

## **Bihar Forest Produce (Regulation Of Trade) Act, 1984**

**12 of 1984**

**[14 July 1984]**

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## **SCHEDULE 1 :- SCHEDULE I**

### **Bihar Forest Produce (Regulation Of Trade) Act, 1984**

**12 of 1984**

**[14 July 1984]**

An Act to provide for Regulating in the public interest the Trade and other related matter of certain Forest produce by creation of a State Monopoly in, such Trade in the State of Bihar. 1. Assented by the President on 28.4.1984, and published in Bihar Gazette (ex-ord) dated 14.7.1984.

#### **1. Short Title, Extent, Commencement And Application :-**

(1) This Act may be called the Bihar Forest Produce (Regulation of Trade) Act, 1984.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force in such area or areas and on such date or dates as Government may, by notification in the Official Gazette specify and they may specify different dates for different areas.

(4) It shall apply to such forest produce and on such date or dates as the Government, by notification, may specify in their behalf.

#### **2. Definitions :-**

In this Act, unless the context otherwise requires.--

(1) "Agent" means an agent appointed under Section 4;

(2) "Committee" means the Advisory Committee constituted under sub-section (1) of Section 6;

(3) "Forest Officer" means any person whom the State Government in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest Officer;

(4) "Forest Produce" means any forest product as specified in the Schedule (hereinafter called the specified forest produce);

(5) "Government" means the State Government;

(6) "Primary Collector" is the person who first collects the specified forest produce;

(7) "Licensed Vendor" in relation to specified forest produce means a person to whom a licence is issued under Section 12 for retail sale

of such produce;

(8) "Retail sale" means a sale of any specified forest produce not exceeding such quantity as the Government may, by notification, specify in respect of such specified forest produce;

(9) "Specified area" in relation to specified forest produce means the area specified in notification under sub-section (3) of Section 1 for such specified forest produce.

(10) "Specified Forest Produce" in relation to a specified area means forest produce specified in notification under sub-section (4) of Section 1 for such specified area.

(11) "Timber" means as specified in Schedule round sawn, or fashioned, straight pieces of and above two metres in length of standing or felled trees of species to be notified by the Government in this behalf in the Schedule;

(12) "Unit" means a sub-division of a specified area constituted into unit under Section 3;

(13) Words and expression used but not defined in this Act and defined in the Indian Forest Act, 1927 (Act XVI of 1927) shall have the same meanings as assigned to them in that Act.

### **3. Constitution Of Unit :-**

The Government may divide as provided in the rules every specified area in such number of units as it may deem fit.

### **4. Appointment Of Agents :-**

(1) The State Government may for the purchase of and trade in specified forest produce in its behalf, appoint one or more agents in respect of different units for all or any specified forest produce and any such agent may be appointed in respect of more than one unit.

(2) A gram Panchayat, LAMPS, PACS, Vyapar Mandal or the Bihar State Tribal Co-operative Development Corporation Ltd., or the Bihar State Forest Development Corporation Ltd. or any similar Corporation dealing in specified forest produce that be appointed as an agent under sub-section (1) above for one or more units.

### **5. Restriction On Purchase Or Transport Of Specified Forest Produce :-**

(1) On the issue of a notification under sub-sections (3) and (4) of Section 1 with respect to any area, no person other than-

(i) The Government;

(ii) An Officer of the Government authorised in writing in this behalf,

(iii) An agent in respect of the unit in which the specified forest produce is grown or found; shall purchase or transport or import or export such specified forest produce in and from such area.

Explanation I --Purchase of specified forest produce from the State Government or the aforesaid Government Officer or agent or a licensed vendor shall not be deemed to be a purchase in contravention of this Act.

Explanation II --A person having no interest in the holding who has acquired the right to collect the specified forest produce grown or found on land shall be deemed to have purchased such produce in contravention of the provision of this Act.

(2) Notwithstanding anything contained in sub-section (1)-

(i) a primary collector of a specified forest produce may transport his specified forest produce from any place within the unit wherein such specified forest produce is grown or is found to any other place in that unit;

(ii) any person may transport the specified forest produce not exceeding the quantity as may be prescribed, from the place of purchase of such produce to the place where such produce is required for bona fide use or for consumption;

(iii) specified forest produce purchased from the Government or any Officer or Agent specified in the said sub-section by any person for industrial purposes or manufacture of goods within the State in which such specified forest produce is used, as raw material or by person for sale or consumption outside the State or for import in the State or transport through this State or by the licensed vendor may be transported by such person in accordance with the terms and conditions of a permit to be issued in that behalf by such authority and in such manner as may be prescribed; and

(iv) any person having the right in any forest in respect of any specified forest produce under any law for the time being in force, may transport such produce for his domestic use or consumption in such quantity and subject to such terms and conditions as may be prescribed.

(3) Any person desiring to sell the specified forest produce may sell them to the aforesaid Government Officer or Agent at any depot situated within the said unit:

Provided that the Government, the Government Officer, or Agent shall not be bound to re-purchase the specified produce once sold.

## **6. Constitution Of Advisory Committee :-**

(1) The Government shall, by a notification in the Official Gazette, constitute for each calendar year commencing from the 1st January and ending on the 31st December an Advisory Committee (hereinafter referred to as the Committee) for the whole State for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each specified forest produce at which such produce may be purchased from a primary collector by the Government or its authorised Officer or Agent, as are offered for sale in accordance with provisions of this Act. The Committee shall consist of not less than nine and not more than thirteen members and shall submit its report to the Government within such time as may be specified therein. The Government may constitute separate Committee for separate specified forest produce:

Provided that-

- (i) one member shall be from amongst the traders of such specified forest produce or manufacturer of goods in which the specified forest produce is used as raw material;
- (ii) one member shall be other than Government from amongst the primary collectors of such specified forest produce;
- (iii) there shall be three members from Assembly, one from Council and one from Parliament of which one would be compulsorily from Scheduled Caste and one from Scheduled Tribe. Normally all the members would be from predominantly forest areas;
- (iv) two Government Officers nominated by the Government;
- (v) the Forest Minister will be President of this Committee and vice-President of the Committee will be nominated amongst the members nominated under Section 6(iii);
- (vi) two members shall be from the local Munda, Manki and Pramukh of Chhotanagpur and Santhal Praganas areas.

(2) The Committee shall also advise the Government on such other matters as may be referred to it by the Government from time to time.

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

(4) The members of the State Legislature and Parliament will be entitled to same allowance as payable to them. But other members of the Committee shall be entitled to such allowance as may be prescribed.

## **7. State Government To Fix Price In Consultation With**

## **Committee :-**

The Government shall, after considering the recommendation of the Committee constituted under Section 6, fix the price at which specified forest produce shall be purchased by it or by any authorised officer or agent from primary collectors of specified forest produce in the specified area and shall publish the same in the Official Gazette and in such other manner as may be prescribed on such date or dates as may be specified by Government in this behalf.

The price so fixed shall remain in force up to the end of the calendar year and shall not be altered during that year:

Provided that if the Committee fails to tender advice within the period specified under sub-section (5) of Section 6, the Government may fix the price without such advice.

## **8. Opening Of Depots, Display Of Price List, Etc. At The Depots :-**

There shall be set up such number of depots and at such places as the Government may, taking into consideration the convenience of primary collectors of specified forest produce, direct and a price list of specified forest produce fixed by the Government under Section 7 and the hours of business shall be prominently displayed on the notice board kept for the purpose at every such depots.

## **9. Government To Purchase The Specified Forest Produce :-**

The Government or an authorised officer or agent shall be bound to purchase at the price fixed under Section 7 specified forest produce offered for sale at the depot during the hours of business.

## **10. Registration Of Manufacturers, Traders And Industrialists :-**

(1) Every manufacturer who uses any specified forest product as a raw material and every industrialist whose annual requirement or consumption, as the case may be, exceeds such quantity, as may be prescribed, shall get himself registered within such period, on payment of such fee in such manner as may be prescribed.

(2) Every such manufacturer or trader or industrialist shall submit such declarations, accounts and returns and such forms and to such officers and at such intervals as may be prescribed.

### **11. Disposal Of Specified Forest Produce :-**

All forest produce collected or to be collected from the forest of the State or purchased or to be purchased by the Government or by its agent unless otherwise directed, shall be disposed of by public auction every year preferably before the end of April.

It shall be permissible to sell produce in anticipation of collection or purchase by or on behalf of Government on the basis of estimate.

### **12. Retail Sale Of Specified Produce :-**

(1) No person shall engage himself in retail sale of a specified forest produce except under a licence granted under this section.

(2) The Government may, for the purpose of facilitating retail sale of specified forest produce within the state, grant licences to as many persons as it may deem fit.

(3) Any person who desires to engage himself in retail sale of a specified forest produce shall make an application in such form to such authority and in such manner as may be prescribed.

(4) The prescribed authority may, on receiving such application and on payment of such fee, as may be prescribed, grant or renew a licence under such terms and conditions as may be prescribed.

### **13. Delegation Of Power :-**

The Government may by order, delegate any or all powers or functions under this Act or the rules made thereunder, to any Forest Officer, not below the rank of an Assistant Conservator of Forests who shall exercise or perform the same, subject to such conditions and restrictions as the Government may specify in the order.

### **14. Power To Prevent Commission Of Offences :-**

Every Forest Officer and Police Officer shall prevent and may interfere for the purposes of preventing commission of any offence under this Act.

### **15. Power To Entry, Search, Seizure, Etc :-**

(1) Any Forest Officer not below the rank of a Range Officer of Forest or Police Officer not below the rank of a Sub-Inspector, or any other person authorised by the Government in this behalf may with a view to securing compliance with the provision of this Act or

the rule 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 specified forest produce;

(ii) enter and search any place;

(iii) seize the specified 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 the receptacles containing such produce and all tools, ropes, chains, boats or/and vehicles used in committing any such offence.

(2) The provisions of Sections 102 and 103 of Code of Criminal Procedure, 1973 (II of 1974) relating to search and seizure shall so far as may be, apply to searches and seizure under this Section.

(3) Every Officer seizing specified forest produce and other property under clause (iii) of sub-section (1) above shall place on such produce, if physically possible, a property mark indicating that the same has been seized and shall, except when the offender agrees in writing forthwith to get the offence compounded in the manner prescribed, make a report of such seizure to the Magistrate.

(4) Any Forest Officer not below the rank of a Range Officer of Forest, who or whose subordinate has seized any property other than the specified forest produce under clause (iii) of sub-section (1) may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required before the Magistrate.

#### **16. Government And Authorised Officer Not Liable For Damages To Forest Produce At Depot Or Under Custody :-**

(1) The Government or any Authorised Officer shall not be responsible for any loss or damage which may occur in respect of any specified forest produce or property seized in respect of clause (iii) of sub section (1) of Section 15 or taken possession of under Section 31, while being in depot or in the custody of a Forest Officer or an Authorised Officer, and no forest officer or Authorised Officer shall be responsible for any loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently:

Provided further if the forest produce is of a perishable nature whose quality may deteriorate on storage, the same may be sold by public auction or by tender by a Forest Officer not below the rank of Assistant Conservator of Forests, or any other officer as

may be empowered by Government in their behalf and deposit the sale proceeds in the Government Treasury.

**17. Cognizance Of Offence :-**

No court shall take cognizance of any offence punishable under this Act except on report in writing of the facts constituting such offence made by any forest officer, not below the rank of a Divisional Forest Officer, or by any other officer as may be authorised by the Government in their behalf.

**18. Custody Of Seized Property During Pendency Of Cases :-**

The specified forest produce and property seized under clause (iii) of sub-section (i) of Section 15 shall be kept in the custody of the Forest Officer, not below the rank of a Forest Guard or a village headman or any other person considered suitable by the officer seizing the forest produce until the compensation for compounding the offence is paid or until an order of the Magistrate directing its disposal is received.

**19. Power To Hold Enquiry :-**

(1) Forest Officer not below the rank of a Range Officer of Forest or such other officer as may be authorised by the Government in this behalf, may hold enquiry into the offences relating to any contravention of any provision of this Act and the rules made thereunder and in the course of such enquiry he shall have-

- (i) power of Civil Court to compel the attendance of witnesses and production of documents and material objects;
- (ii) power to issue a search warrant under the Code of Criminal Procedure, 1973 (II of 1974); and
- (iii) power to receive and record evidence.

(2) Any evidence recorded under clause (iii) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate.

**20. Penalty :-**

If any person contravenes any of the provisions of this Act or rules made thereunder-

(1) he shall be punished with imprisonment which may extend to one year or fine which may extend to two thousand rupees, or both:

Provided that penalties which are double of those mentioned above

may be inflicted in case where the offence is committed after preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence;

(2) the specified forest produce in respect of which such contravention has been made or such part thereof as the Court may deem fit, and any boat, tools, vehicle, animal, vessel; or other conveyance or any other articles used in committing such offence shall be forfeited to Government and shall vest in Government free from all encumbrances:

Provided that if the Court is of the opinion that it is not necessary to direct confiscation in respect of whole, or as the case may be, any part of the specified forest produce or other property, it may, for reasons to be recorded refrain from doing so.

(3) Such forfeiture may be in addition to any other punishment prescribed for such offence.

## **21. Disposal Of Produce And Other Seized Property On Conclusion Of Trial :-**

On the conclusion of the trial of the offence any specified forest produce in respect of which such offence has been committed, if it is the property of Government or has been confiscated and other forfeited property shall be taken charge of by a Forest Officer, and in any other case, may be disposed of in such manner as the court may direct.

## **22. Attempts And Abetments :-**

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

## **23. Compounding Of Offences :-**

State Government may, by notification in the Official Gazette, empower Forest Officer to-

(i) accept from any person against whom a reasonable suspicion exists, that he has committed any offence punishable under this Act a sum of money by way of compensation for the offence which such person is suspected to have committed; and

(ii) when any specified forest produce has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

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

(3) A Forest Officer shall not be empowered under this section unless he is a forest officer of a rank not inferior to that of an Assistant Conservator of Forests and the sum of the money accepted as compensation under clause (i) of sub-section (1) shall in no case exceed the sum of one thousand rupees.

#### **24. Saving Of Power To Release Property Seized :-**

Nothing hereinbefore contained shall be deemed to prevent any Forest Officer empowered in this behalf by the State Government from directing at any time the immediate release of any property and produce seized under Section 15 of this Act.

#### **25. Savings In Respect Of Acts Done In Good Faith :-**

No suit or other legal proceeding 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 provision of this Act or by anything which in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

#### **26. Forest Officer Deemed To Be Public Servant :-**

All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

#### **27. Indemnity For Acts Done In Good Faith :-**

No suit shall lie against any public servant for anything done by him in good faith under this Act.

#### **28. Presumption That Specified Forest Produce Belongs To Government :-**

When in any proceeding taken under this Act or in consequence of anything done under this Act, a question arises as to whether any specified forest produce is the property of the Government such produce shall be presumed to be the property of the Government until the contrary is proved.

## **29. Power To Make Rules :-**

(1) The Government may subject to the condition of the previous publication, make rules to carry out all or any of the provisions of the Act.

(2) The Government may direct that any rule made under this section shall not apply to any specified forest produce or to any specified area.

(3) Every rule made under this Act shall immediately after it is made be laid before each House of the State Legislature if it is in session, and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or two successive sessions, and if before expiration of the session in which it is so laid or the session immediately following, both Houses agree to in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without any prejudice to the validity of anything previously done under that rule.

(4) All rules made by the Government under this Act shall be published in the Official Gazette and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

(5) Any person contravening any rule under this Act, of the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees, or both.

## **30. Recovery Of Money Due To Government :-**

All money payable to the Government under this Act, or under any rule made under this Act, or on account of price of any specified forest produce, or expenses incurred in the execution of this Act in respect of such specified forest produce may if not paid when due be recovered under the law for the time being in force as if it were an arrear of land revenue.

## **31. Lien On Specified Forest Produce For Such Money :-**

(1) When any such money is payable for or in respect of any specified forest produce the amount thereof shall be deemed to be a first charge on such specified forest produce and such specified

forest produce may be taken possession of by a Forest Officer until such amount has been paid.

(2) If such amount is not paid when due, the Forest Officer may sell such specified forest produce by public auction or tender and the proceeds of the sale be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months, from the date of sale by the person entitled thereto, shall be forfeited to the State Government.

### **32. Limitation Of Applicability Of Indian Forest Act, 1927 And Any Other Law Or Order :-**

(1) Nothing contained in the Indian Forest Act, 1927 (XVI of 1927) shall apply to specified forest produce in respect of matters for which provisions are contained in this Act.

(2) Nothing contained in any other thing having force of law in any region of the State shall apply to the specified forests produce in respect of matters for which provisions have been made in this Act.

### **33. Power To Remove Difficulty :-**

If any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the Official Gazette do anything not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for the purpose of removing the difficulty.

### **34. Power To Amend The Schedule :-**

The Government may from time to time by notification add to or omit from the Schedule any forest produce after considering the necessity in the public interest, or regulating the trade of any specified forest produce and on any such notification being issued the Schedule shall be deemed to be amended accordingly.

### **35. Repeal And Saving :-**

(1) The Bihar Forest Produce (Regulation of Trade) Fourth Ordinance, 1983 (Bihar Ordinance 5, 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act, as if this Act were in force

on the day on which such thing or action was done or taken.

## **SCHEDULE 1**

### **SCHEDULE I**

[See Section 2(4)]

#### **I. Timber of following species**

- (i) Sal ... (*Shorea robusta*)
- (ii) Asan ... (*Terminalia tomentosa*)
- (iii) Karam ... (*Adinacordifolia*)
- (iv) Bija ... (*Pterocarpus marduium*)
- (v) Sagwan ... (*Tectong grandia*)
- (vi) Sidham ... (*Dalbergia sissoo*)
- (vii) Sidha ... (*Legerstrocmia parviflora*)
- (viii) Dhup ... (*Pinus roxbergil*)
- (ix) Eucalyptus ... (*Eucalyptus species*)
- (x) Ghora Karanj ... (*Alianthus exceisa*)
- (xi) Harra ... (*Terminalia chebula*)
- (xii) Bahera ... (*Terminalia belerica*)
- (xiii) Satsal ... (*Dalbergia latifolia*)
- (xiv) Kekar ... (*Garuga pinnata*)
- (xv) Karanj ... (*Pengamia pinnata*)
- (xvi) Kusum ... (*Schlcichera oleosa*)
- (xvii) Bhurkund ... (*Hymenodictyon excelsum*)
- (xviii) Salai ... (*Boswelvia serrata*)
- (xix) Champ ... (*Michcliachampaca*)
- (xx) Semali ... (*Salmelia malabaricum*)
- (xxi) Arjun ... (*Terminalia orjuna*)
- (xxii) Dhaura ... (*Anogeissus latifolia*)
- (xxiii) Siris ... (*Albizzia chinensis*)
- (xxiv) Kajh ... (*Bridelia retusa*)
- (xxv) Gamhar ... (*Gmelina arbocca*)
- (xxvi) Toon ... (*Cedrelatoona*)
- (xxvii) Chatwan ... (*Alstonia scho aris*)
- (xxviii) Palas ... (*Butea monosperma*)
- (xxix) White siris ... (*Albizzia plocera*)
- (xxx) Panjan ... (*Ougeiniaongensis*)
- (xxxii) Phaldu ... (*Mitragyna-Parvifolia*)
- (xxxii) Kendu ... (*Diospyros melanoxylon*)

#### **II. Fruits and seeds of-**

- (i) Sal ... (*Shorea robusta*)
- (ii) Kusum ... (*Shleochera oleosa*)
- (iii) Mahua ... (*Madhuca indica*)
- (iv) Karanj ... (*Pengamia pinnata*)
- (v) Palas ... (*Butea monosperma*)
- (vi) Maula ... (*Butra parviflora*)
- (vii) Kamla ... (*Mallotus philiphinesis*)
- (viii) Chiraunjee ... (*Buchannia lanzen*)
- (ix) Harra ... (*Terminalia chebula*)
- (x) Bahera ... (*Terminalia belerica*)
- (xi) Aonla ... (*Emblca officianlis*)
- (xii) Eacharia

#### **III. Flowers of Mahua (*Madhuca Indica*)**

IV. Gums and resin of

- (i) Gum Karaya ... (*Sterculia urens*)
  - (ii) Gum Katila ... (*Cochlospermum religiosum*)
  - (iii) Gum Dhaura ... (*Anogeissus latifolia*)
  - (iv) Sal resin ... (*Shorea robusta*)
  - (v) Salai resin ... (*Bursera serrata*)
- V. Grasses of Sabai grass ... (*Eulaliopsis binatea*)

VI. Lac (Sticklac)

VII. Tassar (Cocoon)

VIII. Medicinal Plants-

- (i) *Rauwolfia serpentina*
- (ii) *Rauwolfia tertraphylla* synapsis R. *Canescens*
- (iii) *Costous specious*
- (iv) *Oroxylum indicum*
- (v) *Andrographis paniculata*

IX. Fibra yielding plants-

Sisal ... (*Agave sisalana*)

X. Leaves-

- (i) Mahalan ... (*Bauhinia vahli*)
- (ii) Sal ... (*Shorea robusta*)

XI. Bamboos-

- (i) *Dendrocalamus* spp.
- (ii) *Bambusa* spp.

XII. Kath-

Khair ... (*Acacia catechu*)

In exercise of the powers conferred by Section 34 of Bihar Forest Produce (Regulation of Trade) Act, 1984 (Bihar Act 12, 1984), the Governor of Bihar is pleased to add the following after item No. XII item Nos. (XXXIV) and after item No. I (XXXIII) and XII in the Schedule in the Public interest, from the date of publication of the said Act, that is 17th May, 1984, namely:

I "(XXXIV) Khair tree

*Acacia catechu*

XIII Charcoal