

The Tamil Nadu Preservation of Private Forests Act, 1949

(TAMIL NADU ACT XXVII OF 1949)

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(Received the assent of the Governor-General on the 10th December 1949; first published in the *Fort St. George Gazette* extraordinary on the 14th December 1949)

An Act to prevent the indiscriminate destruction of private forests and interference with customary and perspective rights therein and for certain other purposes.

WHEREAS it is necessary to prevent the indiscriminate destruction of private forests and interference with customary and perspective rights therein. It is hereby enacted as follows:-

Short Title, application and commencement

1. ¹(1) This Act may be called the Tamil Nadu Preservation of Private Forests Act, 1949.

(2) It applies

²[***]

(ii) to forests situated in estates as defined in the ³[Tamil Nadu] Estate Land Act, 1938, in the ⁴[State] of Tamil Nadu.

(iii) to private forests situated in the other areas in the State of ¹[Tamil Nadu] and having a contiguous area exceeding ²(2 hectares) which may be declared by the ³[committee] to be forests for the purposes of this Act, by notification, in the District Gazette.

But does not apply to reserved forests constituted under

1. Amended by T.N. Act XXXII of 1965.
2. Omitted by T.N. Act XV of 1957.
3. Subs. By T.A.O. 1969.
4. Subs by T.A.O. 1950.

the Tamil Nadu Forest Act, 1882, and lands at the disposal of the Government as defined in that Act.

Explanation:- A private forest exceeding ²[2 hectares] in the extent shall not cease to be such by reason only on the fact that, in a portion thereof, ⁴[trees, shrubs or reeds or felled or cut] with or without the permission of the committee or lands are cultivated, or rocks, roads, tanks, rivers or the like exist; nor shall the area of such forest cease to be contiguous by reason only of the existence of all or any of the aforesaid circumstances.]

(3) It shall come into force at once. ⁵[***]*[.....]

Definition

2. In this act unless there is anything repugnant in the subject or context

⁶[(a) **'Committee'** means any Committee constituted under section 2-A, and having jurisdiction.]

⁶(aa) **'Forest'** includes waste or communal land containing ⁷[trees, shrubs, reeds] pasture land and any other class of land declared by the ⁸[State] Government to be a forest by notification in the Fort St. George Gazette.

Explanation:- For the purposes of this clause, communal land means -

- (i) beds and bunds of tanks and of supply, drainage surplus or irrigation channels;
- (ii) threshing-floor, cattle-stands, village-sights and other lands which are set apart for the common use of the villager.

(b) **'Owner'** in relation to a forest includes a mortgagee, lessee or other person having right to possession and enjoyment of the forest;

(c) **'Person'** includes a Hindu undivided family Marumakkattayamtarwad or tavazhi and an Aliyasantana family or branch;

⁹[(d) **'Forest Offense'** means as offense punishable under this Act; and

(e) in expression **"Forest Officer"**, **"Trees"**, **"Timber"**, **"Forest Produce"**, **"Cattle"**, **"Magistrate"** and **"Imprisonment"** shall have the meaning respectively assigned to them in section 2 of the Tamil Nadu Forest Act, 1882].

Constitution of Committees

¹**[2-A. Constitution of Committees:-** (1) The State Government may, by notification with effect from such date as

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1. Subs by T.A.O. 1969.
 2. Subs. by T.N. LXVIII of 1979.
 3. Subs by T.N. Act LXVIII of 1979.
 4. Subs by T.N. Act 12 of 1965.
 5. Omitted by T.N. Act 12/1965.
 6. Amended by T.N. Act 68/1979.
 7. Subs by T.N. Act 12 of 1965.
 8. Subs by T.A.O. 1950.
 9. Clauses (d) &(e) added by T.N. Act 35 of 1955.
 10. Omitted by Tamil Nadu Act 32 of 1965.

may be specified therein, constitute for each District a committee for the purpose of this Act, consisting of the following members, namely:-

- (a) the District Collector as Chairman of the Committee;
- (b) the District Forest Officer having jurisdiction over district;
- (c) the Tahsildar having jurisdiction over the area;
- (d) the Executive Engineer of the Agriculture Department in-charge of soil conservation;

the Personal Assistant (General) to the Collector of the District who shall be the Secretary of the Committee.

2-B. Meetings of Committees:- (1) The committee may meet as often as may be necessary and shall, subject to the provision of sub-section (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be prescribed by the State Government under this Act provided that not more than two months shall elapse between one meeting of the committee and another.

Meetings of Committees

(2) The Chairman of the committee or in his absence any member nominated by him in that behalf shall preside at a meeting of the committee.

(3) All questions at a meeting of the committee shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman of the committee or in his absence the person presiding, shall have a second or casting vote.

2-C. Vacancy in Committee etc., not to invalidate acts or proceedings:- No act or proceedings of the committee shall be deemed to be invalid by reason only of the existence of any vacancy in the committee or any defect in the nomination of a member thereto or on the ground only that more than two months have elapsed between one meeting of the committee and another.]

Vacancy in Committee

3. Preservation of private forests:- (1) (a) No owner of any private forest shall, without the previous sanction of the Committee sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.

Preservation of private forests

Explanation: Nothing in the sub-section can be construed as preventing the owner from selling or otherwise dealing with the right together and remove forest product other than ¹[trees, timber and reeds] in the usual or customary manner for a period of exceeding two years.

²(b) Any alienation in contravention of clause (a) shall be null and void-

- (i) If the alienation of any forest declared by ³[the District Collector] to be a forest under clause (iii)

of section 1(2) or of any portion of such a forest and is made on or after the date on which the declaration takes effect;

(ii) ⁴[.....]

(iii) If the alienation of any forest or any portion of such a forest, and is made on or after the 16th August 1946.]

⁵[(2) No owner of any forest and no person claiming under him, whether by virtue of a contract, license or any other transaction entered into before or after the commencement of the Tamil Nadu Preservation of Private Forests Act, 1946, or any other person shall without the previous permissions of the [Committee] ⁵[(a) cut trees or reeds) (b) do any Act likely to denude the forest or diminish its utility as food.

Provided that nothing contained in this sub-section shall apply to the removal of dead or fallen trees or to any act done for the usual or customary domestic purposes or for making agricultural implements.]

(3) Notwithstanding anything contained in the sub-section (1) or sub-section

(2)the⁶[State Government] may exempt any forest or class of forest or class of trees there in from all or any of provisions of this section.

Appeals

4. Any person aggrieved by an order under clause (a) of sub-section (1) of section 8 or under sub-section(2) of that section in regard to the sanction or permission referred to in that clause or sub-section may, within two months of the receipt of such order prefer an appeal in writing to the ³[State Government]. The ¹[State Government] shall pass such orders on the appeal as they may think fit.

Sanction to purchaser

4-A. (1) Notwithstanding anything contained in sub-section (1) of section 3, the purchaser of the whole or any portion of the forest, which has been sold by the owner of such forest without the previous sanction of the committee under clause (a) of sub-section (1) of section 3, may, apply to the committee for sanction to retain the whole or any portion of the forest, within such time as may be prescribed.

(2) The committee may, by order, accord the sanction for the whole or any portion of the forest specified in the application, subject to such conditions as it may deem fit.

(3) The committee may refuse to accord the sanction, if

1. Subs by T.N. Act 12 of 1965.
2. Subs by T.N. Act 36 of 1979
3. Subs by T.N. Act 22 of 1960..
4. Omitted T.N. Act XV of 1957
5. Subs by T.N. Act 36 of 1979.
6. Subs by A.O. 1950.
7. Section 5 Omitted by T.N. Act 36 of 1979
8. Subs by A.O. 1950
9. Omitted by T.N. Act 36 of 1979
10. Ins. by Tamil Nadu Preservation of Private Forests (Amendment) Act, 2011 (Tamil Nadu Act 8 of 2015) and came into force by 9th July 2018

prosecution is instituted for any of the contraventions referred to in section 7, in such forest, other than the contravention of the provisions of sub-section (1) of section 3 or for any other reason to be recorded in writing.

(4) Any person aggrieved by an order under sub-section (3) may, within two months from the date of receipt of such order, prefer an appeal in writing to the State Government. The State Government shall pass such order on the appeal as they may think fit.

(5) The sanction accorded under sub-section (2) shall not prohibit the institution of prosecution against the owner for the contravention of sub-section (1) of section 3.

5.²[***]

6. If in opinion of the ³[state] Government it is necessary for the preservation of a forest or forests, they may by notification ⁴[....]

- (i) Prohibit or regulate the doing of any act likely to be detrimental to the preservation of such forest or forests;
- (ii) Regulate the exercise of customary or prescriptive rights in such forest or forests.

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- (iii) Prohibit or regulate the doing of any act likely to be detrimental to the preservation of such forest or forests;
- (iv) Regulate the exercise of customary or prescriptive rights in such forest or forests.

Power to prohibit or regulate certain acts

³[6-A. Applicability of chapter VII Tamil Nadu Act V of 1882] – The provision of Chapter VII of the Tamil Nadu Act V, 1882 shall apply to offence punishable under this Act subject to the following modifications namely:-

Applicability of Chapter VII

- (i) in the section 41 the proviso shall be omitted;
- (ii) in section 42, after the words “the Magistrate shall”, the expression “subject to the provisions of Section 8 of the Madras Preservation of Private Forests Act, 1949 shall be inserted”;
- (iii) in section 44, the words shall, if it is the property of the Central or State Government or has been confiscated, be taken possession of by or under the authority of the District Forest Officer and in any other case shall be omitted;
- (iv) in section 45 and 49, for the words “the District Forest Officer”, the words “the District Collector” shall be substituted;

1. Substituted by A.O. 1950
2. Omitted by T.N. Act 32 of 1965
3. Omitted by Act 36 of 1979
4. Ins by T.N. Act 12 of 1956
5. Inserted by Act 36 of 1979

- (v) in section 50-
 - (a) clause (a) shall be omitted;
 - (b) in clause (c), the word “or” occurring at the end shall be omitted; and
 - (c) clause (d) shall be omitted;
 - (d) section 56 shall be omitted;

Penalties

7. (1) Whoever contravenes (a) the provisions of sub-section (1) or sub-section (2) of section 3 or any of the terms of a notification under section 6 shall be punishable with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or both.

(2) Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1973 it shall be lawful for any Magistrate of the first class, specially empowered by the State Government in this behalf to impose a sentence of fine exceeding one thousand rupees.

Institution of prosecution

8. No prosecution shall be instituted against any person without sanction of the District Committee.

Bar of suits

9. No order of the ¹[State] Government or the District Committee under this Act and no notification issued by the ¹[State] Government under section 6 shall liable to be questioned in any Court of Law.

Power to make rules

10. (1) The ¹[State] Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the classed or kinds of trees which may be permitted to be cut and the girth of such trees;
- (b) the classes or kinds of trees to which permission may be granted.

⁵[(bb) the deposit of such sum, if any as may be specified in the rules as security for the performance of the terms and conditions subject to which permission is granted under sub-section (2) of section 3, the forfeiture of the sum so deposited or any part thereof for contravention of any such term of condition and the adjudication of such forfeiture by such authority as may be specified in the rules]

- (c) the procedure to be followed by the District Collector before granting permission.

11. ²[.....]

12. ³[.....]

1. Substituted by A.O. 1950
 2. Omitted by T.N. Act 32 of 1965
 3. Omitted by Act 36 of 1979
 4. Ins by T.N. Act 12 of 1956
 5. Inserted by Act 36 of 1979

[12-A Rules and orders to be placed before the legislature:-(1) (a) All rules made under this act, shall be published in the [Tamil Nadu Government Gazette] and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

Rules and orders to be placed before the legislature

(b) All notification issued under this Act shall unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(2) Every rule made or notifications issued under this Act, shall as soon as possible after it is made ⁵[or issued], be placed on the Table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or [notification] or the Legislative Assembly agrees that the rule ⁵[or notification] shall thereafter have effect only in such modified form or to 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 [or notification].

13. (1) Any rule or order made purporting to have been made, any notification issued or purporting to have been issued, any decision or direction given or purporting to have been given, any action or proceeding taken or purporting to have been taken or anything done or purporting to have been done-

Saving and Validation

- (a) under any provision of the Tamil Nadu Preservation of Private Forests Act, 1949 (hereinafter in this section and in section 14 referred to as the said Act) and in force immediately before the 3rd December 1948, or
- (b) on or after the 3rd December 1948 under any provisions of the said Act on the footing that the said Act was in force at the relevant time, or
- (c) under any provisions of the Tamil Nadu Preservation of Private Forests Ordinance, 1949 (hereinafter in this section referred to as the said Ordinance),

shall subject to any subsequent modification or cancellation thereof purporting to have been made on or after that date under the said Act on the footing that the said Act was in force at the relevant time or under the said Ordinance, be deemed to be a rule or order made, notification issued, decision or direction given, action or proceeding taken or thing done under the corresponding provision of this Act,

(2) Any liability or penalty incurred or purporting to have been incurred, any punishment awarded or purporting to

have been awarded and any prosecution commenced or purporting to have been commenced.

- (a) under any provision of the said Act before the 3rd December, 1948, or
- (b) on or after 3rd December, 1948 under any provision of the said Act on the footing that the said Act was in force at the relevant time, or
- (c) under any provision of the said Ordinance.

shall be deemed to have been incurred or commenced under the corresponding provision of this Act.

Indemnity for acts, etc., done after expiry of Tamil Nadu Act XVIII of 1946

14. (1) No suit, prosecution or other legal proceeding shall lie in any court against any officer or servant of the ¹[State Government] or any person acting under his direction or aiding or assisting him-

- (a) for or on account of or in respect of any sentence passed or any act ordered or done by him in exercise of any jurisdiction or power purporting to have been conferred on him by the said Act, or
- (b) for carrying out any sentence passed by any Court in exercise of any such jurisdiction or power as aforesaid.

(2) No suit or other legal proceeding shall lie against the ¹[State Government] for or on account of or in respect of any act, matter or thing whatsoever purporting to have been done in pursuance of or under the said Act,

(3) sub-section (1) and (2) shall have effect although the said Act was not or might not have been in force by the relevant time.

Repeals

15. The Tamil Nadu Preservation of Private Forests Act, 1946 and the Tamil Nadu Preservation of Private Forests Ordinance, 1949 are hereby repealed.