



The Himachal Pradesh Forest Produce (Regulation of Trade) Act, 1982

Act 5 of 1982

Keyword(s):

Agent, Committee, Division, Forest Produce, Purchase, Sale

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**THE HIMACHAL PRADESH FOREST PRODUCE (REGULATION OF
TRADE) ACT, 1982**

(ACT No. 5 OF 1982)¹

ARRANGEMENT OF SECTIONS

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[Received the assent of the Governor, Himachal Pradesh on 30-4-1982 and was published in Hindi in R.H.P. Extra dated 4-5-1982, p. 363—370 and in English in R.H.P. Extra., dated the 4th May, 1982, Pages 371—377.]

Authoritative English text of the Himachal Pradesh VAN (UTPAD VEOPAR) ADHINIYAM, 1982.

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha and for Statement of Objects and Reasons, see R.H.P. Extra., dated 1-4-1982, P. 209 and 218.

An Act make provisions for regulating in the public interest the trade of certain forest produce by creation of full State control in such trade.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-third Year of the Republic of India, as follows:—

CHAPTER-I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Himachal Pradesh Forest Produce (Regulation of Trade) Act, 1982.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall be deemed to have come into force with effect from the 1st day of October, 1981.

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

- (a) "agent" means an agent appointed under section 3 ;
- (b) "committee" means an advisory committee constituted under sub-section (1) of section 6 ;
- (c) "division" means a territorial Forest Division as for the time being constituted or may be delimited, from time to time, by special or general order of the State Government ;
- (d) "forest produce" means trees of any of the species standing, felled or otherwise fashioned, specified in the Schedule annexed to this Act and any other produce declared as such by the State Government from time to time by a notification published in the Official Gazette ;
- (e) "owner" means any person other than the State Government authorised by virtue of ownership of land as per entries in revenue records prepared under the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954) or by any other authority of law to own or to have in his possession the forest produce ;
- (f) "purchase" with all its grammatical variations and cognate expressions means the acquisition of forest produce for cash or deferred payment or for other valuable consideration ;

Explanation.—Purchase of forest produce on instalment system of payment shall, notwithstanding that the seller retains a title to forest produce as security for payment of the purchase money, be deemed to be a purchase; and

- (g) "sale" with all its grammatical variations and cognate expressions means any transfer of forest produce by one person to another for cash or for deferred payment or for other valuable consideration and includes a transfer of forest produce on hire-purchase or other system of payment by instalment.

(2) All other words and expression used herein, but not defined in the Act, shall have the meanings assigned to them in the Indian Forest Act, 1927 (16 of 1927) as applied to this State.

CHAPTER-II

REGULATION OF THE TRADE OF FOREST PRODUCE

3. Appointment of agents.—The State Government may, for the purchase of, and trade in, forest produce on its behalf, appoint one or more agents in respect of different divisions for all or any specified forest produce on such terms and conditions as may be laid by the Government from time to time.

4. Restriction on sale, purchase and transportation.—On the commencement of this Act,—

(a) no owner of forest produce shall effect sale of any forest produce to a person other than the State Government or the agent appointed under section 3;

(b) no person other than the State Government through its authorised officer or agent appointed under section 3 shall purchase forest produce from any owner; and

(c) no person shall transport forest produce to any place within or outside the division without permit issued in that behalf by such authority, in such manner and subject to such terms and conditions as are prescribed under sections 41 and 42 of the Indian Forest Act, 1927 (16 of 1927) and the rules made thereunder by the State Government.

5. State Government to purchase all forest produce offered for sale.—

(1) Subject to the provisions of section 8, the State Government through its authorised officer or agent appointed under section 3 shall purchase at the price fixed under section 7 all forest produce offered for sale by the owner during the normal hours of business at such places or premises as may be specified by the State Government through its authorised officer or its agent.

(2) Notwithstanding anything contained in sub-section (1), where the officer-in-charge of the division has reason to believe that any forest produce offered for sale belongs to the State Government, such forest produce may be appropriated without payment of price.

6. Constitution of Advisory Committee.—(1) The State Government shall from time to time, constitute for each division in which forest produce is grown or found, an Advisory Committee which shall consist of not more than 5 members nominated by the State Government.

(2) The Advisory Committee for each such division shall advise the State Government in the matter of fixation from time to time of a fair and reasonable price at which forest produce offered for sale may be purchased by or on behalf of the State Government in that division and also on such other matters as may be referred to it by the State Government.

(3) The business of the Committee shall be conducted in such manner as may be prescribed.

7. Government to fix price in consultation with the committee.—The State Government shall after consultation with the committee constituted under section 6, fix the price at which forest produce shall be purchased at various places by it or by any of its authorised officers or agent from the owner of the forest produce and shall publish the same in the Official Gazette or in such other manner as may be prescribed. The price so fixed shall remain in force upto the end of each financial year and shall not be altered during that financial year :

Provided that if the committee fails to tender advice by the 15th of February preceding the financial year, the State Government may proceed to fix the price without consultation of the committee :

Provided further that the State Government through its authorised officer or agent may purchase the forest produce till the constitution of the Committees at a price mutually agreed upon between the parties to the sale.

8. State Government or agent to purchase forest produce as per programme.—(1) The authorised officer or an agent shall purchase from the owner the forest produce offered for sale according to the felling programme, as may be formulated under the Himachal Pradesh Land Preservation Act, 1978 (28 of 1978) at the price fixed under section 7.

(2) The State Government through its authorised officer or the agent may make such advances of money on such terms and conditions as may be prescribed to the owners whose forest produce is covered by the felling programme under the Himachal Pradesh Land Preservation Act, 1978 (28 of 1978).

9. Disposal of forest produce.—Forest produce purchased by the State Government through its authorised officer or agent shall be sold or otherwise disposed of in such manner as the State Government may direct.

10. Delegation of powers.—The State Government may, by special or general order, delegate any of its powers or functions under this Act or the rules made thereunder, except the power to make rules under section 17, to any officer not below the rank of the Assistant Conservator of Forests, who shall exercise or perform the same, subject to such conditions and restrictions, if any, as the State Government may specify in the order.

11. Powers of entry, search, seizure etc.—(1) Any Forest Officer not below the rank of the Forest Ranger or any Police Officer not below the rank of Sub-Inspector or any other person authorised by the State Government in this behalf may, with a view to securing compliance with the provisions of this Act or the rules made thereunder or to satisfying himself that the said provisions have been complied with,—

(i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of forest produce;

(ii) enter and search any place; and

- (iii) seize the forest produce in respect of which he suspects that any provision of this Act or the rules made thereunder has been, is being, or is about to be contravened along with receptacle containing such produce, as well the animals, vehicles or boats used in carrying such produce.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

12. Penalty.—Any person contravening any of the provisions of this Act or the rules made thereunder—

- (a) shall be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both; and
- (b) the forest produce in respect of which such contravention has been made shall be forfeited to the Government.

13. Attempts and abetment.—Any person who attempts to contravene or abets the contravention of any provision of this Act or the rules made thereunder shall be deemed to have contravened such provision.

14. Cognizance of offences.—No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by any Forest Officer not below the rank of the Divisional Forest Officer or any other officer as may be authorised by the State Government in this behalf.

15. Compounding of offences.—(1) The State Government may, by notification, empower a Forest Officer not inferior in rank to that of a Divisional Forest Officer:—

- (a) to accept from any person against whom a reasonable suspicion exists that he had committed an offence punishable under this Act, a sum of money by way of compensation in lieu of prosecution for the offence which such person is suspected to have committed; and
- (b) when any property other than forest produce has been seized as liable to confiscation, to release the same on payment of the value thereof as may be determined by such officer.

(2) On the payment of such compensation or such value, or both, as the case may be, to such officer, the suspected person shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(3) The sum of money accepted as compensation under clause (a) of subsection (1) shall in no case be less than rupees five hundred and exceed rupees two thousand.

(4) No case hereunder shall be compounded by any authority competent to compound without providing for the forfeiture of the forest produce involved in the said case to the Government.

16. Savings in respect of acts in good faith.—(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 so done in pursuance of this Act or the rules made thereunder.

(2) No suit or other legal proceedings shall lie against the State Government for any damage caused or likely to be caused or any injury suffered or likely to be suffered by virtue of the provisions of this Act or by anything which is in good faith done or intended to be so done in pursuance of this Act or the rules made thereunder.

17. Powers to make rules.—(1) The State Government may, subject to the condition of previous publication, make rules or issue directions to carry out the provisions 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) the terms and conditions and the procedure for appointment of agents under section 3 ;
- (b) the manner of the conduct of business of the Advisory Committee under section 6(3) ;
- (c) the publication of the price list of the forest produce under section 7 ;
- (d) the terms and conditions governing the payments of advances under section 8(2);
- (e) the manner in which the forest produce shall be disposed of under section 9 ;
- (f) the terms and conditions subject to which, and the manner in which, the permit may be granted under section 19(1) ; and
- (g) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than ten days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule 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.

18. Power to add or exclude any forest produce from the operation of the Act.—The State Government may, by notification, from time to time, add or exclude any species of forest produce covered by this Act.

19. Transitory provision.—(1) Notwithstanding anything to the contrary contained in section 4, the State Government or its authorised officer may, on such terms and conditions and in such manner as be prescribed, permit any person who had purchased the extracted forest produce for the purpose of further sale or had extracted forest produce or had obtained the orders of demarcation and marking for its extraction before the commencement of this Act, to fell, convert, transport and sell such forest produce to any

person other than the State Government, or an authorised officer or agent and permit any person other than the State Government or its authorised officer or agent to purchase and transport the same. The permission so accorded shall lapse after the 30th November, 1982.

(2) Where at any time before the commencement of this Act, any person had entered into any contract for the sale of forest produce to any trader and obtained an advance from such trader towards the price of the forest produce accepted to be delivered to the trader under such contract, then notwithstanding that by virtue of the provisions of section 4, such contract shall have become void on the commencement of the Act, the said person and trader may make a joint application before the Divisional Forest Officer or an officer authorised by him or the agent, in that behalf, giving particulars of such advance and thereupon the said officer, on being duly satisfied that the transaction is genuine one, may direct the officer of the State Government or the agent to pay on behalf of the said person to such trader a sum equivalent to the said advance (less the amount already re-paid by the said person to such trader) without any interest or compensation out of the price due to the said person for the forest produce sold under section 5, and the liability of the State Government or the agent to the said person and of the said person to the trader shall, to the extent of such payment, stand discharged and the said person shall not be liable to pay any interest or compensation in respect of such advance. Such claims shall lapse after the 30th November, 1982.

20. Repeal and savings.—The Himachal Pradesh Forest Produce (Regulation of Trade) Ordinance, 1981 (6 of 1981) is hereby repealed:

Provided that anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 1st October, 1981.

SCHEDULE

[See section 2 (d)]

1. Bird-cherry (*Prunus cornata*)
2. Chil (*Pinus roxburgii*)
3. Deodar (*Cedrus deodara*)
4. Fir (*Abies Pindrow*)
5. Horn beam (Khirkhee) (*Carpinus Spp.*)
6. Horse chestnut (*Aesculus indica*)
7. Kail (*Pinus wallichiana*)
8. Maple (*Acer Spp.*)
9. Sain (*Terminalia tomentosa*)
10. Sal (*Shorea robusta*)
11. Shisham (*Dalbergia sisso*)
12. Spruce (*Picea symthiana*)
13. Walnut (*Juglan regia*)
14. Ash (*Fraxinus Spp.*)
15. Khair (*A cacia Catechu*)
16. X X X

1. Item No. 15 and 16 excluded from the Schedule vide Not. No. Fts (A) 3-/84-Part. dated 8-2-1991 published in R.H.P. Extra, dated 20-3-1991 p. 416 and item 15 re-added vide Notification No. Fts. (F) 12-34-83 Part, dated 30-4-91, published in R.H.P. dated 24-8-93, p. 1512.

17. Oak Species ;

(i) Ban (*Quercus incana*)

(ii) Mohru (*Quercus dilatata*)

(iii) Kharsu (*Quercus semecarpifolia*)

18. x x x]

19. Bar (*Ficus bengalensis*)