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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 18556/Legn.3/2024/Leg.

Dated, Thiruvananthapuram, 01st November, 2024.

THE KERALA FOREST (AMENDMENT) BILL, 2024 together with the Statement of Objects and Reasons, Financial Memorandum and Memorandum Regarding Delegated Legislation, is published under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. N. Krishna Kumar
Secretary.



THE KERALA FOREST (AMENDMENT) BILL, 2024

A

*BILL**further to amend the Kerala Forest Act, 1961.*

Preamble.- WHEREAS, it is expedient further to amend the Kerala Forest Act, 1961 (4 of 1962) for the purposes hereinafter appearing;

BE it enacted in the Seventy-fifth Year of the Republic of India as follows:-

1. *Short title and commencement.*- (1) This Act may be called the Kerala Forest (Amendment) Act, 2024.

(2) It shall come into force at once.

2. *Amendment of section 2.*- In the Kerala Forest Act, 1961 (4 of 1962) (hereinafter referred to as the principal Act), in section 2,-

(a) clause (a) shall be renumbered as clause (aa) and before clause (aa) as so renumbered, the following clause shall be inserted, namely:-

"(a) "bark" means the hard outer covering of the woody stem or root;"

(b) after clause (b), the following clause shall be inserted, namely:-

"(ba) "fishing" includes catching of fish by poisoning of rivers or by planting poisonous substances in rivers or any other water bodies or by using explosives or by electrocution and every such attempt to catch fish;"

(c) for clause (c), the following clause shall be substituted, namely:-

"(c) "Forest Officer" means any person appointed by name or as holding an office by or under the orders of the Government to be a Principal Chief Conservator of Forests, Additional Principal Chief Conservator of Forests, Chief Conservator of Forests, Conservator of Forests, Deputy Conservator of Forests, Assistant Conservator of Forests, Divisional Forest Officer, Deputy Director (Wildlife), Wildlife Warden, Wildlife Assistant, Range Forest Officer, Deputy Range Forest Officer, Section Forest Officer, Timber Depot Officer, Beat Forest Officer, Tribal Watcher and Watcher, or to discharge any function of a Forest Officer under this Act or any rules made thereunder;"



(d) in clause (f),-

(i) for sub-clause (i), the following sub-clause shall be substituted, namely:-

"(i) the following whether found in, or brought from, a forest or not, that is to say, -

(a) ivory;

(b) timber, charcoal, wood-oil, sandalwood oil, gum, resin, natural varnish, bark, lac, fibres and roots of sandalwood and rosewood; and";

(ii) in sub-clause (ii),-

(a) for the words and symbols "the following when found in, or brought from, a forest," the words and symbols "the following whether found in, or anybody brings from, a forest," shall be substituted;

(b) in item (d), after the words and symbol "surface soil," the word and symbol "sand," shall be inserted;

(e) in clause (l), for the word and symbol "bamboos," the words and symbols "bamboos excluding bamboos grown outside forest, reeds," shall be inserted;

(f) after clause (l), the following clauses shall be inserted, namely:-

"(m) "waste material" includes solid, liquid or gaseous substances which are discarded after primary use, any poisonous material, rubbish, junk, garbage, filth, excreta, toxic industrial rejection, unwanted or undesired or unusable material or any substance which causes injury or harm or damage or otherwise adversely affects the human beings or wildlife or forests or environment;

(n) "wild animal" means a 'wild animal' as defined in clause (36) of section 2 of the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972).".

3. *Amendment of section 27.*- In section 27 of the principal Act, in sub-section (1),-

(a) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted;

(b) for the words "five thousand rupees", the words and symbol "twenty-five thousand rupees" shall be substituted;

(c) in clause (e),-

(i) in item (ii), for the words "hedge or railing", the words and symbols "hedge, railing or any structure, temporary or permanent in nature constructed for demarcation of boundary, including cairns and kayyalas" shall be inserted;



(ii) in item (v), after the word “stones”, the words “or sand” shall be inserted;

(iii) in item (vi), for the word and symbol “timber;”, the words and symbol “timber; or” shall be substituted;

(iv) after item (vi), the following items shall be inserted, namely:-

“(vii) litters or dumps plastic or any other waste material on the ground or poisons or dumps plastic or any other waste material into the water bodies and streams within or flowing into them, or uses explosives; or

(viii) enters with gun or explosives; or

(ix) feeds, teases or molests any wild animal; or

(x) enters for fishing, poisoning rivers or any other water bodies or collects fish from the rivers or any water bodies or attempts to do so, except for such right recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Central Act 2 of 2007),”.

4. *Amendment of section 29.*- In section 29 of the principal Act, in sub-section (2), for the words “two hundred rupees”, the words “two thousand rupees” shall be substituted.

5. *Amendment of section 32.*- In section 32 of the principal Act, for the words “one hundred rupees”, the words “one thousand rupees” shall be substituted.

6. *Amendment of section 40.*- In section 40 of the principal Act, in sub-section (1), for the words “five hundred Rupees”, the words “five thousand rupees” shall be substituted.

7. *Amendment of section 47A.*- In section 47A of the principal Act, after clause (a), the following clause shall be inserted, namely:-

“(aa) “Appellate Officer” means the Principal Chief Conservator of Forests or any other officer not below the rank of Conservator of Forests authorised by the Government by notification in the Gazette for the purpose of this Chapter;”.

8. *Amendment of section 47B.*- In section 47B of the principal Act, in sub-section (2),-

(a) after the words “for his own use”, the words and symbols “or for sale through the Forest Department or, subject to the provisions of this Act and the rules made thereunder, for any other bonafide use, irrespective of the age of the tree” shall be inserted;

(b) for the existing proviso, the following proviso shall be substituted, namely:-

“Provided that the provision for sale and bonafide use under sub-section (2) shall not apply to sandal trees, if any, reserved by the Government at the time of assignment of such lands or trees standing on any land notified under section 5 of the Kerala Preservation of Trees Act, 1986 (35 of 1986) or the areas notified by the custodian under the Kerala Forest (Vesting and Management of



Ecologically Fragile Lands) Act, 2003 (21 of 2005).”.

9. Amendment of section 47C.- In section 47C of the principal Act, for sub-section (4) , the following sub-section shall be substituted, namely:-

"(4) Any person aggrieved by the decision of the authorised officer refusing to grant or renew a licence or cancelling or suspending such a licence under this section may, within two months from the date of receipt of the order of such decision, appeal to the Appellate Officer and the Appellate Officer may, within one month from the date of receipt of the appeal, make such order as he may think fit. An appeal against the decision of the Appellate Officer may be filed before the Government within three months from the date of receipt of such order and the Government may make such order as they may think fit."

10. Amendment of section 47E.- In section 47E of the principal Act,-

(a) in the marginal heading, for the words “authorised officer”, the words “Forest Department” shall be substituted;

(b) for the words “authorised officer”, the words “Forest Department” shall be substituted.

11. Amendment of section 47G.- In section 47G of the principal Act,-

(a) in sub-section (1),-

(i) for the words “ten thousand rupees”, the words “twenty thousand rupees” shall be substituted;

(ii) for the words and symbol “twenty-five thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(iii) in the proviso, for the words “twenty thousand rupees”, the words “forty thousand rupees” shall be substituted;

(b) in sub-section (2),-

(i) for the words and symbol “twenty-five thousand rupees”, the words “thirty thousand rupees” shall be substituted;

(ii) for the words “rupees one lakh”, the words “one lakh fifty thousand rupees” shall be substituted;

(iii) in the proviso, for the words “fifty thousand rupees”, the words “sixty thousand rupees” shall be substituted;

(c) in sub- section (3),-

(i) for the words and symbol “twenty-five thousand rupees”, the words “thirty thousand rupees” shall be substituted;



(ii) for the words “rupees one lakh”, the words “one lakh fifty thousand rupees” shall be substituted;

(iii) in the proviso, for the words “fifty thousand rupees”, the words “sixty thousand rupees” shall be substituted.

12. *Amendment of section 52.*- In section 52 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) When there is reason to believe that any person has committed a forest offence, any Forest Officer not below the rank of a Beat Forest Officer or a Police Officer may,-

(a) require such person to produce for inspection any forest produce in his control, custody or possession or any permit or records or other documents granted to him or required to be kept by him under the provisions of this Act;

(b) stop any vehicle or conduct search or inquiry or enter upon and search any building, premises, land, vehicles or vessels in occupation of such person, open and search any baggage or other containers in his possession;

(c) seize any timber or other forest produce along with any weapons, tools, ropes, chains, boats, vehicles and cattle used in committing any such offence in violation of the provisions of the Act.

Explanation.- The terms “boats” and “vehicles” in this section, section 53, section 55, section 61A and section 61B shall include all the articles and machinery kept in it whether fixed to the same or not.”.

13. *Amendment of section 53.*- In section 53 of the principal Act, for the word "Ranger", the words "Range Forest Officer" shall be substituted.

14. *Amendment of section 61A.*- In section 61A of the principal Act,-

(a) in sub-section (1), for the word “firewood”, the words and symbols “firewood, bark, sand” shall be substituted;

(b) in sub-section (2), for the word “firewood”, the words and symbols “firewood, bark, sand” shall be substituted.

15. *Amendment of section 61B.*- In section 61B of the principal Act,-

(a) in sub-section (1),-

(i) after the word and symbol “firewood,”, the words and symbols “bark, sand,” shall be inserted;

(ii) in clause (a), after the word and symbol “firewood,”, the words and symbols “bark, sand,” shall be inserted;



(b) in sub-section (2), for the word “firewood”, the words and symbols “firewood, bark, sand” shall be substituted.

16. Amendment of section 62.- In section 62 of the principal Act, for the words “one thousand rupees”, the words and symbol “twenty-five thousand rupees” shall be substituted.

17. *Substitution of new section for section 63.*- For section 63 of the principal Act, the following section shall be substituted, namely:-

“63. *Power to arrest without warrant.*-(1) Any Forest Officer not below the rank of a Beat Forest Officer or any Police Officer may, without orders from a Magistrate or without a warrant, arrest and detain any person reasonably suspected of having been indulged in any forest offence, unless he is satisfied that such person will appear and answer any charge which may be preferred against him.

(2) Any Forest Officer, not below the rank of a Section Forest Officer may, without an order or without a warrant from a Magistrate, arrest and detain any person who obstructs him or any other Forest Officer or officer subordinate to him while in execution or discharge of his duties or who has escaped from his lawful custody, if the situation so warrants.

(3) Any person arrested under any provisions of this Act shall be informed, as soon as may be, of the grounds of arrest and shall without delay be produced before the officer-in-charge of the nearest forest station or police station, as the case may be, or before the investigating officer and such officer shall thereupon act according to law.

(4) All arrests under this Act shall be made in accordance with the procedure laid down in the Bharatiya Nagarik Suraksha Sanhita, 2023 (Central Act 46 of 2023).”.

18. *Amendment of section 64.*- In section 64 of the principal Act, for the word “Ranger”, the words “Range Forest Officer” shall be substituted.

19. *Amendment of section 68.*- In section 68 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:-

“(1) Any Forest officer not below the rank of an Assistant Conservator of Forests may,-

(a) accept from any person, reasonably suspected of having committed any forest offence, other than an offence punishable under section 47G, section 62 or section 65, a sum of money equivalent to the maximum fine amount prescribed for the offence under the Act or the rules made thereunder by way of compensation for the offence which may have been committed and where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer or confiscate such property to the Government;

(b) after institution of the prosecution, on an application from the accused, compound, with the permission of the court, any offence other than an offence punishable under section 47G, section 62 or section 65, alleged against such accused, by accepting a sum of money and value of property assessed in the manner as specified in clause (a):



Provided that though an offence has been compounded under this sub-section, it shall be deemed to be a previous commission of the same offence for the purpose of determining whether a second or subsequent offence has been committed and no such second or subsequent offence shall be compounded under this clause.”.

20. *Amendment of section 69.*- In section 69 of the principal Act, the existing section shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:-

"(2) When, in any prosecution of an offence punishable under this Act, it is found that a person is in possession, custody or control of any forest produce, it shall be presumed that such person is in unlawful possession, custody or control of any forest produce, until the contrary is proved."

21. *Amendment of section 72.*- In section 72 of the principal Act, the existing section shall be numbered as sub-section (1) of that section and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:-

"(2) The Government may invest with any Forest Officer not below the rank of a Range Forest Officer, the power to issue a certificate, in such form as may be prescribed, on the identity in respect of any forest produce on an application submitted before him for examination of such forest produce. Such certificate may be used as evidence of the facts stated therein, in any proceedings under this Act."

STATEMENT OF OBJECTS AND REASONS

The forest area in the State are often used by a section of people as a place for dumping waste materials such as plastics and biodegradable and non degradable wastes thereby polluting the forest areas. The aforesaid situation, if left uncontrolled, will endanger the very existence of various rare types of flora and fauna in forest areas. Hence, littering, dumping plastic or any other waste material on the ground or dumping plastic and waste material into, or poisoning, the water bodies and rivers within or flowing into them in the forest areas are to be made offences under the Act.

2. Section 27 of the Act provides penalties for offences committed in Reserved Forests and acts prohibited in such forests. The Government have decided to include damaging, altering or removing structures of boundary demarcation like cairns, kayyalas etc. and quarrying of sand also as offences under the Act.

3. It was also decided to include entry with gun or explosives, feeding, teasing or molesting any wild animals, entry for fishing, poisoning rivers or water bodies or collecting fish from the rivers or any water bodies within or attempting to do so in the Reserved Forest areas, as offences under the Act.

4. In remote forest areas the protective staff has to face severe resistance including attack from organised gangs. Most forest offences takes place inside interior forest and waiting for orders from a Magistrate or Superior Officers to arrest and detain the person may lead to the escape of culprits. Hence, such officers are to be empowered to arrest the culprits if found necessary. Therefore



Government have decided to give some more powers to Forest Officers so as to overcome the practical difficulties and legal issues being faced.

5. As the amount of fine that can be imposed for various offences under the Act are found to be meagre in the present scenario, the Government have decided to enhance the amount of fine. It is also decided to make clarity in the provisions for compounding of certain offences under the Act.

6. Government have also decided to relax the restrictions for cutting sandal trees from private lands, other than those reserved to Government during assignment of such land and those in the notified areas under the Kerala Preservation of Trees Act, 1986, so as to promote planting of sandal trees. Provision has also to be made for granting permission to the land owners to sell their sandal tree through the Forest Department.

7. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause (aa) of section 47A proposed to be inserted in the Kerala Forest Act, 1961 by clause 7 of the Bill seeks to empower the Government to authorise the Principal Chief Conservator of Forests or any other officer not below the rank of Conservator of Forests as the Appellate Officer by notification in the Gazette for the purpose of Chapter VI A of the said Act.

2. Sub-section (2) of section 72 proposed to be inserted in the said Act by clause 21 of the Bill seeks to empower the Government to prescribe the form of the certificate to be issued by the Forest Officer, on the identity in respect of any forest produce.

3. The matters in respect of which rules may be made, or notifications may be issued, are matters of procedure and are of routine or administrative in nature. Moreover, the rules so made and the notifications issued are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

A. K. SASEENDRAN.

