

Himachal Pradesh Resin And Resin Products (Regulation Of Trade) Act, 1981

6 of 1981

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Himachal Pradesh Resin And Resin Products (Regulation Of Trade) Act, 1981

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An Act to provide in the interest of the general public for the carrying on by the State of the trade of purchase and distribution of resin to the exclusion of others, and for the regulation of manufacture and preparation of various articles based on resin and for matters connected therewith.

Be it enacted by the Legislative Assembly of the Himachal Pradesh

in the Thirty-second Year of the Republic of India, as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

- (1) This Act may be called the Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981.
- (2) It extends to the whole of Himachal Pradesh.
- (3) It shall be deemed to have come into force with effect from the 13th day of February, 1981.

CHAPTER 2 REGULATION OF THE TRADE OF RESIN

2. Definitions :-

In this Act, unless the context otherwise required,-

- (a) "authorised officer" means an officer of the State Government or any other person who may be authorised by it to purchase or sell resin on its behalf and to grant permits under section 5;
- (b) "prescribed" means prescribed by the rules made under this Act;
- (c) "resin" means the secretion extracted by tapping from Chir/Chil or Kail trees;
- (d) "resin depot" means a place specified as such by the Chief Conservator of Forests, Himachal Pradesh for the purchase, storage and sale of resin tapped in an area specified in relation to that depot;
- (e) "resin products" means derivatives obtained by processing of resin, and includes resin, turpentine, hardened resin, and also includes paints and varnishes manufactured, directly from resin;
- (f) "tapper of resin" means a person who taps resin;
- (g) "owner" means, a person in possession, management ,or control of Chir/Chil or Kail trees;
- (h) "unit" means a unit constituted under section 3;
- (i) words and expressions used but not defined in this Act and defined in the Indian Forest Act, 1927 (16 of 1927) as amended from time to time in its application to Himachal Pradesh, shall have the meanings assigned to them in that Act.

3. Constitution of units :-

The State Government may, by notification in the Official Gazette, divide the State into such number of units, as it may deem fit, and

until varied by such notification; each forest division (as for the time being delimited by general or special orders of the State Government) shall constitute a unit.

4. Restrictions on sale, and purchase of resin etc :-

On and after, the commencement of this Act,-

- (a) no person shall tap resin or manufacture any resin product or export any resin or resin products, unless he is registered under and in accordance with section 10;
- (b) no person shall sell resin to any person other than the State Government or an authorised officer;
- (c) no person other than the State Government or authorised officer shall purchase resin from any tapper/owner of resin;
- (d) no person other than the State Government or an authorised officer shall transport resin except in the following cases :-
 - (i) where he being a tapper of resin transports it to the resin depot specified for the area where the resin is tapped; or
 - (ii) where he transports it on behalf of the State Government or an authorised officer;
- (e) no person other than the State Government or an authorised officer shall transport resin products manufactured in a unit to any place outside that unit without a permit issued in that behalf by such authority, in such manner and subject to such terms and conditions as may be prescribed.

5. Permit for sale, transport etc :-

(1) Notwithstanding anything in section 4, the State Government or an authorised officer may on such terms and conditions and in such manner as may be prescribed -

- (a) permit any person, who had purchased any resin before the commencement of this Act to transport and sell such resin to any person other than the State Government, or an authorised officer and permit any person other than the State Government or an authorised officer to purchase and transport the same; or
- (b) permit any person, who has purchased resin from the State Government or an authorised officer for manufacture of resin products to transport the same and to sell any resin which he has been unable to utilise in the manufacture of resin products; or
- (c) permit any person, who has purchased any resin outside Himachal Pradesh to bring the same inside the State either for manufacture of resin products within the State or for transporting

them elsewhere outside Himachal Pradesh.

(2) A person to whom a permit is granted under sub-section (i) shall be liable to payment of such fee as may be prescribed.

6. Constitution of an Advisory Committee :-

(1) The State Government shall, for each year constitute for each unit in which resin is tapped, an Advisory Committee which shall consist of not more than 9 members nominated by the State Government.

(2) The Advisory Committee for each such unit shall advise the State Government in the matter of fixation from time to time of a fair and reasonable price at which resin offered for sale may be purchased by or on behalf of the State Government in that unit, 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. Fixation of price by State Government :-

The State Government shall having regard to following factors, fix the price at which resin shall be purchased by or for it in each unit during the year, namely:-

- (a) the price: of resin, if any, fixed under this Act during the preceding three years in respect of the unit;
- (b) the quality of the resin tapped in the unit;
- (c) the cost of transport;
- (d) the general rate of wages for labour prevalent in the unit;
- (e) the cost of extraction of resin;
- (f) the cost of packing of resin including the cost of container in which resin is delivered.;
- (g) any other factor which the State Government considers relevant.

(2) The price so fixed shall be published in such manner as the State Govern -ment may direct, and shall not be altered during the year to which it relates.

(3) The price so fixed shall be for net weight of resin excluding the weight of container in which resin is packed.

(4) Where an Advisory Committee has been consituted under section 6, it shall, wherever practicabe, be consulted by the State Government before the fixation of price under sub-section (1).

8. State Government to purchase all resin offered for sale :-

(1) The State Government or the authorised officer shall be bound to purchase at the price fixed under section 7 all resin offered for sale to or for it during the normal hours of business at a resin depot:

Provided that it shall be open to an authorised officer to refuse the purchase of such resin as in his opinion is not fit for the purpose of manufacture of resin products.

(2) Any person aggrieved by the authorised officers refusal to purchase resin under the proviso to sub-section (1) may, within fifteen days from such refusal, and in the manner prescribed complain to the Divisional Forest Officer or such other officer as may be empowered by the State Government in that behalf (hereinafter referred to as the competent officer).

(3) On receipt of a complaint under sub-section (2), the competent officer shall hold a summary inquiry and pass such order within thirty days of the receipt of the complaint as he may deem fit, and in case he finds such refusal to be improper, he may direct the authorised officer to purchase the same.

(4) Where the competent officer finds the refusal of the resin proper, but in his opinion, the resin may be purchased at a lower price, he may direct the authorised officer to purchase the same at such lower price as he deems fit.

(5) Notwithstanding anything in sub-section (1), where the State Government or an authorised officer has reason to believe that any resin offered for sale was tapped from trees standing on any land which was vested in or belonged to the State Government, Cantonment Board, Municipal Corporation, Municipal Committee, Notified Area Committee or Gram Panchayat, such resin may be appropriated without payment of price, and on payment only of such collection charges, if any, as the State Government or an authorised officer may determine.

(6) The provisions of sub-sections (2) to (4) shall mutatis mutandis apply in relation to any action taken under sub-section(5).

(7) Every order passed under this section shall be final.

9. Tapping of trees which are not being tapped :-

(1) If the State Government or an authorised officer finds that any Chir/Chil or Kail trees of tapable size standing in a unit is not being tapped, the State Government or an authorised officer may by

notice require the owner of such trees to commence tapping of the same or to cause its tapping commenced within such time as may be prescribed.

(2) If after the service of the notice under sub-section (i), the owner of the trees fails to comply with such notice, the State Government or an authorised officer may, in the manner prescribed, cause the trees to be tapped for extraction of resin.

(3) All resin extracted from a tree under sub-section (2), shall be sold in accordance with the provisions of this Act and the rules made thereunder and the price thereof shall after deducting the expends of tapping be paid to the owner of such trees.

10. Registration of tappers of resin etc :-

Every tapper of resin, every manufacturer of resin product and every exporter of resin or resin products shall be entitled to registration on payment of such fee, to such authority and in such maimer as may be prescribed.

11. Disposal of resin :-

Resin purchased by the State Government or an authorised officer shall be sold or otherwise disposed of in such manner as the State Government may by general or special order direct.

12. Delegation of powers :-

The State Government may, except the power to make the rules under section 19, by general or special order, delegate any of its powers or functions under this Act or the rules made thereunder to any officer not below the rank of Assistant Conservator of Forests, or the Sub-Divisional Manager of the State Forest Corporation, who shall exercise or perform the same, subject to such conditions or restrictions, if any, as the State Government may specify in the order.

13. Power of entry, search, seizure and etc :-

(1) Any police officer not below the rank of Sub-Inspector or any Forest Officer may with a view to securing compliance with the provisions or this Act or the rules made thereunder or to satisfy himself that the said provisions have been complied with-

(i) stop and search any person, vessel, vehicle or receptacle used or intended to beused for the transport of resin or resin product;

(ii) enter and search any place;

(iii) seize resin or resin product in respect of which he suspect that any provision of this Act for the rules made thereunder has been, is being or is about to be. contravened along with the receptacle containing or carrying such resin.

(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 seizure under this section.

14. Penalty :-

If any person contravenes any of the provisions of this Act or the rules made thereunder, he shall be deemed to have committed a forest offence and the resin or resin product, if any, in respect of which such offence is committed shall in relation to the commission of such offence be deemed to be forest produce, and the provisions of Chapter IX of the Indian Forest Act, 1927(16 of 1927) as in force in this State shall accordingly apply with necessary modifications.

15. Offences by companies :-

(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any, such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section- (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or that the commission of the offence is attributable to any neglect on the part of any managing agent, secretary and treasurer, director, manager or other officers of the company, such managing agent, secretary and treasurer, director, manager or other officer of the company shall also be deemed to be guilty of that offence and shall also be liable to be proceeded against and punished accordingly.

Explanation--For the purpose of this section-

(a) "company" means a body corporate and includes a firm or other

association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm;

16. Cognisance or offence :-

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 a Forest Officer not below the rank of a Forest Ranger or by such other officer as may be empowered by general or special order of the State Government in that behalf;

17. Provisions of this Act to have overriding effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any contract or other instrument.

18. Saving in respect of acts done in good faith :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or the rules made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government or an authorised officer 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 the rules made thereunder or by anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

19. Power to make rules :-

(1) The State Government may by notification in the Official Gazette, make rules for carrying out the purposes 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 publication of the price list of the resin;

(b) the manner of holding inquiries under this Act;

(c) the authority by whom, the manner in which and the conditions subject to which permits may be issued under section 5 and the fees payable for such permits;

(d) the disposal of the resin, the purchase of which was refused under section 8;

- (e) the manner of tapping the trees for resin under section 9;
 - (f) the manner of registration under section 10, the period within which such registration shall be made, and the fees payable therefor;
 - (g) specifications of resin for purposes of determination of quality;
 - (h) any other matter which is to be or may be prescribed.
- (3) Every rule made under this section shall, as soon as may be after it is made, be laid before the State Legislative Assembly while it is in session for a total period of not less than ten days, comprised in its one session or two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions, the Assembly makes any modification in the rule or decides that the rule shall 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 thereunder.
- (4) Notwithstanding anything in sub-section (3), any rules made within one year from the commencement of this Act may be made retrospectively to a date not earlier than such commencement.

20. Transitory provision :-

Where at any time before the commencement of this Act, any person had entered into any contract for the sale of resin expected to be tapped by him to any trader and obtained an advance from such trader, towards the price of the resin expected to be delivered to the trader under such contract, then notwithstanding that by virtue of the provisions of sections 4 and 17, such contract shall have become void on the commencement of this Act, the said person and trader may make a joint application before the Divisional Forest Officer or an officer authorised by him in that behalf giving particulars of such advance, and thereupon the said officer on being duly satisfied that the application has been voluntarily made by the said person may direct the authorised officer to pay on behalf of the said person, to such trader a sum equivalent to the said advance (less the amount already repaid by the said person to such trader) without any interest or compensation out of the price due to the said person for resin sold under section 8, and the liability of the State Government or the authorised officer to the said person and 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.

21. Repeal and sayings :-

The Himachal Pradesh, Resin and Resin Products (Regulation of Trade) Ordinance, 1981 (1 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 13th February, 1981.