

The M.P. Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001

MADHYA PRADESH

India

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Act 20 of 2001

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The M.P. Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001(M.P. Act No. 20 of 2001)[Dated 26th September, 2001]An Act to make better provision for regulation of felling of trees for the purpose of preservation and replanting of trees in urban areas of Madhya Pradesh.Be if enacted by the Madhya Pradesh Legislature in the Fifty-Second Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Madhya Pradesh Vrikshon Ka Parirakshan (Nagariya Kshetra) Adhiniyam, 2001.(2)It extends to the whole of the State of Madhya Pradesh.(3)It shall come into force in all urban areas from the date of the publication in the official gazette.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Appointing Authority" means an authority appointed by the State Government as appellate authority under this Act;(b)"Tree" means any woody plant, whose branches spring from and are supported upon a trunk or body and whose trunk or body is not less than 30 centimetres in girth at ground level and is not less than 2 metres in height from the ground level;(c)"To fell a tree" with its cognate expression means severing the trunk from the roots, up-rooting the tree and includes bulldozing, cutting, girdling, lopping, polarding, applying poisonous substance, burning or damaging a tree in any other manner;(d)"Tree Officer" means an officer appointed as such by the State Government for the purpose of this Act;(e)"Urban area" means all places within a Municipal Corporation/ Municipality/Cantonment Board or Nagar Panchayat;(f)Words and expressions used in this Act and defined in the Indian Forest Act, 1927 but not defined in this Act shall have the meanings respectively assigned to them in that Act.

3. Restriction on felling of tress.

- Notwithstanding any custom, usage, contract or local-law for the time being in force, no person shall without permission under the provision of this Act fell any tree or cause any tree to be felled in any land, whether of his ownership or otherwise, situated within the urban area.

4. Appointment of Tree Officer.

- The State Government may appoint one or more forest officers of the rank not below that of a Gazetted Forest Officer, Commissioner, Municipal Corporation or Chief Municipal Officer as "Tree Officer" for the purposes of this Act, for each Urban Area.

5. Appointment of other officers.

- The State Government may, from time to time, appoint such other officers and employees of Forest Department or Local Authority as may be considered necessary who shall be subordinate to the Tree Officer.

6. Procedure for obtaining permission to fell, cut, remove or dispose of a tree.

(1)Any person desiring to fell or remove or otherwise dispose of, by any means, a tree, shall make an application to the concerned Tree Officer for permission in such form and containing such particulars and accompanied by such documents as may be prescribed.(2)On receipt of the application, the Tree Officer shall acknowledge the application and may by order after inspecting the tree and holding such enquiry, as he may deem necessary, either grant permission in whole or in part or refuse permission for reasons to be recorded in writing, within 30 days from the date of receipt of the application ;Provided that no permission shall be granted to any person from the same area on more than two occasions during the same year :Provided further that no permission shall be refused if the tree-(i)is dead, diseased or wind fallen; or(ii)constitutes a danger to life and property; or(iii)is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or(iv)constitutes an obstruction to traffic or if necessary for maintenance of power/telephone lines etc.(3)The permission granted under sub-section (2) may be subject to the condition that the applicant shall plant another tree or trees of the same or other suitable species on the same site or premises, and where this is not possible make such contribution as may be prescribed, within thirty days from the date the tree is felled or within such extended period as the Tree Officer may allow.(4)If the Tree Officer fails to communicate the decision within the period specified under sub-section (2) the permission applied for shall be deemed to have been granted.

7. Preservation of trees.

- It shall be the duty of the applicant to comply with the order made under sub-section (3) of Section 6 and to ensure that the tree or trees grow well and are well preserved.

8. Implementation of order made under Section 6.

(1) Every person who is under an obligation to plant trees under an order made under Section 6 shall start preparatory work within thirty days of the date of receipt of the order or directions, as the case may be and shall plant trees in accordance with such order or directions in the ensuing or following rainy season or within such extended time as the Tree Officer may allow and shall provide adequate and effective protection to the trees that are planted in the land or the area from any damage. (2) In case of default by such person, the Tree Officer may cause trees to be planted and may recover the cost of plantation from such person as an arrear of land revenue.

9. Appeal.

(1) The State Government may by notification, specify the authorities who shall be the appellate authorities for the purposes of this Act. (2) When any decision is given or order is made under Sections 6 and 7 by the Tree Officer, any person aggrieved by that order of Tree Officer, may appeal to the appellate authority within a period of thirty days of passing such order or direction by the Tree Officer. (3) The appellate authority shall decide the appeal within sixty days from the date of its receipt, after giving reasonable opportunity to the appellant of being heard.

10. Seizure of property.

- Where the Tree Officer or any Forest Officer has reasons to believe that an offense under this Act has been committed in respect of any tree, he may seize the tree or part thereof which has been severed from the ground or the trunk, as the case may be, along with the tools and implements used for felling. When the seizure is made by forest officer he will forward the case to the Tree Officer for further action.

11. Power to release property seized under Section 10.

- The Tree Officer may release the property seized under Section 10, if the owner of the land executes a bond in such form as may be prescribed for its production whenever required.

12. Timber/Fuelwood, tools etc., when liable to confiscation.

(1) All timber or fuel-wood which is not the property of the State Government and in respect of which an offense has been committed under this Act, and all animals, tools, boats, vehicles, ropes, chain or any other articles used in committing such offense, shall be subject to provisions of Sections 9, 11 and 17, be liable to confiscation upon conviction of the offender for such offense. Such confiscation may be in addition to any other punishment prescribed for such offense. (2) Any timber produced from the tree, tools and implements etc. and any boats, animals or other conveyance confiscated under sub-section (1) shall be disposed of by the Court in such manner as may be prescribed.

13. Offense by organizations.

(1) If the person committing an offense under this Act is an organization, the organization as well as every person-in-charge of and responsible to the organization for the conduct of its business at the time of the commission of the offense shall be deemed to be guilty of the offense 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 if he proves that the offense was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offense. (2) Notwithstanding anything contained in sub-section (1) where an offense under this Act has been committed by an organization and it is proved that the offense has been committed, with the consent or connivance of, or is attributable to any neglect on the part of its Head of Office/Unit, Secretary, Treasurer, Director, Manager or other officer of the Organization, such Head of Office/Unit, Secretary, Treasurer, Director, Manager or other officer of the organization shall also be deemed to be guilty of that offense and shall be liable to be proceeded against and punished accordingly.

14. Power to prevent commission of offense.

- Every Tree Officer or his subordinate or any Forest, Revenue or Police Officer shall prevent and may intervene for the purpose of preventing the commission of any offense under this Act.

15. Power to compound offense.

(1) The State Government may, by notification, authorize a Tree Officer or any Forest Officer not below the rank of a Divisional Forest Officer, to accept from any person against whom there is reason to believe that he has committed offense under this Act in respect of any tree, such sum of money as may be prescribed by way of composition for the offense which such person is suspected to have committed. (2) On the payment of such sums or such value or both as the case may be, to such officer the property seized and the offender, if in custody, shall be released and no further proceeding shall be taken against such offender or property.

16. Contravention of Act to be reported by certain persons.

- It shall be the duty of every Forest Officer, public servant or any person to give immediate information coming to his knowledge, if any contravention of Section 3 and of preparation to commit such contravention to the Tree Officer.

17. Execution of order for payment of Money.

- Any sum, the payment of which has been directed to be made by any person under this Act shall, without prejudice to any other mode of recovery under any law for the time being in force, be recoverable from him as arrear of land revenue.

18. Penalty.

- Whoever fells any tree or causes any tree to be felled in contravention of any provision of this Act or Rules or order made thereunder shall, on conviction be punished with imprisonment which may extend to two years or with fine which may extend to fifty thousand rupees or with both. The fine, if not deposited within the prescribed time limit, will be recoverable as arrears of land revenue.

19. Persons under this Act to be Public Servants.

- Every person exercising power or discharging any duties or functions under this Act shall be deemed to be public servants within the meaning of Section 21 of Indian Penal Code, 1860 (No. 45 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 person empowered to exercise power or to perform duties or discharge functions under this Act for anything done or purporting to be done or omitted to be done in good faith under this Act or the rules and orders made thereunder.

21. Power of State Government for Preservation of Trees.

(1)The State Government may, in the interest of general public, declare by notification that any class of trees shall not be felled for such period as is specified in that notification.(2)The management of such trees shall be regulated in the prescribed manner.

22. Investing Tree Officer with certain powers.

- The State Government may by notification invest the Tree Officers and other officer with all or any of the following powers, namely :-(a)Power to enter upon any land to survey, demarcate and make a map of the same;(b)Power to hold enquiries into offense under the Act and in the course of such enquiry to receive and record evidence.

23. Transit to felled material.

- The provisions of Sections 41 and 42 of Indian Forest Act, 1927 (No. 16 of 1927) shall mutatis mutandis, apply to the transit of the felled trees under this Act.

24. Power to make rules.

(1)The State Government may, by notification, make rules to carry out the purposes of this Act.(2)All rules made under this Act shall be laid on the table of the Legislative Assembly.