

THE UTTAR PRADESH TENDU PATTA (VYAPAR VINIYAMAN)
ADHINIYAM, 1972¹

[U.P. Act no. 19 of 1972]

Amended by

U.P. Act no. 06 of 1973

U.P. Act no. 16 of 1973

U.P. Act no. 15 of 1979

U.P. Act no. 05 of 1980

[Passed in Hindi by the Uttar Pradesh Legislative Assembly on April 7, 1972 and by the Uttar Pradesh Legislative Council on April 14, 1972.]

Received the assent of the Governor on April 24, 1972, under Article 200 of the Constitution of India and was published in the Uttar Pradesh Gazette (Extraordinary) dated April 25, 1972.]

AN

ACT

to provide, in the public interest, for the creation of State monopoly in the purchase and distribution of tendu leaves and for matters connected therewith.

It IS HEREBY enacted in the Twenty-third Year of the Republic of India as follows:-

**Short title
extent and
commencement**

1. (1) This Act may be called the Uttar Pradesh Tendu Patta (Vyapar Viniyaman) Adhiniyam, 1972.

(2) It extends to the whole of Uttar Pradesh.

²[(3) It shall be deemed to have come into force, in the districts of Allahabad, Mirzapur, Banda, Hamirpur, Jhansi and Varanasi on March 2, 1972, and shall come into force in the rest of Uttar Pradesh on such date as the State Government may by notification in *Gazette*, appoint and different dates may be appointed for different areas of Uttar Pradesh.]

Definitions

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

(a) "agent", in relation to a unit, means an agent appointed under section 4 in respect of such unit;

(b) "unit" means a unit constituted under section 3;

(c) "tenure holder" means a a bhumidhar, sirdar, asami, Government lessee or other Government grantee;

(d) "grower of *tendu* leaves" means-

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1927**

(i) in respect of *tendu* leaves grown on land which is for the time being vested in and held by the State Government or constituted as a reserved forest or protected forest under the Indian Forest Act, 1927 the State Government.

1. For Statement of Objects and Reasons, please see U.P. Gazette (*Extraordinary*) dated April 5, 1972.
2. [Subs. and be deemed always to have been substituted by section 2 of U.P. Act no. VI of 1973.](#)

(ii) in respect of *tendu* leaves grown on land which is for the time being vested in and held by a Goan Sabha or other local authority,— such Gaon Sabha or other local authority.

(iii) in respect of *tendu* leaves grown on land which is for the time being held by a tenure-holder, such tenure-holder.

(iv) in respect of *tendu* leaves grown on land which is for the time being held by a mortgagee in possession or tenant or lessee on behalf of the State Government or such Goan Sabha, local authority or tenure-holder as aforesaid,— such mortgagee in possession, tenant or lessee, as the case may be.

(v) in respect of *tendu* leaves grown on land which is for the time being in the custody of a receiver appointed by a court or by some other authority in exercise of a power conferred by law,—such receiver;

(vi) in respect of *tendu* leaves grown on land which is for the time being held by any other person, such person;

(e) "appointed day" in relation to any area, means the day on which this Act comes into force in that area;

¹[(f) 'year' means the year beginning on the first day of January;]

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

(h) words and expressions used but not defined in this Act, and defined in the Indian Forest Act, 1927, shall have the meanings assigned to them in that Act.

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1927**

**Constitution
of Units**

3. The State Government may divide any area into such number of units as it may deem fit.

**Appointment
of agents**

4. (1) The State Government may, for the purpose of purchase of, and trade in *tendu* leaves on its behalf, appoint agents in respect of different units, and any such agent may be appointed in respect of more than one unit.

(2) The terms and conditions of, and the procedure respecting, such appointment, shall be such as may be prescribed.

**Restriction
on sale,
purchase and
transport of
tendu leaves**

5. ²[(1)] On and after the appointed day—

(a) no person shall sell *tendu* leaves to any person other than the State Government or an officer of the State Government authorised by it in that behalf or an agent in respect of the unit in which the leaves have grown ;

(b) no person other than such Government officer or agent shall purchase *tendu* leaves from any person other than such Government, officer or agent, or collect *tendu* leaves grown on any land of which he is not owner or tenure-holder;

(c) no person other than such Government, officer or agent shall transport *tendu* leaves except in the following cases, namely:-

1. Subs. and be deemed always to have been substituted by section 3 of U.P. Act no. VI of 1973.

2. Renumbered and be deemed always to have been renumbered as sub-section (1) of Section 5 by sec. 4 of U.P. Act no. 6 of 1973.

(i) where he being a grower of tendu leaves transports them from any place within the unit wherein such leaves have grown to any other place in that unit; or

(ii) where he transports them on behalf of such Government, officer or agent; or

(iii) where he has purchased the leaves from such Government, officer or agent either for the manufacture of *bidis* within Uttar Pradesh or for sale of the leaves outside Uttar Pradesh, and he transports them outside the unit in accordance with the terms and conditions of a permit issued in that behalf by such authority and in such manner as may be prescribed.

¹[(2) Notwithstanding anything in sub-section (1) the State Government or an officer of the State Government authorised by it in that behalf may on such terms and conditions and in such manner as may be prescribed,-

(a) permit any person, who had purchased tendu leaves in the year 1971 or earlier,-

(i) to sell such leaves to any person other than the State Government or an officer or agent referred to in clause (a) of sub-section (1), and permit any person other than such Government, officer or agent to purchase the said leaves; or

(ii) to transport such leaves to any place within Uttar Pradesh or to export them outside Uttar Pradesh; or

(b) permit any person referred to in sub-clause (iii) of clause (c) of sub-section (1) to sell within Uttar Pradesh any tendu leaves which he has been unable to utilise in the manufacture of *bidis* within Uttar Pradesh or, as the case may be, to export outside Uttar Pradesh ; or

(c) permit any person, who has purchased any tendu leaves outside Uttar Pradesh to bring them inside the State either for manufacture of *bidis* within the State or for transporting them elsewhere outside Uttar Pradesh; or

(d) permit any person, who has purchased any tendu leaves within Uttar Pradesh outside any area to which this Act applies to transport them to any area to which this Act applies for the manufacture of *bidis*.

²[(3) A person to whom a permit referred to in clause (b) or clause (c) or clause (d) of sub-section (2) is granted shall be liable to pay, in the manner prescribed, a tax at the rate of three rupees per standard bag of tendu leaves.]

³**[5-A** (1) Notwithstanding anything contained in this Act but subject to section 16, the State Government or an officer empowered by it by general or special order in this behalf, may by permit authorise in the manner prescribed a person to whom the State Government has sold or with whom it has agreed to sell tendu leaves to collect the same on

1. Inserted and be deemed always to have been inserted by section 4 of U.P. Act no. VI of 1973.

2. Subs. by sec. 2 of U.P. Act no. 5 of 1980.

3. Ins. by sec. 2 of U.P. Act No. 15 of 1979.

its behalf directly from the grower of tendu leaves, on payment of price thereof to such growers.

(2) The permit referred to in sub-section (1) shall specify the estimated quantity sold, the name of the grower of tendu leaves, the amount required to be paid to such grower and such other particulars as may be prescribed.

(3) A person authorised under subsection (1) shall be deemed to be an agent for all or any of the purposes of this Act as may be prescribed, but shall not be entitled to payment of any amount by way of commission or otherwise for the collection of tendu leaves.]¹

**Constitution
of Advisory
Committee**

6. (1) The State Government shall for each year constitute for each such Division of a Commissioner, where tendu leaves grow, an Advisory Committee which shall consist of not more than nine members nominated by the State Government:

Provided that not more than one-third of such members shall be from amongst persons who are growers of tendu leaves.

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

**Fixation of price
by State
Government**

7. (1) The State Government shall having regard to the following among other factors fix the price at which tendu leaves shall be purchased by or for²[****] in each unit of the division during the year namely:-

(a) the price of tendu leaves, if any, fixed under this Act during the preceding three years in respect of the unit;

(b) the quality of the leaves grown in the unit;

(c) the transport facilities available in the unit;

(d) the cost of transport; and

(e) the general rate of wages for unskilled labour prevalent in the unit;

(2) The price so fixed shall be published³[***] in such manner as the State Government may direct, ⁴[and shall not be reduced] during the year to which it relates.

(3) Where an Advisory Committee has been constituted under section 6 before the fixation of price under sub-section (1), the Advisory Committee shall, wherever practicable, be consulted by the State Government before such fixation.

**State
Government to
purchase all
tendu leaves
offered for sale**

8. (1) The State Government shall be bound to purchase at the price fixed under section 7 all tendu leaves offered for sale to or for it during the normal hours of business at a depot set up by the State Government in that behalf:

1. Ins. by sec. 2 of U.P. Act No. 15 of 1979.

2. Omitted and be deemed always to have been omitted by section 5 of U.P. Act no. VI of 1973.

3. Omitted and be deemed always to have been omitted by section 2 of U.P. Act no. 16 of 1973.

4. Subs. and be deemed always to have been substituted by section 2 *ibid.*

Provided that it shall be open to an officer of the State Government or agent, as the case may be, appointed in that behalf to refuse to purchase any leaves which in his opinion are not fit for the purpose of manufacture of *bidis*.

(2) Any person aggrieved by the rejection of his leaves by an officer or agent under the proviso to sub-section (1) may, within fifteen days therefrom, 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.

(3) On receipt of a complaint under sub-section (2), the officer concerned shall hold summary inquiry and pass such order as he may deem fit, and in case he finds the rejection of the leaves to be improper he may-

(a) if he considers the leaves in question still suitable for manufacture of *bidis*, direct the authorised officer or agent, as the case may be, to purchase the same and also direct the payment to the person aggrieved of such compensation not exceeding twenty per centum of the price of the leaves payable to him, as he may deem fit; or

(b) if he considers that the leaves in question have since become unsuitable for manufacture of *bidis*, direct the authorised officer or agent, as the case may be, to pay to the person aggrieved an amount equivalent to the price of such leaves payable to him under sub-section (1) and such further compensation not exceeding ten per centum of such price as he may deem fit by way of damages for the loss suffered by such person.

(4) Notwithstanding, anything in sub-section (1), where the State Government or its authorised officer or agent has reason to believe that any tendu leaves offered for sale were grown on any land which is vested in and held by the State Government or which is constituted as reserve forest or protected forest, such leaves may be appropriated without payment of price; and on payment only of such collection charges, if any, as the State Government may from time to time determine.

(5) The provisions of sub-sections (2) and (3) shall *mutatis mutandis* apply in relation to any action taken under sub-section (4).

(6) Every order passed under this section shall be final and shall not be called in question in any Court.

Registration of growers, etc.

9. (1) Every grower of tendu leaves other than the State Government or a Gaon Sabha or other local authority shall, if the quantity of leaves grown by him during a year is likely to exceed, such quantity as may be prescribed, get himself registered in the prescribed manner.

Registration of manufacturer of bidis and exporter of tendu leaves

(2) Every manufacturer of *bidis* and every exporter of tendu leaves shall get himself registered on payment of such fee and in such manner as may be prescribed.

Disposal of the leaves

10. (1) Tendu leaves purchased by or for the State Government shall be sold or otherwise disposed of in such manner as the State Government may direct.

(2) The sale of tendu leaves in respect of which the grower is the State Government or a Gaon Sabha or other local authority shall be governed by, and where the Government sells or causes to be sold the tendu leaves grown in any area in respect of a part of which the grower is the State Government and in respect of another part of which the grower is a Gaon Sabha or other local authority, the net proceeds of such sale shall be apportioned between the State Government and such Gaon Sabha or other local authority in accordance with, any general or special order of the State Government issued in that behalf.

Delegation of Powers

11. The State Government may by general or special order delegate any of its powers or functions under this Act or the rule made thereunder to any officer not below the rank of an Assistant Conservator of Forests, who shall exercise or perform the same subject to such conditions or restrictions, if any, as the State Government may specify in the order.

Powers of entry, search, seizure, etc.

12. (1) Any police officer not below the rank of a sub-inspector or any forest officer may, with a view to securing compliance with the provisions of this Act or the rules 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 tendu leaves;

(ii) enter and search any place;

(iii) seize tendu leaves 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 receptacle containing such leaves, or the vehicle or boats used in carrying such leaves.

Act no. V of 1898

(2) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898, of relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

Penalty

13. 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 tendu leaves, 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, as amended in its application to Uttar Pradesh (excepting section 69) shall accordingly apply with necessary modifications.

Offences by Companies

14. (1) If the person committing an offence under this Act is a company, the company as well as every person incharge 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.

(3) 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, secretaries and treasurers, director, manager or other officer of the Company, such managing agent, secretaries and treasurers, director, manager or other officer of the Company shall also 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.

Cognizance of offence

15. 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 any Forest Officer not below the rank of a Divisional Forest Officer or by any other officer as may be empowered by general or special order of the State Government, in that behalf.

Provisions of Act to have overriding effect

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

Savings in respect of Acts done in good faith

17. (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 this Act or the rules made thereunder.

(2) No suit or other legal proceedings 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 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.

Power to make rules

18. (1) The State Government ¹[may by notification in the Gazette make rules] for carrying out 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 procedure to be followed in making appointment of agent;

[1. Subs. and be deemed always to have been substituted by section 6\(1\) of U.P. Act no. 6 of 1973.](#)

(b) the publication of the price lists of tendu leaves;

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

¹[(d) the authority by whom, the manner in which, and the conditions subject to which, permits may be issued under section 5 and the manner in which tax under sub-section (3) of section 5 shall be paid or realised;]

(e) the manner of registration under section 9; the period within which such registration shall be made, and the fee payable under sub-section (2) thereof;

(f) the guiding principles for the determination of compensation under sub-section (3) of section 8;

(g) any other matter which has to be, or may be prescribed.

(3) All rules made under this Act shall as soon as may be after they are made be laid before each House of the State Legislature, while it is in session, for a total period of not less than thirty days, extending in its one session or more than one successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the *Gazette*, subject to such modifications or annulments as the two Houses of the Legislature may agree to make; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

²[(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 the commencement of this Act.¹]

**Teansitory
provision**

19. Where at any time between July 1, 1971 and February 24, 1972 any grower of tendu leaves had entered into any contract for the sale of tendu leaves expected to be grown by him during the year 1972 to any trader and obtained an advance from such trader towards the price of the leaves expected to be delivered to the trader under such contract, then notwithstanding that by virtue of the provisions of sections 5 and 16 such contract shall have become void on the appointed day, the said grower 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 grower, may direct the officer or agent referred to in section 8 to pay on behalf of the grower to such trader a sum, not exceeding the total unpaid amount of the advance without any interest or compensation, out of the price due to the grower for leaves sold under section 8, and the liability of the State Government or the agent to the grower and of the grower to the trader shall to the extent of such payment stand discharged, and the grower shall not be liable to pay any interest or compensation in respect of such advance.

[1. Subs. by sec. 3 of U.P. Act No. 5 of 1980.](#)

[2. Inserted by section 6\(3\) of U.P. Act No. 6 of 1973.](#)

[The Uttar Pradesh Tendu Patta (Vyapar Viniyaman) Adhiniyam, 1972]

Validation

20. The notice no. 1942/XIV-2-71-72, dated March 29, 1972, published by the State Government in the *Gazette*, dated March 30, 1972, by which applications were invited for appointment as agents for units and the tender notice no. 1861/XIV-II-72, dated March 22, 1972, issued by the State Government by which tenders were invited from persons desirous of purchasing tendu leaves collected or likely to be collected by the State Government or by its officers or agents and anything done or any action taken in pursuance of the said notices shall be deemed to be and always to have been as valid as if the rules made by the State Government under section 18 and published in the *Gazette*, dated March 17, 1972 had come into force on March 17, 1972.

**Repeal U.P.
Ordinance No. 1
of 1972**

¹[**21** (1) The Uttar Pradesh Tendu Patta (Vyapar Viniyaman) Adhyadesh, 1972 is hereby repealed.]

²[(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 as if this Act, was in force at all material times.]

[1. Renumbered as sub-section \(1\) of section 21 by sec. 7 of U.P. Act No. 6 of 1973.](#)

[2. Ins. by sec. 7 *ibid*.](#)

