

10. Planting in place of fallen or destroyed trees.-

(1)Where any tree has fallen or is destroyed by wind, fire, lightning, torrential rain or such other natural causes, the Tree officer may suo motu or on information given to him, after holding such enquiry as he deems fit, by order, require such owner or occupier to plant a tree or trees in place of the tree so fallen or destroyed, of the same or other species at the same or other suitable place as may be specified in the order.(2)The owner or the occupier of the land shall comply with such order within thirty days from the receipt thereof or such extended time as the Tree Officer may allow.

11. Preservation of trees.-

Subject to the provisions of section 12, it shall be the duty of the owner or occupier of the land who is required by an order under sections 8, 9 or 10 to plant a tree or trees to ensure that they grow

property and are well prescribed.

12. Adoption of trees.-

Notwithstanding anything contained in this Act or in any other law for the time being in force, the Tree Authority may, subject to such terms and conditions as it may specify in that behalf, permit any individual, body corporate or institution to adopt any tree for such period as may be specified therein and during such period the said individual, body corporate or institution shall be responsible for the maintenance and preservation of the said tree.

13. Recovery of expenditure on failure to comply with order for planting trees.-

Where the owner or occupier fails to comply with an order made by the Tree Officer under sections 8, 9 or 10 the Tree Officer may, after giving a reasonable opportunity to such owner or occupier of making representation and without prejudice to any other action which may be taken against the defaulter under this Act take necessary action himself and recover the expenditure incurred therefor from the owner or the occupier, as the case may be. If such expenditure is not paid within the time specified by the Tree Officer, the amount along with interest at six per cent per annum and other expenses, if any, shall be recovered as if it were an arrear of land revenue.

14. Appeal.-

(1)Against the order of the Tree Officer under section 8, 9 or 10, an appeal shall lie to the Tree Authority.(2)Such appeal shall be filed within thirty days from the date the decision is communicated to the owner or occupier of the land and shall be accompanied by a fee of one hundred rupees.(3)The Tree Authority shall decide the appeal after giving to the appellant a reasonable opportunity of being heard. The decision of the Tree Authority shall be final.(4)Where an appeal is made in time, the period for compliance specified in the order of the Tree Officer shall be reckoned from the date on which the appeal is decided against the appellant and where the appeal is allowed the fee paid under sub-section (2) shall be refunded to the appellant.(5)Every appeal shall be heard by not less than three members of the Tree Authority.

Chapter VI

Penalties and procedure

15. Seizure of property.-

Where the Tree Officer has reason to believe that an offence under this Act is committed in respect of any tree, he may seize the tools and any boats, vehicles or other conveyances or animals used for the commission of the said offence along with the tree or part thereof which has been severed from the ground or the trunk, as the case may be.

15A. Powers of Tree officer in the matter of investigation.-

(1)Any Tree officer within such area as the State Government may, by notification specify, may as regards offences under section 22 exercise powers conferred on an Officer incharge of a police station by the provisions of the Code of Criminal Procedure, 1973:Provided that any such power shall be subject to such restrictions and modifications if any, as the State Government may specify.(2)For the purposes of section 156 of the Code of Criminal Procedure, 1973 the area in regard to which the Tree Officer is empowered under sub-section (1), shall be deemed to be a police station and such Officer shall be deemed to be the Officer-in-charge of such station.

15B. Report by Tree Officer.-

If, on any investigation by a Tree Officer empowered under sub-section (1), of section 15A, it appears that there is sufficient evidence to justify the prosecution of the accused , the investigating officer shall submit a report (which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1973 be deemed to be a police report) to a Magistrate having jurisdiction to enquire into or try the case and empowered to take cognizance of offence on police reports.

16. Power to release property seized under section 15.-

The Tree Officer may release the properties seized under section 15 if the owner or occupier executes a bond for their production whenever required.

17. Power to arrest without warrant.-

(1)Any Tree Officer may arrest without warrant any person reasonably suspected of having been concerned in any offence under this Act, if such person refuses to give his name and residence or gives a name or residence which the Tree Officer has reason to believe is false or if he has reason to believe that the person will abscond.(2)Any person arrested under this section shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having Jurisdiction in the case within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

18. Power to release a person arrested.-

Any Tree Officer who has arrested any person under the provisions of section 17 may release such person on his executing a bond with proper surety to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the police or the Tree Officer concerned.

19. Power to prevent commission of offence.-

Every Tree Officer or his subordinates or any forest, revenue or police officer shall prevent and may interfere for the purpose of preventing, the commission of any offence under this Act.

20. Operation of other laws not barred.-

Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or commission which constitutes an offence under this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made thereunder: Provided that no person shall be punished twice for the same offence.

21. Power to compound offences.-

(1) The State Government may, by order, empower a Tree Officer, - (a) to compound on payment of a sum equivalent to twenty-five per cent of the value of the property involved in the offence, any offence under this Act; (b) to release any property seized or liable to confiscation, on payment of the value thereof, as estimated by such officer. (2) On the payment of such sum or such value or both, as the case may be, to such officer, the offender, if in custody, shall be released. The property, if any, seized shall be released and no further proceedings shall be taken against such offender or property.

22. Penalty.-

Any person who contravenes any of the provisions of this Act or orders made thereunder shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both. Upon such conviction the court may order any property in respect of which the offence is committed to be forfeited to the State Government.

22A. Offences by companies.-

(1) If the person committing an offence under this Act is a company, the Company as well as every person in charge of, and responsible to the Company for the conduct of its business at the time of the commission of the offence shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1) where an offence under this section has been committed within the consent or connivance of, or that the commission of the offence is attributable to, any neglect on the part of any Director, Manager, Secretary or other officer of the Company such Director, Manager, Secretary or other Officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.- For the purposes of this section, - (a) "Company" means any body corporate and includes a firm or other association of individuals; and (b) "Director" in relation to a firm means a partner in the firm.

Chapter VII

Miscellaneous

23. Rules.-

(1)The State Government may, by notification, make rules to carry out the purposes of this Act.(2)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 immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date on which the modification or annulment is notified by the Government in the Official Gazette 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 such rule.

24. Indemnity.-

No suit, prosecution or other legal Proceedings shall lie against any officer for anything done or omitted to be done by him in good faith under this Act or the rules or orders made thereunder.

25. Investing Tree Officer with certain powers.-

(1)The State Government may, by notification, invest the Tree Officers and other officers with all or any of the following powers, namely:-(a)power to enter upon any land and to survey, demarcate and make a map of the same;(b)powers of a civil court to compel the attendance of witnesses and the production of documents and material objects;(c)power to issue a search warrant under the Code of Criminal Procedure, 1973;(d)power to hold inquiries into offences under the Act and in the course of such inquiry to receive and record evidence;(e)power to take possession of property under the Act;(f)power to direct release of property or withdrawal of charges;(g)Power to insist any person to plant tree or trees of suitable species in adequate numbers on any land owned or occupied by him.(2)Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate if such evidence has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356 or section 357 of the Code of Criminal Procedure, 1973.

26. Transit of felled materials.-

The provisions of section 50 of the Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964) and Chapter XVI of the Karnataka Forest Rules shall, mutatis mutandis, apply to the transit of the felled trees under this Act.

27. Power of State Government and the Tree Authority to give directions.-

The State Government may from time to time give to the Tree Authority or any Tree Officer and officers subordinate to him and the Tree Authority may give to the Tree Officer or officers subordinate to him, such general or special directions regarding the discharge of their functions and for carrying out effectively the purposes of this Act and such Tree Authority or Tree officers shall comply with the directions issued.

27A. Exemption of certain areas from the operation of this Act.-

The State Government may, by notification and subject to such restrictions and conditions as may be specified in such notification exempt any area or areas from the provisions of this Act.

27B. Delegation of powers.-

The State Government may, by notification, delegate to any officer or authority subordinate to it, any of the powers conferred on the State Government or any Officer subordinate to it under this Act, except power to make rules, to be exercised by such officer or authority, subject to such restrictions and conditions, if any, as may be specified in the said Notification.

28. Karnataka Forest Act, 1963 not affected.-

Nothing in this Act shall be deemed to affect the operation of the Karnataka Forest Act, 1963 or the Karnataka Land Revenue Act, 1964 and the rules made thereunder and the Provisions of this Act shall be in addition to and not in derogation of the provisions of the said Acts and rules.

29. Repeal of Karnataka Ordinance No. 14 of 1976.-

(1)The Karnataka Preservation of Trees Ordinance, 1976 (Karnataka Ordinance No. 14 of 1976) is hereby repealed.(2)Notwithstanding such repeal any action taken or any appointment, notification, order, scheme, rule, form or bye-law made or issued under the said Ordinance shall be deemed to have been taken, made or issued under this Act and shall continue in force accordingly unless and until superseded by any action taken or any appointment, notification, order, scheme, rule, form or bye-law made or issued under this Act.

See section 2 (e)Areas comprising lands under tea, rubber, or cinchona cultivation, including wood lots and lands belonging to the State Government and released in favour of others.

See section 2 (e)Areas comprising lands other than those included in Schedule I.