

The M.P. Kashtha Chiran (Viniyaman) Adhiniyam, 1984

MADHYA PRADESH

India

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Act 13 of 1984

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The M.P. Kashtha Chiran (Viniyaman) Adhiniyam, 1984 M.P. Act No. 13 of 1984 Received the assent of the President on 11-4-1984, assent first published in the "Madhya Pradesh Gazette" (Extraordinary), dated 11-4-1984. An Act to make provisions for regulating in the public interests, the establishment and operation of saw mills [x x x] [The words 'and saw pits', omitted by Section 3 of M. P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] and trade of sawing for the protection and conservation of forests and the environment. Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth year of the Republic of India as follows :-

1. Short title and extent.

(1) This Act may be called the Madhya Pradesh Kashtha Chiran (Viniyaman) Adhiniyam, 1984. (2) It extends to the whole of Madhya Pradesh.

2. Definitions.

- In this Act, unless the context otherwise requires :- (a) ["appointed day" means the 15th day of December, 1983 on which the Madhya Pradesh Kashtha Chiran (Viniyaman) Adhyadesh, 1983 (No. 11 of 1983) came into force throughout the State of Madhya Pradesh.] [Substituted by M.P. Act No. 44 of 1984 (w.e.f. 11-4-1984).] (b) "licence" means a licence granted under this Act; (c) "licensee" means any person to whom a licence is granted under this Act; (d) "licensing officer" means a licensing officer appointed under Section 3; (e) "notified order" means an order notified in the gazette; (f) ["saw mill" means the plant and machinery with which and the premises including the precincts thereof, in which or in any part of which sawing is carried on with the aid of electrical or mechanical power but does not include circular saw (cutter) the diameters of which is not more than twelve inches, Drill, Turning machine, Planer, Jig saw machine and Beading Tools;] [[Substituted by Section 3(i) of M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003). Prior to substitution it read as under : '(f)

'Saw mill' means the plant and machinery with which and the premises including the precincts thereof, in which or in any part of which sawing is carried on with the aid of electrical or mechanical power;']](g)[[x x x] [[Omitted by Section 3(ii) of M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003). Prior to omission it read as under :'(g) 'Saw pit' means a place where wood is sawn by manually operated saws;']](h)"sawing" with its grammatical variations and cognate expressions means operation of sawing, cutting, converting, fashioning or seasoning wood and includes preservation and treatment thereof either by mechanical process with the aid of electrical or mechanical power or manually operated saws;](hh)["timber yard" means a specified place, notified to be timber yard by the State Government for establishment of saw mill;] [Inserted by Section 3(iii) of M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).](i)"vehicle" includes truck, tractor-trolley, motor vehicle, boat and cart;](j)"wood" includes trees when they have fallen or have been felled, and all wood of any species whether cut, converted, fashioned, sawn or hollowed out for any purpose or not;](k)words and expressions used but not defined in this Act and defined in the Indian Forest Act, 1927 (XVI of 1927), shall have the same meanings respectively assigned to them in that Act.

3. Appointment of licensing officer.

- The State Government may, by notification,-(a)appoint an officer not below the rank of a Divisional Forest Officer to be licensing officer for the purpose of this Act;(b)define the local limits within which a licensing officer shall exercise the powers conferred, and perform the duties imposed, on a licensing officer by or under this Act.

4. Application for licence.

- On and from the appointed day,-(a)no person shall establish a saw mill [x x x] [The words 'or a saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] except under the authority and subject to the conditions of a licence granted in that behalf under this Act :[Provided that the State Government may notify such period during which no licence for the establishment of new saw mill shall be granted.] [Inserted by M.P. Act No. 13 of 2003, Section 4 (ii) (w.e.f. 26-4-2003).](b)no person shall operate a saw mill [x x x] [The words 'or a saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] in existence on the said date, unless he is granted a licence in that behalf under this Act on an application made by such person within a period of thirty days from such date :Provided that for the period of thirty days and thereafter the period during which the application is pending for consideration, it shall be deemed as if such person was granted a licence under this Act and he was operating the saw mill [x x x] [The words 'or a saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] accordingly.

5. Declaration of prohibited area.

(1)The State Government, may, by notification, for reasons to be specified therein, declare any area to be a prohibited area for such period not exceeding three years at a time, as may be specified therein.(2)During the period any area is declared to be a prohibited area under sub-section (1), the following consequence shall ensue, namely :-(a)no licence shall be granted for establishment of a saw mill [x x x] [The words 'or a saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] in

that area;(b)no licence shall be renewed during that period;(c)a saw mill [x x x] [The words 'or a saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] situated in that area shall cease to operate and keep its sawing operations closed :Provided that the licensing authority may permit sawing of wood in deposit in the saw mill [x x x] [The words 'or a saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] subject to such conditions and restrictions as it may deem fit to impose;(d)no claim on account of damages because of closure shall be entertained nor any damages shall be payable.

5A. [Declaration of limber Yard. [Inserted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).]

(1)The State Government may, by notification, from such date and for the reasons to be specified therein, declare any area as timber yard.(2)No licence, for any new saw mill within such distance as may be prescribed, shall be granted from the date of declaration of timber yard under subsection (1) unless the saw mill is proposed to be established within the timber yard.(3)The licence granted before the date of declaration of timer yard under sub-section (1), within the prescribed distance under sub-section (2) shall be renewed only if the licensee undertakes to shift the saw mill to the timber yard within a period of two years from the date of renewal.]

6. Grant, renewal, revocation or suspension of licence.

(1)An application for licence under Section 4 shall be in such form and shall be accompanied by such application fee and such security deposit for due observance of the conditions of the licence, as may be prescribed.(2)On receipt of the application under sub-section (1), the licensing officer may, after making such enquiry as it may deem fit-(i)grant the licence; or(ii)by order in writing, for reasons in brief to be stated therein, refuse to grant the licence :Provided that no order refusing to grant the licence shall be passed, unless the applicant has been given a reasonable opportunity of being heard.(3)A licence granted under sub-section (2) shall be subject to the provisions of this Act and to such conditions as may be prescribed.(4)The provisions of this section shall apply to renewal of licence as they apply to grant of licence or refusal to grant a licence.(5)If the licensing officer is satisfied, either on a reference made to it in this behalf or otherwise, that-(a)the licensee has parted, in whole or in part with his control over the saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] or has otherwise ceased to operate or own such saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).]; or(b)the licensee has, without reasonable cause, failed to comply with any of the conditions of the licence or any direction lawfully given by the licensing officer or has contravened any of the provisions of this Act or the rules made thereunder; or(c)the licensee has, in the premises of the saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).], wood which he is not able to account for satisfactorily and consequently which is liable for confiscation under Section 9;then without prejudice to any other penalty to which the licensee may be liable under this Act, the licensing officer may, after giving the licensee an opportunity of showing cause, revoke or suspend the licence and forfeit the sum, if any, or any portion thereof, deposited as security for the due performance of the conditions subject to which the licence has been granted.(6)A copy of every order issued under sub-section (5) shall be given to the licensee.

7. Power of entry, inspection, search, seizure, etc.

(1)For the purpose of ascertaining the position or examining the working of any saw mill [x x x] [The words 'and saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] or with a view to secure compliance of the provisions of this Act and the rules made thereunder, the licensing officer or any other persons authorised by the licensing officer in this behalf may,-(a)enter and inspect saw mill [x x x] [The words 'and saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).];(b)examine and for this purpose order the production of any documents, books, registers or records in the possession or power of any person having the control of, or employed in connection with, any saw mill [x x x] [The words 'and saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).];(c)search any person or search any premises, vehicle, machine, tools and equipments used or intended to be used in contravention of the provisions of this Act and rules made thereunder and may stop any vehicle or persons for the purpose;(d)seize any wood, plants and machinery, tool, vehicle and any other article which he suspects is already involved or used or is about to be involved or used in contravening the provisions of this Act or rules made thereunder.(2)The provisions of Section 100 of the Code of Criminal Procedure, 1973 (No. 2 of 1974), relating to search and seizure shall so far as may be, apply to searches and seizure under this section.

8. Submission of returns.

- Every licensee shall submit such return relating to the business of [the saw mill] [Substituted by M. P. Act No. 13 of 2003 (w.e.f. 26-4-2003), for the words 'the saw mill or saw pit, as the case may be'.] and in such forms and to such officer and on such dates as may be prescribed.

9. Keeping of account of stock of wood in saw mill [x x x] [The words 'and saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).].

- All wood whether sawn or not, found in or brought to the saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] or at the site of sawing at any time or during any period by any person in any manner or by any means for purpose of sawing or for any other purpose shall always be properly accounted for and all relevant evidence, documents, receipts, order and certificate as are necessary to show that the wood is legally obtained shall be maintained and made available at the time of inspection. It shall be presumed in respect of the stock of wood which is not accounted for satisfactorily that the same has been obtained unlawfully and the stock of wood shall be liable for confiscation.

10. Prohibition of electric connection, etc., in unlicensed saw mill.

(1)On and from the appointed day and notwithstanding anything contained in any enactment relating to electricity for the time being in force, no electric energy shall be consumed and no electric connection shall be installed for the purpose of a saw mill or continued for that purpose unless such saw mill is duly licensed or deemed to be licensed in accordance with the provisions of this Act and such electric connection shall be continued so long as the saw mill operates under a valid licence

granted or deemed to be granted under this Act.(2)The State Government may make rules for carrying out the purpose of this section.

11. Appeal.

(1)Any person aggrieved by the refusal of a licensing officer to grant or renew a licence or by the suspension or revocation of a licence may, within thirty days of the service on him of the order of such refusal or suspension or revocation, appeal to the prescribed authority, who shall decide the appeal after giving the appellant and the licensing officer an opportunity of being heard. The decision of the prescribed authority shall be binding on the licensing officer.(2)The order of the licensing officer shall, unless the prescribed authority, conditionally or unconditionally directs otherwise, remain in force pending the disposal of an appeal under sub-section (1).

12. [Confiscation of unlawful stock of wood, plants and machinery etc.] [Substituted for 'confiscation of saw mill etc.' by M.P. Act No. 9 of 2005].

(1)Save as provided in clause (b) of Section 4,-(a)where a saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] is established or operated in an area declared to be a prohibited area under sub-section (1) of Section 5; or(b)where a saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] is established or operated without a licence or without renewal of licence under sub-sections (2) and (4) respectively of Section 6; or(c)where the saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] is operated after suspension or revocation of a licence under sub-section (5) of Section 6; or(d)where the saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] is operated with the aid of electrical energy or electrical installation in contravention of the provision of such-section (1) of Section 10; or(e)unaccounted wood is stored in the saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).],[the licensing officer may order confiscation of the stock of wood unlawfully stored or whole or portion of the plants, machinery, implements and equipments, as the case may be.]
[[Substituted by M.P. Act No. 9 of 2005. Prior to substitution it read as under : 'the Licensing Officer may order confiscation of the stock of wood unlawfully stored together with whole or portion of the plants and machinery, implements and equipments, which have been used in the commission of the offence.']](2)No order of confiscating any property shall be made under sub-section (1) unless the person from whom the property is seized and in the case the owner of such property is known, such person is given-(a)as notice in writing informing him of the grounds on which it is proposed to confiscate such property;(b)an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds for confiscation; and(c)a reasonable opportunity of being heard in the matter.(3)Any Forest Officer not below the rank of a Conservator of Forests empowered by the State Government in this behalf by notification, may within thirty days from the date of order of confiscation by the licensing officer under sub-section (1), either "suo motu" or on application, call for and examine the records of that order and may make such enquiry or cause such enquiry to be made and pass such orders as he may thinks fit :Provided that no order prejudicial to any person shall be passed without giving him an opportunity of being heard.(4)Any person aggrieved by an order passed under sub-section (3) may, within thirty

days from the date of communication to him of such order, appeal to the District Court having jurisdiction over the area in which the property has been seized and the District Court shall, after giving an opportunity to the parties to be heard, pass such order as it may think fit and the order of the District Court so passed shall be final. Where an order of confiscation of any property passed under sub-section (1) or sub-section (3) or sub-section (4) has become final in respect of the whole or any portion of such property, such property or portion thereof, as the case may be, shall vest in the State Government free from all encumbrances.(5)An order of confiscation under sub-section (1) or sub-section (3) or sub-section (4) shall not be deemed to bar the imposition of any other penalty to whom the person from whom the property is seized is liable under this Act.

13. Penalties.

- If any person contravenes or attempts to contravene or abets the contravention of any of provisions of this Act or rules made thereunder he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to [twenty thousand rupees] [Substituted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003), for 'ten thousand rupees'.], or with both, and in the case of a continuing contravention, with an additional fine which may extend to [four hundred rupees] [Substituted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003), for 'two hundred rupees'.] for every day during which such contravention continues after conviction for the first such conviction :Provided that (i) where such contravention, attempt or abetment relates to Section 4, or (ii) when unlawful wood involved in the contravention is more than 5 cubic meters in volume, for the second or subsequent offence the minimum imprisonment in either case shall be three months and minimum fine in either case shall be [six thousand rupees.] [Substituted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003), for 'three thousand rupees'.](2)If any person,-(i)when required by this Act or by any order under this Act to make any statement or furnish any information makes such statement or furnishes such information which is false in any material particular and which he knows or has reason to believe to be false or does not believe to be true; or(ii)makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required to maintain or furnish under this Act;he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to [six thousand rupees] [Substituted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003), for 'three thousand rupees'.], or with both.

14. Offences by companies.

(1)Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and 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 provided in this Act if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or 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 this purpose of this section, - (a) "company" means any body corporate and includes a firm or other association of individuals; (b) "director" in relation to firm, means a partner in the firm.

15. Burden of proof.

(1) Where wood whether sawn or unsawn is recovered from a saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] for which no valid licence exists in accordance with the provisions of this Act or the rules made thereunder, it shall be presumed until the contrary is proved, the burden of proving which shall lie on the accused that saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] was in operation. (2) Where, in any prosecution for an offence against this Act, or rules thereunder, it is established that any wood declared unlawful was seized in the premises of a saw mill of a person, or at any site where sawing was being done, it shall be presumed, until the contrary is proved, the burden of proving which shall lie on the accused, that such person has contravened the provisions of the Act or rules made thereunder.

16. Cognizance of offence.

- No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the licensing officer or any person duly authorised by the State Government or the licensing officer in this behalf.

17. Jurisdiction of Court.

- No Court inferior to that of a Judicial Magistrate of the first class, shall try any offence punishable under this Act.

18. Composition of offences.

(1) Forest Officer empowered by the State Government in this behalf may - (a) accept from any person whose licence is liable to be revoked or suspended under sub-section (5) of Section 6 or who is reasonably suspected of having committed for the first time of an offence relating to non-submission of return under Section 8 or of non-maintenance of account of wood under Section 9 or sawing of wood unlawfully obtained which is of less than half a cubic meter in volume, a sum not exceeding [ten thousand rupees] [Substituted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003), for 'five thousand rupees'.], in lieu of such revoked or suspension or by way of composition for each such offence, as the case may, and may impose as a penalty a sum not exceeding [ten thousand rupees] [Substituted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003), for 'five thousand rupees'.], and shall order confiscation of unlawfully obtained wood which was seized; (b) in any case in which any property has been seized as liable to confiscation under this Act, at any time before an order of confiscation is

passed by the appropriate authority under this Act, release the same on payment of the value thereof as estimated by the Forest Officer.(2)On the payment of such sum of money, or such value, or both, as the case may be, to the forest officer, the accused person if in custody shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or in relation to such property.

19. Licensing Officer, etc. to be public servant.

- The Licensing Officer and every person duly authorised to discharge any duties imposed on him by or under this Act shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code, 1960 (XLV of 1860).

20. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or person or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or order made thereunder.

21. Rewards.

- The Court or the licensing officer, as the case may be, may by order permit giving of reward in the shape of an amount which is not more than one-fourth of the amount of fine and/or of the value of the property forfeited and/or confiscated, to such person or persons whose information has indisputably led to the detection of the contravention of any of provisions of this Act or rules made thereunder.

22. Power to make rules.

(1)The State Government may, by notification, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-(a)the form in which application shall be made under sub-section (1) of Section 6 and the fee and security deposit which shall accompany such application;(b)conditions subject to which licence may be granted under sub-section (3) of Section 6;(c)the period for which, the fee on the payment of which and the condition subject to which the licence may be renewed under sub-section (4) of Section 6;(d)the form in which, the officer to which and the dates on which returns shall be submitted under Section 8;(e)for installation of electric connection etc. under sub-section (2) of Section 10;(f)the authority to which appeal may be preferred under Section 11;(g)any other matter which is required to be, or may be prescribed.(3)All rules made under this Act shall be laid on the table of the Legislative Assembly.

23. Other Acts and laws not to apply to saw mill [x x x] [The words 'and saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003)].

- Nothing contained in any other Act, or law, rule, order or any thing having a force of law in any areas of the State, shall apply to the saw mill [x x x] [The words 'and saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).], and sawing in respect of matters for which provisions are contained in this Act.

24. Saving.

- The provisions of this Act or the rules made thereunder shall not apply to,-(a)the ordinary operations of carpentry not involving saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] operations.(b)any saw mill [x x x] [The words 'or saw pit', omitted by M.P. Act No. 13 of 2003 (w.e.f. 26-4-2003).] owned by the State Government.

25. Power to remove difficulty.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may do any thing not inconsistent with such provisions, which appears to it to be necessary or expedient for the purposes of removing the difficulty :Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

26. Repeal.

- The Madhya Pradesh Kashtha Chiran (Viniyaman) Adhyadesh, 1983 (No. 11 of 1983) is hereby repealed.