

The Karnataka Oil Palm (Regulation of Cultivation, Production and Processing) Act, 2013

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Act 56 of 2013

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Karnataka Oil Palm (Regulation of Cultivation, Production and Processing) Act, 2013(Karnataka Act No. 56 of 2013)Statement of objects and Reasons - Act 56 of 2013. - In order to meet the growing demand for edible oils, oil palm was identified as a suitable crop for cultivation in the country in view of its high oil yielding capacity. Karnataka is one of the States wherein the Oil Palm Project has been taken up with the Government of India assistance. Since, fresh fruit bunches of oil palm have to be processed within 24 hours of plucking to extract oil, a close coordination between the grower and processor is necessary. Therefore, it is considered necessary to have a legislation for regulation of cultivation, production and processing of oil palm and for matters connected therewith. The Bill among other things provides for;-(i) Assuring the grower sale of his produce and payment for sale of such produce;(ii) Constitution of a Project Management Committee to take measures regarding development of oil palm cultivation through implementation of programme of Oil Palm Development in the State;(iii) Constitution of a Price Fixation Committee to ensure the grower reasonable price for oil palm fresh fruit bunches;(iv) Appointment of Oil Palm Commissioner to Co-ordinate activities of oil palm growers and the industries engaged in processing oil palm and for exercising such powers as are indicated by this Act;(v) Declaration of factory zone for the purpose of ensuring regular supply of fresh oil palm fruit bunches to the factory situated in the zone;(vi) Registration of oil palm growers;(vii) Payment of compensation to the oil palm growers by Entrepreneur on account of the failure to buy oil palm fresh fruit bunches by the Entrepreneur or Occupier of factory;(viii) Proper implementation of Oil palm programme in the State.The Bill also provides for certain other incidental matters.Hence, the Bill. [L.A. Bill No. 5 of 2013, File No. Samvyashae 4 Shasana 2013.][Entry 33 (b) of List III of the Seventh Schedule to the Constitution of India.](First Published in the Karnataka Gazette Extra-ordinary on the twentieth day of August, 2013)(Received the assent of the Governor on the Nineteenth day of August, 2013)An Act to provide for the regulation of cultivation, production and processing of oil palm and for matters connected

therewith. Whereas it is expedient to provide for the regulation of cultivation, production and processing of oil palm and for matters connected therewith; Be it enacted by the Karnataka State Legislature in the Sixty fourth year of the Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Karnataka Oil Palm (Regulation of Cultivation, Production and Processing) Act, 2013. (2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a) "Factory" means and includes any premises as defined in the Factories Act, 1948 (Central Act 63 of 1948) with the precincts thereof, in any part of which a manufacturing process connected with processing of oil palm fruits and products; (b) "Factory Zone" means an area declared as a factory zone under section 12; (c) "Government" means the State Government; (d) "Occupier of the Factory" means any person who has the ultimate control over the affairs of the factory and is entitled to be treated as an Occupier and such person need not necessarily be a Director of the Board of the Management of the factory; (e) "Oil Palm Entrepreneur" means an entrepreneur whom the Government has recognized for oil palm development in a particular zone and who fulfils all the conditions prescribed by the Government in the allotment order issued from time to time; (f) "Oil Palm" means the Palm of the genus *Elaeis* and includes the Species *Elaeis guinensis* and *Elaeis oleifera*, malanococoa or corozo and hybrids of these species; (g) "Oil Palm Commissioner" means the Oil Palm Commissioner appointed under sub-section (1) of section 7; (h) "Oil Palm FFB" means the unprocessed Oil Palm Fresh Fruit Bunch and includes its loose fruit also; (i) "Oil Palm Grower" means a person who cultivates Oil Palm whether by himself or by his own servants or by hired labour or by members of his family or by his tenants; (j) "Oil Palm Inspector" means the Oil Palm Inspector appointed under sub-section (2) of section 7; (k) "Oil Palm Product" means any product obtained directly from Oil Palm fruit, includes processed products like Palm Oil, Palmolein, Palm Stearin, Palm Kernel, Palm Kernel Oil, Palm Kernel cake, Palm Fatty Acids oil, Palm seeds and any other by-products notified by the Government from time to time; (l) Price Fixation Committee means Price Fixation Committee constituted under section 5; (m) Project Management Committee means Project Management Committee constituted under Section 3.

3. Constitution of Project Management Committee.

(1) As soon as may be after the commencement of this Act, the Government shall, by notification constitute a Project Management Committee consisting of the following, namely: -

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| (i) | The Principal Secretary/Secretary to Government, (Horticulture) as the case may be | Chairman |
| (ii) | | Member |

The Secretary to Government (Expenditure) Finance Department or his nominee

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| (iii) | The Director, Project Formulation Division, Planning Department | Member |
| (iv) | The Director of Horticulture | Member |
| (v) | The Director, Directorate of Oil Palm Research, Pedavegi, Andhra Pradesh or his nominee | Member |
| (vi) | A representative of the Government of India, Ministry of Agriculture and Co-operation, Technology Mission on Oil Seeds, oil palm and maize | Member |
| (vii) | The Oil Palm Commissioner | Member Secretary |

(2) No act or proceeding of the Project Management Committee shall be invalid by reason only of the existence of any vacancy or defect in the constitution of the committee, if such act or proceeding is otherwise in accordance with the provisions of this Act.

4. Functions of the Project Management Committee.

- The Project Management Committee (PMC) shall perform the following functions, namely:-(a) to advise or recommend or approve areas for development of oil palm cultivation, also identify or select suitable entrepreneurs for such areas from time to time and allot areas to the identified entrepreneurs. Such entrepreneurs shall enter into a Memorandum of Agreement (MOA) with the Government. (b) to review and monitor the progress of implementation of the programme of Oil Palm development in the State by the Project staff and take appropriate decisions for the development of oil palm in each of the zones; (c) to review the functioning of each of the entrepreneurs, from time to time, with respect to the objectives envisaged or targets assigned and take appropriate decisions in the interest of efficient functioning of the project as envisaged in Memorandum of Agreement; (d) to accord all financial and administrative sanctions for the implementation of the project; and (e) to perform such other functions as may be prescribed.

5. Constitution of Price Fixation Committee.

(1) As soon as may be after the commencement of this Act, the Government shall, by notification, constitute a Price Fixation Committee consisting of the following, namely:-

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| (i) | The Principal Secretary/Secretary to Government, (Horticulture) as the case may be | Chairman |
| (ii) | The Director of Horticulture, Bangalore | Member |
| (iii) | One Representative nominated by the Government from each of the Entrepreneurs. | Member |
| (iv) | Deputy Secretary, nominated by Finance Department | Member |
| (v) | One farmer representative nominated by the Government, from each of the factory zones. | Member |
| (vi) | Oil Palm Commissioner | |

Member
Secretary

(2) Subject to the pleasure of the Government a non-official member shall hold office for a period of three years, from the date of nomination. A member nominated once to the Price Fixation Committee, is not eligible for renomination, for the second time. (3) A non-official member may resign his office by writing under his hand addressed to the Government, but he shall continue in office until his resignation is accepted. (4) The non-official members of the Price Fixation Committee shall receive such allowances as may be prescribed. (5) The Government may remove a non-official member from his office if he, - (a) becomes an undischarged insolvent; or (b) is convicted and sentenced to imprisonment for an offence which in the opinion of the Government involves moral turpitude, or (c) becomes of unsound mind, stands so declared by a competent court, or (d) refuses to act or becomes incapable of acting, or (e) has been removed or dismissed from service of the Central Government or the State Government or a Local Authority or a Body or Corporation owned or controlled by the Central Government or the State Government, or (f) in the opinion of the Government has so abused the position of the member as to render that person's continuance in office detrimental to the public interest: Provided that no person shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter. (6) The vacancy caused under sub-section (5) or otherwise shall be filled by fresh nomination. (7) No act or proceedings of the Price Fixation Committee shall be invalid by reason only of the existence of any vacancy or defect in the constitution of the Price Fixation Committee, if such act or proceeding is otherwise in accordance with the provisions of this Act. (8) Power to propose MSP for Fresh Fruit bunch based on the technical committee report to the Government from time to time.

6. Functions of the Price Fixation Committee.

(1) The Price Fixation Committee (PFC) shall perform the following functions, to recommend or approve the price for purchase of oil palm Fresh Fruit Bunches having regard to, - (a) the prices at which Crude palm oil produced from Oil Palm Fresh Fruit Bunch is sold by a factory; (b) the recovery of oil from Fresh Fruit Bunch; (c) the prices of crude palm oil in international market, and in other states in the country; (2) To convene a meeting once in four months to fix the price of Fresh Fruit Bunch and to discuss related issues. (3) To perform such other functions as may be prescribed. (4) No person shall sell or agree to sell oil palm Fresh Fruit Bunch to the Entrepreneur/Occupier of a factory and no such Entrepreneur/Occupier shall purchase or agree to purchase Fresh Fruit Bunch, at a price lower/higher than the price specified under sub-section (1).

7. Appointment of Oil Palm Commissioner and Oil Palm Inspectors.

(1) The Government shall appoint an officer of the Department of Horticulture not below the rank of Additional Director of Horticulture as the Oil Palm Commissioner to exercise the powers and perform the functions of the oil palm commissioner under this Act. (2) The Senior Assistant Director of Horticulture or Assistant Directors of Horticulture or Assistant Horticulture officers, as the case may be, be appointed by the Government to be the oil palm inspectors within the areas of their respective jurisdictions to exercise the powers and perform the functions of the oil palm inspectors under this Act.

8. Power of the Oil Palm Commissioner .

(1)The Oil Palm Commissioner shall exercise the following powers, namely:-(i)to co-ordinate the activities of the oil palm growers and industries/entrepreneurs engaged in the production and processing of Palm Oil;(ii)to act as a nodal officer/monitoring officer for development of Oil Palm in the State;(iii)to monitor the progress achieved by each of the entrepreneurs in the development of oil palm and make suitable recommendations to Project Management Committee for decisions.(iv)to exercise such other powers as may be prescribed.

9. Power of the Oil Palm Inspector.

- The Oil Palm Inspector shall exercise the following powers, namely:-(i)to assist the Oil Palm Commissioner in the exercise of his powers and discharge of his duties;(ii)to exercise such powers as are delegated to him by the Project Management Committee and Oil Palm Commissioner; and(iii)to exercise such other powers as may be prescribed.

10. Meetings of the Project Management Committee and the Price Fixation Committee.

(1)The meetings of the Project Management Committee or the Price Fixation Committee may be convened by the Chairman of the respective Committee.(2)The Chairman of the Project Management Committee or the Price Fixation Committee may if he/she feels it necessary convene a special meeting .(3)The quorum at the meeting and the procedure of the meeting of the Project Management Committee or the Price Fixation Committee shall be such as may be prescribed.(4)Every meeting of the Project Management Committee or Price Fixation Committee shall be presided over by its Chairman and if for any reason the Chairman is unable to attend the meeting, any other member nominated by the Chairman or any other member chosen by the members present at the meeting shall preside over the meeting.

11. Registration of Oil Palm Growers.

(1)Every Entrepreneur/Occupier of a factory in a factory zone shall maintain in such form and in such manner as may be prescribed a Register of Oil Palm Growers in the zone attached to the factory. The register shall be updated every year and shall always be available in the office of the factory for inspection by the Oil Palm Commissioner or Oil Palm Inspectors.(2)The Oil Palm Inspector may at any time inspect an Entrepreneur's office/factory and verify such records, reports, statements and registers as may be required to be maintained and may also direct the Entrepreneur/Occupier of the factory to produce them for his verification.

12. Declaration of factory zone.

(1)The Project Management Committee may notify any area as factory zone for the purpose of supply of Fresh fruit bunches, to the factory specified for the purpose or for purchase of oil palm

Fresh fruit bunches and any other oil palm product by the factory.(2)Where any particular area is notified as factory zone under sub section (1), the Oil Palm Growers in that area shall supply oil palm Fresh fruit bunches from the oil palm plantations grown in that area only to the factory to which the factory zone is attached.(3)Where a particular factory zone is notified under sub-section (1) the oil palm Entrepreneur/Occupier of the factory in the concerned factory zone shall buy all the oil palm fresh fruit bunches produced by the Oil Palm Growers in that factory zone as are offered for sale by them, at a price fixed by the Price Fixation Committee under this Act.(4)The entrepreneur shall establish their oil palm processing unit within three years of allotment of the area and shall keep the Oil Palm Commissioner informed about the action taken in setting up of the mill. In case the entrepreneur does not commence the processing of oil extraction unit, within the time limit, the entrepreneur shall supposed to purchase Fresh Fruit Bunches in their allotted area as per the rates fixed by the Price Fixation Committee and arrange for processing without loss in weight of Fresh Fruit Bunches and the entrepreneur shall be subjected to actions as per the terms and conditions stipulated by the Memorandum of Agreement.

13. Failure to buy Fresh fruit bunches (FFB) by the Entrepreneur/Occupier of a factory.

(1)Where the Entrepreneur/Occupier of a factory fails to buy all the oil palm fresh fruit bunches from the oil palm growers in the factory zone notified in relation to the factory, without any valid reasons, such oil palm Entrepreneur/Occupier of factory shall, in addition to the penalty specified in section 18 be liable to compensate the loss that may have been caused to the Oil Palm Grower as may be determined by the Oil Palm Commissioner:Provided that the Entrepreneur/Occupier of a factory shall assign reasons for such refusal to buy a particular consignment of oil palm Fresh Fruit Bunch from an Oil Palm Grower, before the compensation is determined by the Oil Palm Commissioner.Provided further that reasons such as damage, inefficient running, break down of plant/machinery, failure to use capacities and any other operational problems shall not be valid reasons for refusal to buy the consignment of oil palm Fresh fruit bunches and shall be treated as failure.Provided also that if there is any dispute whether there are valid reasons for the oil palm Entrepreneur/Occupier of factory for the failure to buy oil palm Fresh fruit bunches, the Oil Palm Commissioner shall be competent to decide such dispute.(2)Any person aggrieved by the Order of Oil Palm Commissioner under sub-section (1) shall prefer an appeal to the Government within a period of thirty days from the date of such order.

14. Failure to achieve the objectives envisaged/targets assigned.

- Where the Entrepreneur fails to achieve the objectives envisaged or targets assigned from time to time by the Oil Palm Commissioner, the Project Management Committee reserves the right to review this failure in its meeting, and if satisfied, cancel the right of area allotment of such non-performing entrepreneurs, after giving a reasonable opportunity to the Entrepreneur to explain his poor performance, in achieving the objectives envisaged or targets assigned.

15. Power to cancel area allotment/reallotment of area to Entrepreneur.

- The Project Management Committee after examination of the explanation under section 14 submitted by the entrepreneurs and if satisfied that the explanation given by the entrepreneur for poor performance is not satisfactory, take a decision to order penalty under section 18 or may withdraw the area allotment of such entrepreneur. The decision of the Project Management Committee in area allotment/performance assessment/cancellation of allotted area/reallotment of new area to another entrepreneur shall be final.

16. Payment of price for oil palm fresh fruit bunches.

(1) Upon the delivery of oil palm Fresh Fruit Bunches, the Entrepreneur/Occupier of a factory shall pay the price of the oil palm Fresh Fruit Bunches so supplied as per the price fixed by the Price Fixation Committee before 10th of every month. (2) The price of the Oil Palm fresh fruit bunches remaining unpaid on the expiration of the period specified in sub-section (1) shall carry interest at fifteen percent per annum from the date of delivery of oil palm fresh fruit bunches and it shall be recovered from the oil palm Entrepreneur/Occupier of factory as if it were an arrears of land revenue. (3) The company shall submit the statement of accounts containing details of payment made to the farmers in the prescribed format to the Price Fixation Committee or Oil Palm Commissioner before 5th of every month.

17. Report.

- The Project Management Committee and Price Fixation Committee shall before such date, in such form and at such period as may be prescribed, submit a report to the Government about the progress of oil palm development Project in the State.

18. Penalties.

- Every oil palm Entrepreneur/Occupier of a factory who contravenes any provisions of this Act or of any rule or order made there under where no penalty has been provided for such contraventions shall be punishable with fine which may extend to one lakh rupees.

19. Power to recover subsidy or assistance granted.

(1) If any Oil Palm Plantation or part thereof in respect of which subsidy or any other assistance has been granted under Oil Palm Development Scheme is willfully uprooted by the Oil Palm Grower with or without the knowledge of the Government or the factory, the Government shall have the right to recover from such Oil Palm Growers, the entire amount already paid by way of subsidy or assistance with interest on the total amount from the date on which it shall become due. The dues shall be recovered from the farmers as if it were an arrears of land revenue. (2) If any oil palm Entrepreneur, after receiving advance planting material subsidy does not successfully raise the oil palm seedlings in the nursery, or transfers oil palm seedlings outside the state, or sells oil palm

seedling to another oil palm entrepreneur, without approval of the Oil Palm Commissioner, the Government shall have the right to recover from such oil palm Entrepreneur the entire amount released as planting material subsidy, with interest on the total amount from the date on which it shall become due.(3)If any oil palm Entrepreneur, after receiving advance on-farm-investment subsidy, utilizes such subsidy for ineligible items, which are not permissible under the guidelines or which have not been permitted by the Project Management Committee, the Government shall reserve the right to recover from such oil palm oil palm Entrepreneur such amount as utilized on ineligible items, with interest thereon from the date it shall become due.

20. Compounding of offences.

- A summary enquiry may be conducted by the Oil Palm Commissioner into an offence committed which is punishable under this Act and order may be passed imposing penalty by way of compounding of offence a sum not exceeding Rupees Fifty thousand. The Oil Palm Commissioner may authorize a subordinate official to collect the amount of penalty. The Penalty so collected shall be remitted in the PD account under Oil Palm Project.

21. Protection of Acts done in good faith.

- No suit, prosecution or other legal proceedings shall lie against Government or any officer or official for any thing which is done in good faith or intended to be done in pursuance to any provisions of the Act or any rule or order made thereunder.

22. offences by firm, company or Association of individuals.

(1)Where the oil palm Entrepreneur/Occupier of the factory is a firm or an Association of individuals, any one or more of the partners or members thereof may be prosecuted and punished under this Act for any offence for which the oil palm Entrepreneur or Occupier of the factory thereof is punishable;Provided that the firm or association may inform the Oil Palm Commissioner in writing that they have nominated one of their partners or members as the Occupier of the factory for the purpose of this Act and such partner or member shall be deemed to be the oil palm Entrepreneur or Occupier of the factory for the purpose of this Act, until further information cancelling his nomination is received by the Oil Palm Commissioner or until he ceases to be a partner or member of the firm or association, as the case may be.(2)Where the oil palm Entrepreneur or Occupier of the factory is a Company or a Co-operative Society, any one or more of its Directors, or as the case may be, members of the Committee may be prosecuted and punished under this Act for any offence for which the oil palm Entrepreneur or Occupier of the factory is punishable:Provided that the Company or Co-operative Society may inform in writing the Oil Palm Commissioner that they have nominated a Director or a share holder of such company or a member of such Co-operative Society or its committee to be the oil palm Entrepreneur or Occupier of the factory for the purpose of this Act and such Director, share holder or member shall be deemed to be the oil palm Entrepreneur or Occupier of the factory for the purposes of this Act, until further notice cancelling his nomination is received by the Oil Palm Commissioner or until he ceases to be a Director, share holder or member as the case may be.

23. Power of the Government to give directions.

- The Government may give such directions to the Project Management Committee, Price Fixation Committee or to the Oil Palm Commissioner, as in its opinion are necessary or expedient for carrying out the purposes of this Act and it shall be the duty of the Project Management Committee or Price Fixation Committee or the Oil Palm Commissioner to comply with such directions.

24. Delegation of Powers.

- The Government may, by notification, delegate all or any of its power under this Act, except the power to make rule under section 25, to any person or authority subordinate to it subject to such restrictions and conditions as may be specified in such notification.

25. Power to make rules.

(1)The Government may, by notification and after previous publication, make rules for carrying out all or any of 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, as the case may be, and if before the expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making modification in the rule or both the Houses agree that 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.The above translation of PÀÉÁðIPÀJuÉÚ vÁ¼É(, ÁUÄÄªÄ½,GvÁàzÀÉÉªÄvÄÄÛ, ÄÄ, ÄÏgÄuÉªAiÄÄAvÄæt)CçüªAiÄÄªÄÄ, 2013 (2013 gÀPÀÉÁðIPÀ CçüªAiÄÄªÄÄ, ÄASÉå :56) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.