

MAHARASHTRA ACT No. XXIII OF 1969.

[THE MAHARASHTRA SALE OF TREES BY OCCUPANTS BELONGING TO SCHEDULED TRIBES (REGULATION) ACT, 1969]

(This Act received assent of the President on the 17th April 1969; assent was first published in the *Maharashtra Government Gazette*, Extraordinary, Part IV, on the 18th April 1969).

Amended by Mah. 48 of 1969.

"	"	"	31 of 1974* (16-7-1974)†
"	"	"	42 of 1981‡ (4-8-1981)†
"	"	"	16 of 1991 Δ £ (14-2-1991)†
"	"	"	6 of 1996 (8-1-1996)†

An Act to regulate the disposal of trees standing in the holdings of persons belonging to Scheduled Tribes in the State of Maharashtra.

WHEREAS, it is necessary to regulate the disposal of trees standing in the holdings of persons belonging to Scheduled Tribes in the State of Maharashtra and to provide for matters connected therewith; It is hereby enacted in the Twentieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Act, 1969. Short title and commencement.

(2) It shall be deemed to have come into force on the 3rd day of March 1969.

2. (1) In this Act, unless the context otherwise requires.— Definitions.

(a) "appointed day" means the 3rd day of March 1969;

(b) "Code" means the Maharashtra Land Revenue Code, 1966;

²[(c) 'Collector' includes a revenue officer not below the rank of Tahsildar, or a Forest Officer not below the rank of Range Forest Officer, specially empowered by the State Government to perform all or any of the functions of the Collector under this Act, and different officers may be empowered to perform different functions or the same function of the Collector;]

³[(ca) "Conservator of Forests" means the Conservator of Forests of the concerned Circle;]

¹ For Statement of Objects and Reasons. See *Maharashtra Government Gazette*, 1969, Part V, Extra., page 132.

* Mah. Ord. XV of 1974, was repealed by Mah. 31 of 1974, s. 7.

† This indicates the date of commencement of Act.

‡ Mah. Ord. No. XI of 1981 was repealed by Mah. 42 of 1981, s. 4.

Δ Mah. Ord. No. II of 1991 was repealed by Mah. 16 of 1991, s. 5.

£ Section 4 of Mah. 16 of 1991 reads as under :—

Bom. 1904. "4. (1) Notwithstanding anything contained in the Bombay General Clauses Act, 1904, but subject to the provisions of sub-section (2), on the commencement of this Act, all applications for the approval of any contract, pending before the Collector shall be dismissed. Consequences of deletion of section 4 of Mah. XXIII of 1969.

(2) Notwithstanding anything contained in this Act, all applications wherein an approval under sub-section (4) is accorded, or an order requiring the purchaser to pay adequate price has been made under the proviso to sub-section (5) of section 4 of the principal Act on any date before the date of commencement of this Act and such applications are still pending on the date of commencement of this Act then they shall be proceeded with and disposed of by the Collector, as if the provisions of this Act had not come into force".

² Clause (c) was substituted by Mah. 42 of 1981, s. 2.

³ Clause (ca) was inserted by Mah. 6 of 1996, s. 2.

(d) "Forest Officer" means a Forest Officer within the meaning of the Indian Forest Act, 1927; XVI
of
1927.

(e) "occupant" means an occupant belonging to a Scheduled Tribe;

(f) "prescribed" means prescribed by rules;

(g) "revenue officer" means a revenue officer within the meaning of the Code;

(h) "Scheduled Tribes" means such tribes or tribal communities or part of or group within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India;

¹[(i) "trees" means any trees in the holding of an occupant.]

(2) Words and expressions used but not defined, in this Act, shall have the meanings respectively assigned to them in the Code.

Prohibition. 3. (1) No occupant shall, after the appointed day, sell any trees in his holding except with the assistance of the Collector as hereinafter provided.

(2) Any sale of trees made in contravention of the provisions of sub-section (1) shall be invalid; and no person shall fell any trees in pursuance of any sale of trees which is invalid.

4. [*Past contracts for sale of trees required to be approved*] Deleted by Mah. 16 of 1991, s. 2.

5. 3[*Procedure for sale of trees after appointed day.*] Deleted by Mah. 31 of 1974, s. 4.

Sale of trees through Forest Officer *

6. (1) Any occupant, who on and after the commencement of the Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) (Amendment) Act, 1974, intends to sell any trees in his holding, shall make an application to the Collector for assistance for the sale of the trees. Such application shall be in the prescribed form, and shall be accompanied by a certified copy of the permission, if any granted under section 3 of the Maharashtra Felling of Trees (Regulation) Act, 1964, and where such permission is deemed to have been granted under sub-section (1C) of section 3 of that Act, the application shall state such fact therein.

Mah. XXXI of 1974.

Mah. XXXIV of 1964.

(2) On receipt of an application under sub-section (1), the Collector shall, after hearing the applicant and making such inquiry as he may deem fit, decide whether the assistance sought for should be granted ⁵[or not] for sale of the trees through a Forest Officer ⁶ *.

¹ This Clause was substituted for the original by Mah. 31 of 1974, s. 2.

² The words "permission or" were deleted *ibid.*, s. 3.

³ Section 4 of Mah. 31 of 1974 reads as under:—

"Provided that, where permission has been granted for sale of trees before the deletion of section 5, such deletion shall not affect the cutting or removal of trees from the holding of the occupant".

⁴ Section 6 was substituted for the original by Mah. 31 of 1969, s. 5.

⁵ These words were inserted by Mah. 6 of 1997, s. 3 (1) (a).

⁶ The words, brackets and figure "or for reasons to be recorded in writing, the trees may be sold by auction as provided in sub-section (4)" were deleted, *ibid.*, s. 3 (1) (b).

⁷ The words "or by auction" were deleted, *ibid.*, s. 3 (4).

(3) If the Collector decides to grant such assistance, the Collector shall arrange for the sale of the trees in such manner as the State Government may by order direct (including provision in such direction for circumstances in which deposits made at sales may be forfeited) through a Forest Officer who is duly authorised by the State Government in this behalf, so as to secure the maximum price for such trees.

1. (4) * * *

2[(5) Payment of advance amount prior to the sale of trees and the payment of the proceeds of the sale shall be made by the Collector in the following manner, namely :—

(a) twenty per cent. of the net estimated value of the trees to be sold shall be paid within thirty days from the date of the decision for grant of assistance for the sale of trees under sub-section (2).

(b) thirty per cent. of the net estimated value of the trees to be sold shall be paid within thirty days from the date of transportation of the felled trees to the sales depot;

(c) the proceeds of the sale, after deducting the amount paid under clauses (a) and (b), the expenses of the sale and other expenses as have been incurred, shall be paid within one hundred and twenty days from the date of transportation of the felled trees to the sales depot;

7. Every person aggrieved by an order or decision of the Collector under this Act may, within thirty days of the receipt of such order, appeal to such authority as may be prescribed in this behalf. Subject to such rules of procedure as may be prescribed, the appellate authority may, after giving such person a reasonable opportunity of being heard, pass such order on the appeal as it thinks just and proper.

3[7A. 4[(1) The State Government or the Conservator of Forests may, *suo motu* or on an application made to it or him by an aggrieved person, for the purpose of satisfying itself or himself as to the legality or propriety of any decision or order passed by, or as to the regularity of the proceedings, of the Collector or any Forest Officer, call for and examine the record of any inquiry or proceedings of any case pending before or disposed of by such Collector or Forest Officer :

Provided that no such record shall be called for by the State Government or the Conservator of Forests, if the application is made after six months from the date of receipt, by the applicant, of the decision or order sought to be revised].

¹ Sub-section (4) was deleted, by Mah. 6 of 1997, s. 3 (2).

² Sub-section (5) was substituted, *ibid.*, s. 3 (3).

³ Section 7A was inserted, by Mah. 31 of 1969, s. 6.

⁴ Sub-section (1) was substituted by Mah. 6 of 1996, s. 4 (1).

(2) If, in any case, it shall appear to the State Government or the ¹[Conservator of Forest] that any decision or order or proceedings so called for should be modified, annulled or reversed, it or he may pass such order thereon as it or he thinks fit :

Provided that the State Government or the ¹[Conservator of Forest] shall not pass any order under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.]

Power to transfer Proceedings.

²[7B. The State Government may, by general or special order, withdraw any applications, appeals or other proceedings under this Act pending before any officer or authority and transfer the same for disposal to any other officer or authority as the case may be, having jurisdiction]

Penalty.

8. (1) Any person, who fells any trees in any holding or removes them therefrom in pursuance of any sale which is invalid under section 3, ³* * shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, and trees felled, if any, in contravention of this Act may be confiscated by order of the court.

(2) The Magistrate may order that the whole or any part of the fine so imposed may be paid to the occupant as compensation.

Officers to be public servants.

9. The officers exercising the powers or discharging any duties or functions under this Act shall be deemed to be public servants within the meaning of section ^{XLV} of 21 of the Indian Penal Code. 1860.

Execution of order for payment of money.

10. Any sum the payment of which has been directed by the Collector under this Act may be recoverable from the person ordered to pay the same as an arrear of land revenue.

Bar of proceedings.

11. No suit or proceedings shall lie against the State Government or against any person empowered to exercise the powers or to perform the duties or to discharge the functions under this Act for anything in good faith done or purported to be done by or under this Act.

Provisions of this Act to be in addition to any other law for the time being in force.

12. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force prohibiting or regulating the felling of trees.

Power to make rules.

13. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition, of previous publication make rules for carrying into effect the purposes of this Act.

¹ These words were substituted for the word "Commissioner" by Mah. 6 of 1996, s. 4 (2)

² Section 7B was inserted by Mah. 42 of 1981, s. 3.

³ The words and figure " or in contravention of any order made by the Collector under section 4 " were deleted by Mah. 16 of 1991, s. 3.

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(2) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the *Official Gazette*, the rule shall, from the date of such notification, 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 or omitted to be done under that rule.

14. (1) The Maharashtra Sale of Trees by Occupants belonging to Scheduled Tribes (Regulation) Ordinance, 1969 is hereby repealed

Mah. Ord. V of 1969. (2) Notwithstanding such repeal, anything done or any action taken (including any rules made) under the said Ordinance shall be deemed to have been done or taken under this Act.

Repeal of Mah. Ord V of 1969 and saving