

Tamil Nadu Oilpalm (Regulation of Production and Processing) Act, 1994

TAMILNADU

India

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Act 34 of 1994

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Tamil Nadu Oilpalm (Regulation of Production and Processing) Act, 1994(Tamil Nadu Act 34 of 1994)Statement of Objects and Reasons - Tamil Nadu Oilpalm (Regulation of Production and Processing) Act, 1994 (Tamil Nadu Act 34 of 1994). - To bridge the gap in the production and consumption of edible oil in Tamil Nadu, Oilpalm Project was formulated, as, oilpalm has the highest potentiality in the production of edible oil among all the oilseed crops.2. Based on the report of Dr. Chadda, Government of India, Ministry of Agriculture, Department of Agriculture and Co-operation (Technology Mission on Oilseeds and Pulses), the three districts of Tiruchirapalli, Thanjavur and Nagapattinam-Quid-e-Milleth were identified to be suitable for oilpalm cultivation in this State.3. It has been programmed to cover 10,000 hectares of area under oilpalm during the VIII Five Year Plan period. During 1993-94, an area of 2,000 hectares have been covered under oil-palm cultivation initially and another 2,000 hectares are to be covered during the year 1994-95. The Central Government and State Government provide the financial assistance to the Oil-palm growers by way of subsidy towards seedlings and cultivation cost, and loans are also arranged through Nationalised Banks. Besides this, many private firms and individuals have started evincing interest in Oilpalm cultivation.4. It is, therefore, considered necessary to undertake a legislation to provide for the regulation of cultivation of oilpalm and for orderly growth and processing thereof and also to ensure reasonable prices to oilpalm growers.5. The Bill seeks to achieve the above objects.Published in Part IV - Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 4th May 1994.Received the assent of the Governor on the 28th June 1994 and first published in Part IV - Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 30th June 1994.An Act to provide for the regulation of cultivation of oilpalm and for orderly growth and processing thereof and for matters connected therewith.Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-fifth Year of the Republic of India as follows : -

1. Short title, extent and commencement.

(1) This Act may be called the Tamil Nadu Oilpalm (Regulation of Production and Processing) Act, 1994. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different areas and for different provisions of this Act.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a) "factory" means any premises including the precincts thereof or any part of which any manufacturing process connected with the processing of oilpalm FFB is carried on with aid of mechanical power; (b) "factory zone" means an area assigned to a factory under section 11; (c) "Government" means the State Government; (d) "occupier of the factory" means the person who, or the authority which, has the ultimate control over the affairs of the factory and, where the said affairs are entrusted to a Secretary, Manager, Managing Director, Executive Director or Chief Executive Director, such Secretary, Manager, Managing Director, Executive Director or Chief Executive Director shall be deemed to be the occupier of the factory; (e) "oilpalm" means the palm of the genus, *Elaeis* and includes the species, *Elaeis guineensis* and its hybrids; (f) "Oilpalm Commissioner" means the Oilpalm Commissioner appointed or designated under section 8; (g) "Oilpalm FFB" means the unprocessed oilpalm fresh fruit bunch and includes its loose form also; (h) "Oilpalm grower" means a person who cultivates oilpalm, whether by himself or by his own servants or by hired labour or by members of his family or by his tenants and includes Oilpalm Grower's Co-operative Society, but not a member thereof, and a company as defined in section 3 of the Companies Act, 1956 (Central Act I of 1956); (i) "Oilpalm Grower's Co-operative Society" means a society registers under the Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 30 of 1983) which has among its objects and functions the cultivation and sale of oilpalm FFB by its members, and includes the Union or Federation of any such societies; (j) "Oilpalm Inspector" means the Oilpalm Inspector appointed or designated under section 9; (k) "oilpalm product" means any product obtained directly from the oil-palm and includes palm oil, palm kernal, palm kernal cake, palm fatty acids, oil-palm seeds, oilpalm seedlings and palm kernal oil; (l) "Project Management Committee" means the Tamil Nadu Oilpalm Project Management Committee constituted under section 3; (m) "Zonal Committee" means a Zonal Committee constituted under section 5.

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 committee for the State to be called the Tamil Nadu Oilpalm Project Management Committee. (2) The Project Management Committee shall consist of the following members, namely :- (a) the Secretary to Government in-charge of Agriculture, who shall be the Chairman, ex-officio; (b) the Secretary to Government in-charge of Finance, ex-officio; (c) the Secretary to Government in-charge of Planning and Development, ex-officio; (d) the Secretary to Government in-charge of Co-operation, Food and Consumer Protection, ex-officio; (e) the Secretary to Government in-charge of Industries, ex-officio; (f) a representative of the Indian Council for

Agricultural Research, New Delhi;(g)a representative of the Department of Agriculture and Co-operation (Technology Mission on Oilseeds and Pulses), Government of India;(h)a representative of the National Bank for Agriculture and Rural Development;(i)a representative of the Tamil Nadu Agricultural University to be nominated by its Vice-Chancellor;(j)a representative of the Oilpalm processing factories nominated by the Government;(k)one person from among the oilpalm growers nominated by the Government;(l)the Director of Agriculture, who shall be the Member-Secretary, ex-officio.(3)The term of the Project Management Committee shall be three years, but the Government may, for reasons to be recorded in writing, reconstitute the Committee at any time before the expiry of the term.(4)In case a Secretary to Government, who is an ex-officio member, is unable to attend the meetings of the Project Management Committee for any reason, he may depute any officer of his department not lower in rank than that of a Deputy Secretary to Government to attend the meeting.

4. Functions of Project Management Committee.

- It shall be the duty of the Project Management Committee to advise the Government on the following matters, namely : -(a)extension of the areas under cultivation of oilpalm;(b)problems relating to the cultivation of oilpalm;(c)problems faced by the oilpalm processing industry;(d)co-ordination between the oilpalm growers and industry and sorting out of all matters which may arise;(e)to bring to the notice of the Government any measures that will suit the orderly development of the oilpalm cultivation and industry;(f)such other matters as may be prescribed.

5. Constitution of Zonal Committee.

(1)The Government may, by notification, declare each area specified therein attached to a processing factory as a Zone (hereinafter referred to as "a factory zone") and the Oilpalm Commissioner may constitute a Zonal Committee for each such zone:Provided that the Oilpalm Commissioner may, with the approval of the Government, constitute one Zonal Committee for more than one factory zone or more than one Zonal Committee for each factory zone, if it is deemed necessary in the interests of effectively carrying out the purposes of this Act.(2)The Zonal Committee constituted under sub-section (1) shall consist of the following members, namely : -(a)a Chairman nominated by the Oilpalm Commissioner with the approval of the Government, from among the oilpalm growers residing in the factory zone;(b)one person representing the factory located in the factory zone to be nominated by the Managing Director of the factory concerned;(c)four persons from among the oilpalm growers to be nominated by the Oilpalm Commissioner;(d)the Joint Director of Agriculture, the Assistant Director of Agriculture and the Executive Engineer (Agricultural Engineering), representing the area;(e)a representative of the Tamil Nadu Agricultural University to be nominated by its Vice-Chancellor;(f)the Oilpalm Inspector concerned, who shall be the Member-Secretary of the Committee:Provided that the members specified in clause (d) shall have the right to take part in the meetings of the Zonal Committee, but shall not be entitled to vote at any such meeting.(3)The Zonal Committee shall be a body corporate having perpetual succession and common seal with power to acquire, hold and dispose of property and to enter into contracts and shall by the said name sue and be sued.(4)The term of the Zonal Committee shall be three years and, upon its expiry, the Committee shall be reconstituted in accordance with the provisions of sub-section (1):Provided

that if the Oilpalm Commissioner is satisfied that it is necessary so to do, he may with the approval of the Government, by order, dissolve the committee, before the expiry of its term: Provided further that the Oilpalm Commissioner shall not pass any such order unless the committee has had an opportunity of making its representation. (5) When a Zonal Committee is dissolved, the following consequences shall follow : - (a) all the members shall vacate their offices on the date specified in the order, but without prejudice to their eligibility for renomination as members; (b) the committee may be reconstituted within three months of its dissolution by the Oilpalm Commissioner in accordance with the provisions of sub-section (1); (c) the powers and functions of the committee shall, pending its re-constitution, be exercised and performed by the Member-Secretary subject to such restrictions as may be specified in the order. (6) The Oilpalm Commissioner may, with the approval of the Government, remove any member of the Zonal Committee, including the Chairman, from his office after recording the reasons in writing for such removal: Provided that the order removing a member shall not be passed by the Oilpalm Commissioner unless such member has had an opportunity of making his representation. (7) Subject to the provisions of this Act or any rule made thereunder, the Zonal Committee may, by order, regulate its procedure in respect of the conduct of meeting.

6. Powers and functions of Zonal Committee.

(1) The functions of the Zonal Committee shall be to - (a) consider the programme of development of oilpalm cultivation in the Factory Zone; (b) deliberate on the problems faced by the factory or the growers in cultivation, transport and processing of oilpalm; (c) devise plans for removal of such problems with the fund as may be available with the Committee and to recommend to the Government such action as is necessary for solving the problems; (d) recommend to the local bodies, Highways and Rural Works and Public Works Departments of the Government for proper improvement and upkeep of roads leading to the factory zone from the cultivating centres including feeder roads; (e) take steps for prevention and control, of oilpalm diseases and pests affecting oilpalm and render all possible help for the development of oilpalm cultivation; (f) draw up plans for training of the cultivators and for extension work in respect of oilpalm with the fund as may be available with the committee; (g) consider grievances and complaints of the growers regarding transportation, purchase of oilpalm FFBs and payment of price by the factory to the oil-palm cultivators; and (h) administer the fund as may be available. (2) The Government or the Oilpalm Commissioner, may call a joint meeting of the Chairmen and the members of all the Zonal Committees for deliberating on the issues common to all the factory zones.

7. Zonal Committee Fund.

(1) There shall be a fund at the disposal of the Zonal Committee for the performance of the various functions entrusted to it. (2) The fund of the Committee shall consist of - (a) grants made by the Government either for a general purpose or for any specific purpose for the performance of the functions of the Committee; (b) such contributions as may be made by the factories, oilpalm growers, Oilpalm Grower's Co-operative Societies or such other organisations interested in the development of oilpalm cultivation and processing.

8. Appointment of Oilpalm Commissioner.

- Subject to such rules as may be made in this behalf, the Government shall appoint or designate any officer of the Agriculture Department, not below the rank of Additional Director of Agriculture, as Oilpalm Commissioner to exercise the powers and perform the functions of the Oilpalm Commissioner under this Act.

9. Oilpalm Inspector.

(1) Subject to such rules as may be made in this behalf, the Government may appoint such number of officers of the Government in the cadre of Assistant Director of Agriculture as Oilpalm Inspectors, for such areas as may be specified, to exercise the powers and perform the functions vested in the Oilpalm Inspectors under this Act. (2) Notwithstanding anything contained in sub-section (1), the Government may designate such number of officers of the Government in the cadre of Assistant Director of Agriculture as Oilpalm Inspectors to exercise the powers and perform the functions of the Oilpalm Inspectors under this Act.

10. Register of oilpalm growers and Oilpalm Grower's Co-operative Societies.

- The occupier of the factory in every factory zone shall maintain in such form and in such manner as may be prescribed a register of oilpalm growers in the zone attached to the factory in accordance with the provisions of section 11. The register shall be updated periodically and at least every year and shall always be available in the office of the factory for inspection by the Oilpalm Inspector or any other authority authorised by the Government or Oilpalm Commissioner in this behalf. A copy of the list of oilpalm growers and the Oil-palm Grower's Co-operative Societies in the zone concerned as in the register shall also be made available by the said occupier to the Zonal Committee. It shall be competent for the Oilpalm Commissioner, on the report submitted by the inspecting authority, to order such corrections as he deems fit in the register maintained under this section.

11. Declaration of factory zone.

(1) The Government shall have the power to declare, by notification, any area as factory zone for the purpose of supply of oil-palm fresh fruit bunches to the factory specified for the purpose or purchase of oilpalm FFBs and any other oilpalm product by the factory. (2) Where a particular area is declared as factory zone under sub-section (1), the oilpalm growers in that area shall supply the fresh fruit bunches from the oilpalm plantations grown in that area only to the factory to whom the factory zone is attached and to none else. (3) Where a particular factory zone is declared under this section, the occupier of the factory in the factory zone concerned and for which the zone is declared, shall buy all the oilpalm FFBs produced by all the oilpalm growers or their co-operative societies in that factory zone as are offered for sale by them at a price which shall not be less than the price fixed by the authority empowered to fix the price under this Act.

12. Failure to buy oil-palm FFBs.

(1) In the event of failure on the part of the occupier of a factory to buy all the oilpalm fresh fruit bunches from the growers in the factory zone declared in relation to a factory, without any valid reason, the occupier of the factory shall be liable to compensate the loss that may have been caused to the grower on account of non-purchase of the oilpalm FFBs by the factory in addition to the penalty specified in section 17. (2) Where an occupier of a factory refuses to buy particular consignment or consignments of oilpalm FFBs from a grower, he shall assign reasons therefor in writing: Provided that damage, inefficient running, breakdown of plant machinery, failure to use capacities, and any other operational problems shall not be valid reasons for refusal of the consignment of oilpalm FFBs and shall be treated as the failure on the part of the factory to buy the oilpalm FFBs for purposes of sub-section (1): Provided further that the Oilpalm Commissioner shall be the authority to decide whether there are valid reasons for the failure to buy oilpalm FFBs and his decision thereon shall be final.

13. Power to fix prices.

(1) The Government may suo motu fix the minimum price of oilpalm FFBs or authorise the Oilpalm Commissioner to do so subject to such guidelines as they may give in that regard, from time to time. (2) Where the Oilpalm Commissioner is authorised to fix the prices of oilpalm FFBs to be purchased by the factory, he shall declare at such intervals as may be directed by the Government the minimum price at which the oilpalm FFBs be purchased by the factories.

14. Payment of oilpalm price.

(1) The occupier or owner of an oilpalm factory shall make suitable provision to the satisfaction of the Oilpalm Commissioner for the payment of the price of oilpalm FFB supplied to the factory. (2) Upon the delivery of oilpalm FFB, the occupier or owner of a factory shall be liable to pay within fourteen days from the date of such delivery the price of the oilpalm FFB so supplied. (3) The price of the oilpalm FFB remaining unpaid on the expiration of the period specified in sub-section (2) shall carry interest at fifteen per cent per annum from the date of delivery of oilpalm FFB and it shall be recovered as if it were an arrear of land revenue. (4) If any occupier or owner of a factory fails to pay the price of the oilpalm FFB sold to him in accordance with the provisions of sub-section (2) or the interest payable under sub-section (3), he shall, in addition to the said price or the interest being recovered from him as an arrear of land revenue, be liable to the penalty provided for under clause (b) of sub-section (4) of section 3 of the Essential Commodities Act, 1955 (Central Act X of 1955), as if he has contravened a direction issued under that clause. (5) Without prejudice to the provisions of the foregoing sub-sections, where the owner or occupier of a factory or any other person competent in that behalf, enters into an agreement with a bank under which the bank agrees to give advance to him on the security of palm oil produced or to be produced in the factory, the said occupier, owner or other person, as the case may be, shall provide in such agreement that such percentage which shall not be less than fifty per cent of the total amount of advance, as may be prescribed, shall be set apart and be available only for payment to oilpalm growers or other co-operative societies on account of the quantity of oilpalm FFB purchased or to be purchased for

the factory from those oilpalm growers or from or through those societies and interest thereon and such societies commission in respect thereof.(6)Every such occupier, owner or other person as aforesaid shall send a copy of every such agreement to the Oilpalm Commissioner within a week from the date on which it is entered into.

15. Levy of tax on purchase of oilpalm FFBs.

(1)The Government may, by notification, levy a tax at a rate not exceeding rupees one hundred per MT, on the purchase of FFBs required for use, consumption or sale in a factory.(2)The Government may, by notification, remit in whole or in part such tax in respect of FFBs used or intended to be used in a factory for any purpose specified in such notification.(3)The tax levied under sub-section (1) shall be collected from the occupier of the factory or from the person receiving oilpalm FFBs or the oilpalm processing factory in such manner and by such authority, as may be prescribed.

16. Maintenance of record and inspection.

(1)Every occupier of the factory shall maintain such records as are prescribed or as required by the Oilpalm Commissioner with the approval of the Government.(2)An Oilpalm Inspector may at any time inspect a factory and verify such records, reports, statements and registers as may be required to be maintained in connection with due implementation of the provisions of this Act and may also direct the occupier of a factory to produce them for his verification.(3)The powers under sub-section (2) may be exercised by any officer authorised in this behalf by the Oilpalm Commissioner by a general or special order.(4)An occupier of the factory who fails to maintain the records as required by this section or fails or refuses to produce the same when called for by an authority under this Act shall be punishable under section 17.

17. Penalties.

(1)Every person or occupier of a factory who contravenes the provisions of section 11 shall be punishable with fine which may extend to rupees ten thousand and in the case of a continuing contravention of the provisions of the said section with a further fine not exceeding rupees one thousand for each day during which the contravention continues.(2)Any person or occupier of a factory contravening any of the provisions of this Act or of any rule or order made thereunder, for which no penalty is provided in sub-section (1) shall be punishable with fine which may extend to rupees five thousand.

18. Cognizance of offences.

(1)No Court shall take cognizance of any offence punishable under this Act except on complaint in writing made by the Oilpalm Commissioner or any authority or officer authorised by him in this behalf.(2)No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence punishable under this Act.

19. Compounding of offences.

- On the application of a person accused of an offence under this Act or any rule or order made thereunder, the Oilpalm Commissioner or any authority or officer authorised by him in this behalf may, at any stage, compound such offence by levying a compounding fee not exceeding rupees ten thousand.

20. Protection of action taken in good faith.

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. (2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by virtue of any provision of this Act or by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

21. Determination of occupier of factory for purposes of this Act.

(1) Where the occupier of an oilpalm factory is a firm or other 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 occupier of the factory or owner thereof is punishable: Provided that the firm or association may give notice to the Oilpalm Commissioner that it has nominated one of its partners or members to be occupier of the factory for the purposes of this Act, and such individuals shall be deemed to be the occupier of factory for the purposes of this Act, until further notice cancelling his nomination is received by the Oilpalm Commissioner or until he ceases to be a partner or member of the firm or association, as the case may be. (2) Where the occupier of factory is a company or a co-operative society, any one or more of the Directors thereof, or, in the case of a private company, any one or more of the shareholders thereof may be prosecuted and punished under this Act, for any offence for which the occupier of the factory is punishable: Provided that the company or co-operative society may give notice to the Oilpalm Commissioner that it has nominated a Director, and a private company may give notice to the said officer that it has nominated a shareholder, to be the occupier of the factory for the purposes of this Act, and such Director or shareholder shall be deemed to be the occupier of the factory for the purposes of this Act, until further notice cancelling his nomination is received by the Oilpalm Commissioner or until he ceases to be a Director or shareholder, as the case may be.

22. Power to give direction.

- The Government may, subject to the provisions of this Act, by order, direct the Oilpalm Commissioner or any other officer to make an enquiry or to take appropriate proceeding under this Act, in respect of any matter specified in the order, and the Oilpalm Commissioner or the other officer, as the case may be, shall report to the Government in due course, the result of the enquiry made or the proceeding taken by him.

23. Delegation of powers.

- The Government may, by notification, delegate all or any of their powers under this Act, except section 24, to any person or authority subordinate to them subject to such conditions and to such control and revision as may be specified in the notification and they may, in the like manner, withdraw any powers so delegated.

24. Power to make rules.

(1)The Government may make rules for carrying out all or any of 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)conditions governing the declaration of a factory zone and the alterations or cancellation thereof;(b)plucking, collection and delivery of the oilpalm FFBs by the growers or, as the case may be, by the companies and the prescription of collection centres by the Oilpalm Commissioner;(c)any other matter, which is to be, or may be provided for, by rules under this Act.(3)Every rule, or order made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly, and if before the expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule or order or notification, or the Legislative Assembly decides that the rule or order or notification should not be made or issued, the rule or order or notification shall, thereafter, 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 or order or notification.