

Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955

TAMILNADU

India

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Act 17 of 1955

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Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955(Tamil Nadu Act 17 of 1955)Statement of Objects and Reasons - Tamil Nadu Hill Stations (Preservation of Trees) Amendment Act, 1961 (Tamil Nadu Act 45 of 1961). - The existing provisions of the Madras Hill Stations (Preservation of Trees) Act, 1955 (Madras Act XVII of 1955) do not permit the cutting or pruning of the branch of any tree for the purpose of providing proper shade for coffee or tea plantation. Under the provisions of the Act, the Collector may grant permission to cut trees only subject to the condition that provision is made for effective regeneration of an equal number of the same or other suitable species of trees.2. It has been represented to Government that in the interests of improving coffee crops, permission should be granted for enabling the cutting down of silver oak trees in the coffee plantations in Yercaud panchayat area in Salem district and also to the lopping of branches of trees for providing proper shade for coffee or tea plantations.3. It has also been represented to the Government that permission may be granted to clear lands by felling trees for growing coffee or tea, so that the development programme in regard to these crops approved by the Coffee or Tea Board may be completed. It is accordingly proposed to amend the Act.4. The Bill seeks to give effect to the above objects.Statement of Objects and Reasons - Tamil Nadu Hill Stations (Preservation of Trees) Amendment Act, 1979 (Tamil Nadu Act 14 of 1980). - The existing provisions of the Tamil Nadu Hill Stations (Preservation of Trees) Act, 1955 (Tamil Nadu Act XVII of 1955) are found to be inadequate in checking the indiscriminate felling of trees in the hill areas in this State. Under the existing provisions of the said Act, permission for cutting of trees cannot be refused in certain cases, even if the cutting of the trees in those cases might affect the landscape, vegetable cover and climate of the hill areas. It is proposed to constitute a Committee with the Collector of the District as the Chairman and officials of the Forest, Agriculture and Revenue Departments as members, to enforce the provisions of the Act more effectively and to scrutinise the applications for permission for cutting trees. Since the security deposit of rupees ten to be furnished by the permit holder for cutting the silvi culturally matured trees is found to be quite inadequate considering the value of the trees and to ensure effective fulfilment of the condition, namely, the regeneration of an equal number of the same or other suitable species of the trees, it is proposed to enhance the amount of the security

deposit to rupees one hundred per every tree permitted to be cut.² Under section 7 of the said Act, any person who is guilty of an offence under section 3 or section 4 or who contravenes any conditions imposed in a permission granted under this Act shall, on conviction, be punishable with fine which may extend to five thousand rupees. But, there is no provision to punish a person who fails to pay the fine amount. It is, therefore, proposed to amend the said section suitably, providing for a punishment of imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or both.³ The Bill seeks to achieve the above objects. Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 5th November 1979. Received the assent of the Governor on 2nd September 1955 and published in Fort St. George Gazette, dated the 2nd September 1955. An Act to provide for the regulation of the cutting of trees and the cultivation of land in [hill areas] [Substituted for the words 'Hill Stations' by Tamil Nadu Hill Areas (Preservation of Trees) Amendment Act, 1980 (Tamil Nadu Act 14 of 1980).] in the [State of Tamil Nadu] [Substituted for the expression 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.]. Whereas there has been indiscriminate cutting of trees in hill areas the [State of Tamil Nadu] [Substituted for the expression 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.] involving large-scale deforestation and resulting in considerable soil erosion; And Whereas with a view to prevent deforestation and soil erosion and also to preserve the special characteristics of the [hill areas] [Substituted for the words 'Hill Stations' by Tamil Nadu Hill Areas (Preservation of Trees) Amendment Act, 1980 (Tamil Nadu Act 14 of 1980).] as regards landscape, vegetal cover and climate, it is necessary, to regulate the cutting of trees also the cultivation of land in [hill areas] [Substituted for the words 'Hill Stations' by Tamil Nadu Hill Areas (Preservation of Trees) Amendment Act, 1980 (Tamil Nadu Act 14 of 1980).] in the [State of Tamil Nadu] [Substituted for the expression 'State of Madras' by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.]. Be it enacted in the Sixth Year of the Republic of India as follows:-

1. Short title and application.

(1) This Act may be called the Tamil Nadu [Hill Areas] [Substituted for the words 'Hill Stations' by Tamil Nadu Hill Areas (Preservation of Trees) Amendment Act, 1980 (Tamil Nadu Act 14 of 1980).] (Preservation of Trees) Act, 1955. (2) It applies to all [hill areas] [Substituted for the words 'Hill Stations' by Tamil Nadu Hill Areas (Preservation of Trees) Amendment Act, 1980 (Tamil Nadu Act 14 of 1980).] in the State specified in the Schedule and to such other [hill areas] [Substituted for the words 'Hill Stations' by Tamil Nadu Hill Areas (Preservation of Trees) Amendment Act, 1980 (Tamil Nadu Act 14 of 1980).] as may, by notification, be specified by the Government. (3) The Government may, by notification, exclude from any [hill areas] [Substituted for the words 'Hill Stations' by Tamil Nadu Hill Areas (Preservation of Trees) Amendment Act, 1980 (Tamil Nadu Act 14 of 1980).] to which this Act applies, any area within or include within any such area, any area in the vicinity thereof. Notes. - This Act was extended to the added territories by section 3 of, and the First Schedule to, the Tamil Nadu (Added Territories) Extension of Laws Act, 1964 (Tamil Nadu Act 8 of 1964), repealing the corresponding law in force in those territories.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) ["Committee" means any committee constituted under section 2-A and having jurisdiction;] [Substituted by the Tamil Nadu Hill Stations (Preservation of Trees) Amendment Act, 1979 (Tamil Nadu Act 14 of 1980).] (b) "cultivation" means raising of cereals, tubers or plantation crops, but shall not include the raising of kitchen gardens or flower gardens; Explanation. - "Kitchen garden" in this clause means the area not exceeding fifty cents appurtenant to a residence and used for growing vegetables or bona fide consumption of the residents therein; (c) "Government" means the State Government; (d) "new cultivation" means cultivation of land which remained uncultivated for three consecutive years; (e) "notification" means a notification published in the [Tamil Nadu Government Gazette] [Substituted for the words 'Tort St. George Gazette' by the Tamil Nadu Hill Stations (Preservation of Trees) Amendment Act, 1979 (Tamil Nadu Act 14 of 1980).]; (f) "prescribed" means prescribed by rules made under this Act; (g) "tree" includes bamboo, but does not includes brushwood.

2A. [Constitution of Committee. [Inserted by the Tamil Nadu Hill Stations (Preservation of Trees) Amendment Act, 1979 (Tamil Nadu Act 14 of 1980).]

(1) The Government may, by notification, with effect from such date as may be specified therein, constitute for each hill area a committee for the purpose of this Act consisting of the following members, namely: - (a) the District Collector having jurisdiction as Chairman of the Committee; (b) the District Forest Officer having jurisdiction over the hill area; (c) the Tahsildar having jurisdiction over the hill area; (d) the Executive Engineer of the Agriculture Department in-charge of soil conservation having jurisdiction over the hill area; (e) the Personal Assistant (General) to the Collector of the District, who shall be the Secretary of the Committee.

2B. Meetings of Committee.

(1) The Committee may meet as often as may be necessary and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings (including quorum at meetings) as may be prescribed by the Government under this Act, provided that not more than two months shall elapse between one meeting of the committee and another. (2) The Chairman of the Committee or in his absence any member nominated by him on that behalf shall preside at a meeting of the Committee. (3) All questions at a meeting of the Committee shall be decided by a majority of the votes of the members present and voting and in case of an equality of votes, the Chairman of the Committee or in his absence the person presiding, shall have a second or casting vote.

2C. Vacancy in Committee, etc. not to invalidate acts or proceedings.

- No act or proceeding of the Committee shall be deemed to be invalid by reason only of the existence of any vacancy in the Committee or any defect in the nomination of a member thereto, or on the ground only that more than two months have elapsed between one meeting of the Committee

and another.]

3. Prohibition of cutting of trees.

- [(1) No person shall, without the previous permission in writing of the Committee -(a)cut, uproot or bum, or cause to be cut, uprooted or brunt, any tree, or(b)fell or remove any tree which, constitutes danger to life or property, or is dead or diseased or wind fallen, or has silviculturally matured, or(c)cut or remove any tree for the improvement of coffee crop in any coffee plantation in such area in any hill area as the Government may, by notification, specify in this behalf:Provided that where permission to cut or remove a tree is granted on the grounds referred to in clauses (a) to (c) above, the Committee shall impose as a condition the effective regeneration of an equal number of the same or other suitable species of trees, and for that purpose, may require the person to whom the permission is granted to deposit with the Committee a sum not exceeding one hundred rupees for each tree permitted to be cut or removed.] [Substituted by the Tamil Nadu Hill Stations (Preservation of Trees) Amendment Act, 1979 (Tamil Nadu Act 14 of 1980).](1-A) Notwithstanding anything contained in sub-section (1), permission may be granted by the Government to any person to clear any land by cutting, uprooting or burning or causing to be cut, uprooted or burnt any tree subject to the condition, that the land so cleared shall be used for growing coffee or tea.(2)No person shall cut or otherwise damage, or cause to be cut or damaged, the branch of any tree:Provided that this shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural or horticultural practice:Provided further that nothing contained in this sub-section shall be deemed to prevent the cutting or pruning of the branch of any tree for the purpose of providing proper shade for coffee or tea plantation.

4. Prohibition of cultivation.

(1)No person shall use, or cause to be used, any land with a slope of more than one in three for any purpose other than the growing of trees.(2)No person shall use, or cause to be used, any land with a slope of less than one in three for new cultivation except with the previous permission of the [Committee which] may, while granting such permission impose such conditions as [it] may deem fit including those relating to soil conservation measures.(3)No person shall, after the expiry of one year from the date on which this Act comes into force in any [hill area], use, or cause to be used, for cultivation any land in such [hill area] with a slope of less than one in three except with the previous permission of the Committee which may, while granting such permission impose such conditions as it may deem fit including conditions relating to soil conservation measures.(4)Nothing contained in sub-sections (2) and (3) shall apply to any land with a slope of less than one in ten.

5. Application for permission.

- Every application for permission shall be made in writing to the Committee and shall be in such form and shall contain such particulars as may be prescribed.

6. Appeal.

- Any person aggrieved by an order refusing to grant permission under section 3 or section 4 may, within two months of the receipt of such order, prefer an appeal in writing to the Government and the Government shall, after giving the appellant an opportunity of being heard, pass such order thereon, as they may think fit.

7. Penalty.

- Any person who is guilty of an offence under section 3 or section 4 or who contravenes any condition imposed in a permission granted under this Act, shall on conviction be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand rupees, or both.

8. Forfeiture.

- Any Court convicting a person of any offence under section 7 may direct the forfeiture to Government of all tools and other articles used in the commission of the offence or which are the subject matter of the offence.

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10. Power to entry and inspection.

- The Committee may, with a view to ascertaining whether there has been a contravention of any of the provisions of this Act of any rule or order made there under, at any time, with or without its subordinates and servants enter into and inspect any place.

11. Cognizance of offences.

- No Court shall take cognizance of any offence punishable under section 7 except on a complaint in writing of the Committee.

12. Power to make rules.

- The Government may, by notification, make rules to carry out the purpose of this Act.

13. Savings.

- Nothing in this Act shall apply to the cutting removal of any tree in accordance with section 133 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

14. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order do anything which appears to them to be necessary for the purpose of removing the difficulty.

Schedule

[See section 1(2)]

1. Coonoor municipal area.

2. Kodaikanal municipal area.

3. Ootacamund municipal area.

4. Yercaud Panchayat area.

P.S. - By section 15 of the Tamil Nadu Hill Stations (Preservation of Trees) Amendment Act, 1979 it has been provided as follows:-"References to the Tamil Nadu Hill Stations (Preservations of trees) Act, in any Act or in any rule, notification proceeding, order, regulation, by-law or other instrument made or issued under the Principal Act shall be construed as references to the Tamil Nadu Hill Area (Preservation of trees) Act.