
Unregistered Cashew Nut Factories Prohibition Act, 1967

11 of 1967

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An Act to prohibit the working of unregistered cashew nut factories in the State of Kerala. WHEREAS it is expedient to prohibit the working of un-registered cashew nut factories in the State of Kerala; BE it enacted in the Eighteenth Year of the Republic of India follows:-

1. Short Title And Extent :-

- (1) This Act may be called the Unregistered Cashew nut Factories Prohibition Act, 1967.
- (2) It extends to the whole of the State of Kerala.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Factories Act" means the Factories Act, 1948 (Central Act 63 of 1948);
- (b) "Inspector" means an Inspector appointed or deemed to be

appointed under section 3;

(c) "Prescribed" means prescribed by rules made under this Act;

(d) "Processing:", with reference to cashew nuts, includes extraction of cashew nut oil and, roasting, shelling, peeling, grading and treating of cashew nuts;

(e) "unregistered cashew nut factory" means a factory wherein processing of cashew nuts is being carried on, which has not been registered and licensed in pursuance of the rules made under the Factories Act;

(f) words and expressions used but not defined in this Act and defined in the Factories Act, shall have the meanings respectively assigned to them in that Act.

3. Inspectors :-

(1)The Government may, by notification in the Gazette, appoint such persons as they think fit to be Inspectors for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(2) An Inspector appointed under sub-section (1) of section 8 of the Factories Act shall be deemed to be an Inspector for the purposes of this Act within the local limits assigned to him under the Factories Act, unless and until another person is appointed to be an Inspector for the purposes of this Act with jurisdiction within the said local limits.

4. Prohibition Of Processing Of Cashew Nuts In Unregistered Factories :-

No person shall process any cashew nut in an unregistered cashew nut factory.

5. Powers Of Inspectors :-

(1)An Inspector may, if he has reasons to believe that processing of cashew nuts in contravention of section 4 is being, or is about to be carried on in any premises,-

(a) enter such premises, if necessary by force, at any time for the purpose of search of the premises ;

(b) seize any cashew nuts in respect of which the provisions of section 4 are being, or are about to be, contravened, along with the package, covering or receptacle, if any, in which such cashew nuts are found;

(c) seize any books of account, return or any other document relating to any cashew nuts in respect of which the provisions of section 4 are being, or are about to be contravened.

(2) The provisions of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), relating to search and seizure shall, so far as they are applicable, apply in relation to search and seizure made under this section.

6. Penalties :-

If any person contravenes or attempts to contravene or abets the contravention of the provisions of section 4, or of any rule made under this Act, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

7. Offences By Companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, 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 is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section,-

(a) "company" means any 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.

8. Forfeiture Of Cashew Nuts, Tic :-

Where any person has been convicted under this Act for the contravention of any provision of this Act or of any rule thereunder, the cashew nuts in respect of which the contravention has been committed, together with the package, covering or receptacle, if any, in which such cashew nuts were found shall be forfeited to the Government on the orders of the court to that effect.

9. Cognizance Of Offences :-

(1) No court shall take cognizance of any offence punishable under this Act except upon complaint made by an Inspector.

(2) No court below the rank of a Magistrate of the First Class shall try any offence punishable under this Act.

10. Protection Of Action Taken 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 done in pursuance of any of the provisions of this Act or any rule or order made thereunder.

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

11. Inspectors To Be Public Servants :-

Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

12. Power To Make Rules :-

(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) 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 fourteen 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, the Legislative Assembly agrees in making

any modification in the rule or the Legislative Assembly agrees 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.

13. Repeal And Saving :-

(1) The unregistered Cashew nut Factories Prohibition Ordinance, 1967 (5 of 1967) , is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act had commenced on the 15th day of June, 1967.