

The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997

MAHARASHTRA

India

The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997

Act 45 of 1997

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The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 Maharashtra Act No. 45 of 1997 For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1997, Ex-part V, Extraordinary, pp. [This Act received the assent of the Governor on the 28th December 1997; assent first published in the Maharashtra Government Gazette, Part IV, Extraordinary, on the 29th December 1997.] An Act to make provisions for transfer of ownership of Minor Forest Produce in the Schedule Areas, and to amend the Maharashtra Minor Forest Produce (Regulation of Trade) Act, 1969. Whereas both Houses of the State Legislature were not in sessions; And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make provisions for transfer of ownership of Minor Forest Produce in the Scheduled Areas and to amend the Maharashtra Minor Forest Produce (Regulation of Trade) Act, 1969, for the purposes hereinafter appearing; and therefore, promulgated the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Ordinance, 1997, on the 10th day of December 1997; And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Forty-eighth Year of the Republic of India as follows:-

Chapter I Preliminary

1. Short title and commencement.

(1) This Act may be called the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997. (2) It shall be deemed to have come into force on the 10th December 1997.

Chapter II

Transfer of Ownership of Minor Forest Produce to Panchayats in Scheduled Areas

2. Applications.

- This Chapter, shall apply to the Panchayats in the Scheduled Areas in the State of Maharashtra, referred to in clause (1) of Article 244 of Constitution of India.

3. Definitions.

- In this Chapter, unless the context otherwise requires, - (a) "minor forest produce" means forest produce specified in the Schedule appended to this Chapter; (b) "public servant" means a person as defined in section 21 of the Indian Penal Code; (c) "Schedule" means the Schedule to this Chapter, and the State Government may, by notification in the Official Gazette, add to or modify the same, after considering the necessity for such addition or modification in the public interest. Every such notification shall be laid before each House of the State Legislature, as soon as may be, after it is issued and shall be subject to such modifications as the State Legislature may, make during the session in which it is so laid, and published in the Official Gazette, as modified by the State Legislature; (d) "Working Plan" or "Management Plan" or "Working Scheme" means a document of technical nature approved by a competent authority 'appointed by the State Government or the Central Government, as the case may be, laying the prescriptions for scientific management of specified forest area; (e) all words and expressions used in this Chapter but not defined herein shall have the meanings, respectively, as assigned to them in the Bombay Village Panchayats Act, 1958.

4. Ownership of Minor Forest Produce to vest in Panchayat.

(1) The ownership of minor forest produce found in the Government lands in the Scheduled Areas, excluding the National Parks and Sanctuaries, shall vest in the Panchayat within whose jurisdiction such area falls. Explanation. - The expressions "National Parks" and "Sanctuaries" used in this section shall have the same meaning respectively, assigned to them under the Wildlife (Protection) Act, 1972. (2) For removal of doubts, it is declared that the ownership of minor forest produce shall not include the ownership of land or trees in that Panchayat area and the same shall be governed by the provisions of the Indian Forests Act, 1927. (3) If any dispute arises regarding the ownership of minor forest produce among the Panchayats, the decision of the State Government shall be final.

5. Panchayats to adhere strictly to the Silvicultural prescriptions of Working Plan, Management Plan or Working Scheme.

(1)The Panchayats shall strictly adhere to the prescriptions contained in the Working Plan, Management Plan or Working Scheme with regards to the harvest of minor forest produce. However, in the areas not covered under the Working Plan, Management Plan or Working Scheme, the Panchayats shall adhere to the rules made, with regard to the harvesting of minor forest produce, under this Chapter, by the Conservator of Forests of the concerned Circle.(2)Whoever contravenes or violates the prescriptions contained in the Working Plan or the Management Plan or the Working Scheme or the rules made by the Conservator of Forest of the concerned Circle shall, on conviction, be punished with fine which may extend to rupees five thousand or with imprisonment which may extend to one year or with both.

6. Savings in respect of acts done in good faith.

(1)No suit, prosecution or other legal proceedings shall lie against any public servant for anything which is in good faith done or intended to be so done in pursuance of the provisions of this Chapter.(2)No suit or other legal proceedings shall lie against the State Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered, by virtue of the provisions of this Chapter or by anything which is done in good faith or intended to be so done in pursuance of the provisions of this Chapter.

7. Offences by Panchayats and provisions for Indian Forests Act, 1927, and Wildlife (Protection) Act, 1972 to apply.

(1)The Provisions of this Chapter shall be in addition to and shall not be in derogation of, the provisions for Indian Forest Act, 1927, and the Wildlife (Protection) Act, 1972, and all the penal provisions obtaining in the said Act shall also apply to all the Panchayats to which its Chapter applies.(2)If the person committing an offence under this Chapter is a Panchayat, every person who, at the time the offence was committed, was in charge of, and was responsible to, the Panchayat for the exercise of the powers and conduct of the functions and duties of the Panchayat shall also be liable to be proceeded against and punished accordingly.

Schedule

[See Section 3(a)]

1. Mahuwa flower.

2. Mahuwa Fruits.

- 3. Gum.**
- 4. Terminalia chebula (Hirda).**
- 5. Buchanania Lanzam (Charoli).**
- 6. Fmblika officinalis (Awala).**
- 7. Terminalia belerica (Baheda).**
- 8. Seeds of Azadirachita indica (Neem).**
- 9. Seeds of Pongamia pinnata (Karanj).**
- 10. Seeds of Cassia fistula (Amaitas).**
- 11. Tamarindus indica (Linn).**
- 12. Tamarind seeds.**
- 13. Lac of Butea monosperma (Palas Lac).**
- 14. Lac of Schleicheria oleosa (Kusum).**
- 15. Seeds of Jatropha carcus (Vanerand).**
- 16. Takada/Pauda Clerodendron (Phlomidis).**
- 17. Nirmali/Kapi.**
- 18. Guggul.**
- 19. Bapchi seed.**
- 20. Kunchla kari.**
- 21. Shikakai.**

22. Reethaa.

23. Semicarpus anacardium (Biba).

24. Gunj seed.

25. Broom grass.

26. Mango Seed.

27. Wawding.

28. Baphali.

29. Cut Grass and foolder.

30. Honey.

31. Palas leaves.

32. Sitaphal.

33. Cashew nuts-except those grown by forest Development Corporation of Maharashtra Limited.

Chapter III

Amendments to The Maharashtra Minor Forest Produce (Regulation of Trade) Act, 1969

8. Amendment of long title of Maharashtra LVII of 1969.

- In the long title of the Maharashtra Minor Forest Produce (Regulation of Trade) Act, 1969 (hereinafter in this Chapter, referred to as "the principal Act") the word "minor" shall be deleted.

9. Amendment of preamble of Maharashtra LVII of 1969.

In preamble of the principal Act, the word "minor" shall be deleted.

10. Amendment of section 1 of Maharashtra LVII of 1969.

- In section 1 of the principal Act, in sub-section (1), the word "minor" shall be deleted.

11. Amendment of Maharashtra LVII of 1969.

- Through out the principal Act, the word "minor" wherever it occurs, shall be deleted.

12. Amendment of section 2 of Maharashtra LVII of 1969.

- In section 2 of the principal Act, for clause (e), the following shall be substituted, namely:-(e) "Forest Produce" means such forest produce as defined under the Indian Forest Act, 1927 as are specified in the Schedule appended to this Act, and the State government may, from time to time, by notification in the Official Gazette, add to or modify the Schedule in the public interest, and the provisions of sub-section (3) of section 19 in so far as they relate to laying before and modification, as they apply in relation to any rule made under that section shall apply in relation to such notification;"

Chapter IV

Miscellaneous

13. Power to remove doubts and difficulties.

- If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, give such direction, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty: Provided that, no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

14. Repeal of Maharashtra Ordinance XIX of 1997 and saving.

- (1) The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Ordinance, 1997, is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken (including any notification issued or rules made or decision taken) under the said Ordinance shall be deemed to have been done, taken, issued or made, as the case may be, under the corresponding provisions of this Act.