

The Goa Oil Palm (Regulation of Production and Processing) Act, 1998

GOA

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Act 23 of 1998

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The Goa Oil Palm (Regulation of Production and Processing) Act, 1998(Goa Act 23 of 1998)[Dated 3-9-1998]

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-11-98/LA. - An Act to regulate the cultivation of oil palm and for orderly growth and processing thereof and for matters connected therewith.Be it enacted by the Legislative Assembly of the State of Goa in the Forty-ninth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Goa Oil Palm (Regulation of Production and Processing) Act, 1998.(2)It extends to the whole of the State of Goa.(3)It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Commissioner" means the Oil Palm Commissioner appointed under section 5;(b)"Committee" means the Goa Oil Palm Project Management Committee constituted under section 3;(c)"Factory" means any premises including the precincts thereof or any part in which any manufacturing process connected with the processing of oil palm FFB is carried on with the aid of mechanical power;(d)"Factory zone" means an area assigned to a factory under section 7;(e)"Government" means the Government of Goa;(f)"Inspector" means the Oil Palm Inspector appointed under section 6;(g)"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;(h)"oil palm" means the palm of the genus *Elaeis* and includes the species *Elaeis guineensis*, *malanocoss*, or *corozo oleifera* and hybrids of these species;(i)"oil palm FFB" means the unprocessed oil palm fresh fruit bunch and includes its loose form also;(j)"oil palm grower" means a person who cultivates oil palm, whether by himself or by his own servants or by hired labour or by members of his family or by his tenants and includes Oil Palm 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 1 of 1956);(k)"oil palm grower's co-operative society" means a society registered under the Maharashtra Co-operative Societies Act, 1960 (Maharashtra Act No. XXIV of 1961), as in force in the State of Goa;(l)"oil palm product" means any product obtained directly from the oil palm and it includes palm oil, palm kernel, palm kernel cake, palm fatty acids, oil palm seeds and oil palm seedlings and palm kernel oil;(m)"prescribed" means prescribed by rules made under this Act.

3. Constitution and term of office of the Goa Oil Palm 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 of Goa to be called the Goa Oil Palm Project Management Committee.(2)The Committee shall consist of the following members, namely:-

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| (i) | Secretary to the Government incharge of Agriculture | - Chairman. |
| (ii) | Secretaries to the Government incharge of Industries and Finance | - Members. |
| (iii) | Director of Agriculture | - Member. |
| (iv) | Representative of the National Bank for Agriculture and Rural Development | - Member. |
| (v) | Director of Industries | - Member. |
| (vi) | Director of ICAR Complex, Goa | - Member. |
| (vii) | Representative of the Department of Agriculture and Co-operation (Technology Mission on Oil seeds and Pulses), Government of India | - Member. |
| (viii) | Area representative of any private sector company involved in oil palm processing to be nominated by the Government | - Member |
| (ix) | Managing Director, Goa State Horticulture Development Corporation, Goa | - Member |
| (x) | Three persons from among the oil palm growers as may be nominated by the Government | - Members |
| (xi) | Any other interested groups or experts which the Government considers appropriate to be represented on the Committee | - Members |
| (xii) | Deputy Director of Agriculture (Horticulture), Government of Goa | Member
Secretary |

(3)The term of office of the Committee shall be three years, but the Government may, for reasons to be recorded in writing, re-constitute the Committee at any time before the expiry of its term.(4)The

powers and functions of the Committee shall, pending its re-constitution, be exercised and performed by the Director of Agriculture of the Government subject to such restrictions as may be specified in the order issued in this regard.

4. Duties of the Committee.

- It shall be the duty of the Committee to advise the Government on the following matters, namely:-(i)Extension of the areas under cultivation of oil palm in factory zone;(ii)Problems relating to the cultivation of oil palm;(iii)Problems faced by the oil palm processing industry and recommend to the Government such action as may be necessary for removal of such problems;(iv)Co-ordination between the oil palm growers and industry and sorting out of all matters which may arise;(v)Any measures that will suit the orderly development of oil palm cultivation and industry;(vi)Complaints of growers regarding transportation, purchase of oil palm FFB and payment of price by factory and oil palm cultivators;(vii)Recommend to the local bodies, Public Works Department and other Government agencies for providing necessary facilities for the factory;(viii)To take steps for prevention and control of oil palm diseases and pests and render help for development of the oil palm cultivation;(ix)Draw plans for training of cultivators and extension work;(x)Such other matters as may be prescribed.

5. Appointment of Oil Palm Commissioner.

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

6. Appointment of Oil Palm Inspectors.

(1)Subject to such rules as may be made in this behalf, the Government may appoint such number of Officers of the Government as Oil Palm Inspectors for such areas as may be specified under this Act, to exercise the powers and perform the functions of Oil Palm Inspectors under this Act.(2)Notwithstanding anything contained in sub-section (1), the Government may designate any officer of the Department of Agriculture not below the rank of Agriculture Officer to exercise the powers and perform the functions of the Oil Palm Inspector under this Act.

7. Declaration of factory zone.

(1)The Commissioner shall, by notification, declare any area specified therein as factory zone for the purpose of supply of fresh oil palm fruit bunches to the factory specified for the purpose of purchase of oil palm FFB and any other oil palm product by the factory.(2)Where a particular area is declared as factory zone under sub-section (1), the oil palm growers in that area shall supply the fresh fruit bunches from the oil palm 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 concerned factory zone and for which the zone is declared, shall buy all the oil palm FFB produced by all the oil palm growers or their co-operative societies in that factory zone at a price which shall not be less than the price fixed by the authority empowered to fix the price under this Act.

8. Refusing purchase of fresh fruit bunches.

(1) In the event of failure on the part of the occupier of the factory to buy all the 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 oil palm FFBs by the factory in addition to the penalty specified in section 12. (2) Where an occupier of a factory refuses to buy particular consignment or consignments of oil palm 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 oil palm FFBs and shall be treated as the failure on the part of the factory to buy the oil palm FFBs for purposes of sub-section (1): Provided further that the Commissioner shall be the authority to decide whether there are valid reasons for the failure to buy oil palm FFBs and his decision thereon shall be final.

9. Price fixation of FFBs.

(1) The Government may on its own fix the minimum price of oil palm FFBs or may authorize the Committee or the Commissioner to do so, subject to such guidelines as it may give in that regard from time to time. (2) Where the Commissioner is authorized to fix the prices of oil palm 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 oil palm FFBs shall be purchased by the factory or factories.

10. Powers of entry and inspection of records/registers maintained.

(1) Every occupier of the factory shall maintain such records as may be prescribed or as may be required by the Commissioner with the approval of the Government. (2) An Inspector or any authority authorised by the Government or the Commissioner 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) Notwithstanding anything contained in sub-section (2), the Commissioner may, by a general or special order, authorise any officer not below the rank of Agricultural Officer to exercise the powers under sub-section (2) on his behalf. (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 12.

11. Compounding an offence.

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

12. Penalties.

(1) Every person or occupier of a factory who contravenes the provisions of sub-sections (1) and (2) of section 8 and sub-section (4) of section 10 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 sections, 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 rules or order made under this Act for which no penalty is provided under subsection (1), shall be punishable with fine which may extend to rupees five thousand.

13. Jurisdiction of court.

(1) No court shall take cognizance of an offence punishable under this Act, or any rule or order made thereunder except upon a complaint in writing made by the Commissioner or any authority or Officer authorized by him in this behalf. (2) No court inferior to the court of a Magistrate of the First Class shall take cognizance of, or try, an offence under this Act or any rule or order made thereunder.

14. Immunity to implementing authority.

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

15. Offences by firms, companies or co-operative societies.

(1) Where the occupier of a 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 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 the factory for the purpose of this Act, until further notice cancelling his nomination is received by the 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 a factory is a company or a co-operative society, any one or more of the Directors thereof, or, in the case of 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 Commissioner that it has nominated a Director, and a private company may give notice to the Commissioner that it has nominated a share holder, 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 Commissioner or until he ceases to be a Director or share holder, as the case may be.

16. Payments to be made for purchased FFBs.

(1) The occupier or owner of a factory shall make suitable provision to the satisfaction of the Commissioner for the payment of the price of oil palm FFB supplied to the factory. (2) Upon the delivery of oil palm 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 oil palm FFB so supplied. (3) The price of the oil palm FFB remaining unpaid on the expiry of the period specified in sub-section (2), shall carry interest at the rate of fifteen per cent per annum from the date of delivery of oil palm 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 oil palm 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 having recovered from him as an arrear of land revenue, be liable to the penalty provided for under sub-section (2) of section 12 as if he has contravened a direction issued thereof. (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 oil palm growers or other co-operative societies on account of the quantity of oil palm FFB purchased or to be purchased for the factory from those oil palm 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 Commissioner within a week from the date on which it is entered into.

17. Taxation.

(1) The Government may, by notification, levy a tax with a rate not exceeding Rs. 100/- per M.T. 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 payable under sub-section (1) shall be levied and collected from the occupier of the factory or from the person receiving oil palm FFBs or the oil palm processing factory in such manner and by such authority as may be prescribed.

18. Use of tax.

- The tax on oil palm levied and collected under section 17 shall be used for the following purposes, namely:-(i)for the overall development of oil palm plantations;(ii)to bring more areas under oil palm cultivation;(iii)to monitor the Schemes benefiting the oil palm growers;(iv)to develop the feeder roads to facilitate movement of oil palm FFBs and;(v)any other purpose in the interests of oil palm growers in particular or in the interests of the general public residing in oil palm growing zones.

19. Enquiry by Commissioner.

- The Government may, subject to other provisions of this Act, by order, direct the Commissioner or any other Officer, to make an enquiry or to take appropriate proceedings under this Act, in respect of any matter specified in this order, and the 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 proceedings taken by him.

20. Delegation of powers.

- The Government may, by notification, delegate all or any of its powers under this Act, except the power to make rules under section 21, to any person or authority subordinate to it, subject to such conditions and to such control and revision as may be specified in the notification, and it may, in the like manner, withdraw any powers so delegated.

21. Power to make rules.

(1)The Government may, by notification, 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, the Government may make rules,-(a)as to the conditions governing the declaration of a factory zone and as to the alteration or cancellation thereof;(b)as to the plucking, collection and delivery of the oil palm FFBs by the growers or as the case may be, by the companies and the prescription of collection centres by the Commissioner.NotificationsDNo.3/2/Agro/Oil/3-7/2008-09/D.Agr. - In exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Goa Oil Palm (Regulation of Production and Processing) Act, 1998 (Goa Act 23 of 1998) (hereinafter called the "said Act"), the Government of Goa hereby constitutes the Goa Oil Palm Project Management Committee for the State of Goa for a period of 3 years (2008-2010) consisting of the following members namely:-

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| 1) Secretary (Agriculture) Government of Goa | - Chairman. |
| 2) Director of Agriculture, Government of Goa | - Member. |
| 3) Representative of the National Bank for Agriculture and Rural Development, Goa | - Member. |
| 4) Director of Industries, Government of Goa | - Member. |

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| 5) | Chief Engineer, (WRD) Government of Goa | - Member. |
| 6) | Director, ICAR, Goa | - Member. |
| 7) | Representative of the Department of Agriculture and Cooperation,
Government of India (TMOP)/ISOPOM | - Member. |
| 8) | Representative of Godrej Agrovat Ltd., Valpoi | - Member. |
| 9) | Managing Director, Goa State Horticultural Development Corporation,
Government of Goa | - Member. |
| 10) | Shri Balasaheb Rane, Vadawal, Bhicholim-Goa | - Non official
Member. |
| 11) | Fr. Inacio Almeida, Bhironde, Valpoi Goa (Farmer Representation) | - Non official
Member. |
| 12) | Dr. Jorson Fernandes, Cuncolim Goa (Farmer Representative) | - Non official
Member. |
| 13) | Dy. Director of Agriculture, Incharge of Oil Palm Development Programme,
Directorate of Agriculture, Government of Goa | - Member
Secretary. |

The non official members are entitled for sitting fees of Rs. 300/- per meeting.