

Kerala Raw Cashewnuts (Marketing And Transport And Fixation Of Minimum Price) Amendment Act, 1988

5 of 1988

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An Act further to amend the Kerala Raw Cashewnuts (Marketing and Transport And Fixation of Minimum Price) Act., 1981 Whereas it is expedient further to amend the Kerala Raw Cashewnuts (Marketing and Transport and Fixation of Minimum Price) Act, 1981 for the purposes hereinafter appearing; Be it enacted in the Thirty-ninth Year of the Republic of India as follows:

1. Short Title And Commencement :-

(1) This Act may be called the Kerala Raw Cashewnuts (Marketing and Transport and Fixation of Minimum Price) Amendment Act, 1988.

(2) It shall be deemed to have come into force on the 5th day of February 1988.

2. Substitution Of Long Title For The Existing Long Title :-

In the Kerala Raw Cashewnuts (Marketing and Transport and Fixation of Minimum Price) Act, 1981 (14 of 1981) (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:

"An Act to provide for the trade in raw cashewnuts by the State to the exclusion of all others by the procurement and sale thereof at fair prices".

3. Amendment Of Preamble :-

In the Preamble to the principal Act, for the sixth paragraph, the following paragraph shall be substituted, namely:

"AND whereas, in the circumstances, it is considered necessary to provide that trade in raw cashewnuts within the State should be undertaken by the State to the exclusion of all others by the procurement and sale thereof at fair prices.

4. Amendment Of Section 1 :-

In section 1 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:

"(1) This Act may be called the Kerala Raw Cashewnuts (Procurement and Distribution) Act, 1981".

5. Amendment Of Section 2 :-

In section 2 of the principal Act,

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

"(a) agent means the agent authorised by the Government under sub-section (1) of section 3".

(ii) clause (dd) shall be omitted;

(iii) for clause (e), the following clause shall be substituted, namely:

"(e) notified price, in relation to raw cashewnuts, means the price notified under sub-section (2) of section 5;".

(iv) clause (m) shall be omitted.

6. Omission Of Sections 2A, 2B And 2C :-

Sections 2A, 2B and 2C of the principal Act shall be omitted.

7. Substitution Of New Section For Section 3 :-

For section 3 of the principal Act, the following section shall be substituted, namely:

"3. Restriction on sale and purchase of raw cashewnuts.-(1) the Government may, by notification in the Gazette authorise any co-operative society as agent of the Government for the purpose of purchase and sale of raw cashewnuts within the State.

(2) No person shall sell any raw cashewnuts within the State except to the agent or a sub-agent.

(3) No person other than the agent or a sub-agent shall purchase any raw cashewnuts within the State."

8. Substitution Of New Section For Section 4 :-

For section 4 of the principal Act, the following section shall be substituted, namely:

"4. Restriction on possession of raw cashewnuts. -No person other than the agent or a sub-agent shall have in his possession, at any time, raw cashewnuts in excess of the quantity of fifty kilograms: Provided that nothing contained in the section shall apply to raw cashewnuts sold to any cashew factory under section 11 and kept in that factory".

9. Substitution Of New Sections For Sections 5 And 6 :-

For sections 5 and 6 of the principal Act, the following sections shall be substituted, namely:

"5. Price to be paid by agent and sub-agents.-(1) When raw cashewnuts are tendered to the agent or a sub-agent by or on behalf of a cultivator, the agent or such sub-agent shall pay the price thereof at the rate notified for the locality under sub-section (2).

(2) For the purposes of sub-section (1), the Government shall, from time to time, notify the prices of raw cashewnuts in the different localities in the State, in such manner as they think fit,

(3) The agent or a sub-agent shall not refuse to purchase raw cashewnuts tendered to him by or on behalf of a cultivator:

Provided that the agent or a sub-agent may refuse to purchase the raw cashewnuts tendered for sale which do not conform to such quality or standard as may be prescribed.

6. Agent to furnish returns.--The agent shall furnish to the Government and to any officer specified by the Government in this behalf by notification in the Gazette, on such day or days as may be prescribed, a return showing the place or places where raw cashewnuts have been stocked by him, the quantity thereof and the price paid by him therefor."

10. Substitution Of New Section For Section 10 :-

For section 10 of the principal Act, the following section shall be substituted, namely:

"10. Prohibition of processing or conversion and restriction on sale etc.-The agent or a sub-agent shall not

(a) process or convert; or

(b) sell, except in accordance with the provisions of section 11, or otherwise dispose of, any raw cashewnuts purchased by him under this Act:

Provided that nothing contained in this section shall prohibit the agent or a sub-agent who is an occupier of cashew factory, from processing or converting any raw cashewnuts sold to him under section 11."

11. Insertion Of New Sections 11, 12 And 13 :-

After section 10 of the principal Act, the following sections shall be inserted, namely:

"11. Sale of raw cashewnuts to cashew factories. -(1) All raw cashewnuts purchased by the agent and the sub-agents under this Act shall be sold to the cashew factories in the State which are registered in pursuance of the rules made under the Factories Act, 1948 (Central Act 63 of 1948), and which were eligible for imported cashewnuts under the Import Trade Control Policy of the Government of India, in accordance with the provisions of sub-section (2).

(2) The quantity of raw cashewnuts to be sold to each cashew factory shall be determined on the basis of the muster-roll strength of the workers of the factory as on the 1 st day of January 1982 or on the basis of the average of the muster-roll strength of the workers of the factory for the three years of 1985, 1986 and 1987, whichever is higher, subject to the maximum of the licensed strength.

(3) An officer authorised by the Government in this behalf by notification in the Gazette shall, in accordance with the principle

specified in sub-section (2), by order, specify the quantity to be sold to each cashew factory.

(4) An order under sub-section (3) shall be served on the agent and the occupiers of the cashew factories specified in that order.

(5) The officer authorised under sub-section (3) shall give notice to the occupier of every cashew factory specified in an order under that sub-section requiring him to take delivery of the raw cashewnuts offered for sale to that factory from the place specified in the notice within seven days of the service of the notice.

(6) If any dispute arises in respect of any order under sub section (3), such dispute shall be referred to the Government, whose decision thereon shall be final.

12. Duty of occupier to take delivery of raw cashewnuts.--

(1) If an occupier of a cashew factory fails to take delivery of the raw cashewnuts offered to be sold to his factory from the place and before the date referred to in sub-section (5) of section 11, such offer for sale shall stand cancelled.

(2) Failure of an occupier of a cashew factory to take delivery of rawcashewnuts under sub-section (1) shall constitute a contravention of the provisions of this Act punishable under section 25.

(3) Without prejudice to the provisions of sub-sections (1) and (2), an occupier of a cashew factory who fails to take delivery of the raw cashewnuts from the place and before the date referred to in sub-section (5) of section 11, shall not be offered for sale raw cashewnuts"under this Act, for a period of two years immediately succeeding the year in which the offer for sale was cancelled under sub-section (1).

13. Price to be paid by occupiers.--

(1) The price to be paid by the occupiers of cashew factories for the raw cashewnuts sold to them under section 11 shall be decided by the Government from time to time.

(2) In deciding the price under sub-section (1), the Government shall take into consideration

(a) the grade and quality of the raw cashewnuts;

(b) the notified price of the raw cashewnuts; and

(c) incidental expenses incurred by the Government, the agent and the sub-agents."

12. Substitution Of New Section For Section 14 :-

For section 14 of the principal Act, the following section shall be

substituted, namely:

"14. Processing of raw cashewnuts to be done in the concerned factory, Roasting, shelling, peeling and grading of raw cashewnuts sold to a cashew factory under section 11 shall be done only in that factory and at no other place".

13. Amendment Of Section 15 :-

In section 15 of the principal Act, in the proviso, the words "a licensee or a sub-licensee or", shall be omitted.

14. Amendment Of Section 16 :-

In sub-section (1) of section 16 of the principal Act, for the words "two rupees" the words "ten rupees" shall be substituted.

15. Amendment Of Section 19 :-

In section 19 of the principal Act, in sub-section (1), after the words, "the Go-operative Department, the words, "or the Industries Department" shall be inserted.

16. Amendment Of Section 20 :-

In section 20 of the principal Act, in sub-section (2), for the words, " at the minimum price, the words, "at the notified price shall be substituted.

17. Amendment Of Section 22 :-

In section 22 of the principal Act, in sub-section (2),

(i) for the words, "be paid the minimum price" the words, "be paid the price" shall be substituted; and

(ii) the words, "and such price shall be determined in accordance with the provisions of section 5" shall be inserted at the end.

18. Repeal And Saving :-

(1) The Kerala Raw Cashewnuts (Marketing and Transport and Fixation of Minimum Price) Amendment Ordinance, 1988 (6 of 1988) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

