

THE KERALA PRIVATE FORESTS (VESTING  
AND ASSIGNMENT) ACT, 1971

(Act 26 of 1971)

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**THE KERALA PRIVATE FORESTS (VESTING AND  
ASSIGNMENT) ACT, 1971 \***

(Act 26 of 1971)

**An Act to provide for the vesting in the Government of  
private forests in the State of Kerala and for the assign-  
ment thereof to agriculturists and agricultural  
labourers for cultivation**

**Preamble.**—WHEREAS the private forests in the State of Kerala are agricultural lands;

AND WHEREAS Government consider that such agricultural lands should be so utilised as to increase the agricultural production in the State and to promote the welfare of the agricultural population in the State;

AND WHEREAS Government also consider that to give effect to the above objectives it is necessary that the private forests should vest in the Government;

BE it enacted in the Twenty-second Year of the Republic of India as follows.—

**1. Short title, extent and commencement.**—(1) This Act may be called the Kerala Private Forests (Vesting and Assignment) Act, 1971.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 10th day of May, 1971.

**2. Definitions.**—In this Act, unless the context otherwise requires,—

(a) "appointed day" means the 10th day of May, 1971,

(b) "custodian" means the Chief Conservator of Forests of the State of Kerala or any other officer appointed by the Government, by notification in the Gazette, to exercise the powers and perform the functions of the custodian under this Act;

(c) "owner" in relation to a private forest, includes a mortgagee, lessee or other person having right to possession and enjoyment of the private forest,

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(d) "person" includes a company, a religious or charitable institution of a public nature, a trust, a Hindu undivided family, a Marumakkathayam tarward or tavazhi, an Aliya-santhana family or branch and a family governed by the Kerala Nambudiri Act, 1958 (27 of 1958),

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

(f) "private forest" means,—

(1) in relation to the Malabar district referred to in sub-section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956),—

(i) any land to which the Madras Preservation of Private Forests Act, 1949 (Madras Act XXVII of 1949), applied immediately before the appointed day excluding—

(A) lands which are gardens or nilams as defined in the Kerala Land Reforms Act, 1963 (1 of 1964);

(B) lands which are used principally for the cultivation of tea, coffee, cocoa, rubber, cardamom or cinnamon and lands used for any purpose ancillary to the cultivation of such crops or for the preparation of the same for the market,

**Explanation.**—Lands used for the construction of office buildings, godowns, factories, quarters for workmen, hospitals, schools and playgrounds shall be deemed to be lands used for purposes ancillary to the cultivation of such crops

(C) lands which are principally cultivated with cashew or other fruit-bearing trees or are principally cultivated with any other agricultural crop; and

(D) sites of buildings and lands appurtenant to, and necessary for the convenient enjoyment or use of, such buildings;

(ii) any forest not owned by the Government, to which the Madras Preservation of Private Forests Act, 1949, did not apply, including waste lands which are enclaves within wooded areas;

(2) in relation to the remaining areas in the State of Kerala, any forest not owned by the Government, including

waste lands which are enclaves within wooded areas.

**Explanation.**—For the purposes of this clause, a land shall be deemed to be a waste land notwithstanding the existence thereon of scattered trees or shrubs;

(g) "Tribunal" means a Tribunal constituted under section 7.

**3. Private forests to vest in Government.**—(1) Notwithstanding anything contained in any other law for the time being in force, or in any contract or other document, but subject to the provisions of sub-sections (2) and (3), with effect on and from the appointed day, the ownership and possession of all private forests in the State of Kerala shall, by virtue of this Act, stand transferred to and vested in the Government free from all encumbrances, and the right, title and interest of the owner or any other person in any private forest shall stand extinguished.

(2) Nothing contained in sub-section (1) shall apply in respect of so much extent of land comprised in private forests held by an owner under his personal cultivation as is within the ceiling limit applicable to him under the Kerala Land Reforms Act, 1963 (1 of 1964) or any building or structure standing thereon or appurtenant thereto

**Explanation.**—For the purposes of this sub-section, "cultivation" includes cultivation of trees or plants of any species

(3) Nothing contained in sub-section (1) shall apply in respect of so much extent of private forests held by an owner under a valid registered document of title executed before the appointed day and intended for cultivation by him, which, together with other lands held by him to which Chapter III of the Kerala Land Reforms Act, 1963, is applicable, does not exceed the extent of the ceiling area applicable to him under section 82 of the said Act.

(4) Notwithstanding anything contained in the Kerala Land Reforms Act, 1963, private forests shall, for the purposes of sub-section (2) or sub-section (3), be deemed to be lands to which Chapter III of the said Act is applicable, and for the purposes of calculating the ceiling limit applicable to an owner, private forests shall be deemed to be "other dry lands" specified in Schedule II to the said Act.

**4 Private forests to be deemed to be reserved forests.**—All private forests vested in the Government under sub-section

(1) of section 3 shall, so long as they remain vested in the Government, be deemed to be reserved forests constituted under the Kerala Forest Act, 1961 (4 of 1962), and the provisions of that Act shall, so far as may be, apply to such private forests.

**5. Eviction of persons in unauthorised occupation.—**(1) The custodian or any officer not below the rank of Divisional Forest Officer authorised by the custodian in that behalf may summarily evict any person in unauthorised occupation of any private forest vested in the Government under sub-section (1) of section 3.

(2) Notwithstanding anything contained in any other law for the time being in force, the custodian or the officer authorised under sub-section (1) may for the purposes of that sub-section use such force as he deems necessary.

**6. Demarcation of boundaries.—**(1) As soon as may be after the appointed day, the custodian shall cause the boundaries of the private forests vested in the Government under sub-section (1) of section 3 to be demarcated

(2) Notwithstanding the pendency of an application under section 8 before the Tribunal, the custodian may, if he is satisfied that any land is a private forest vested in the Government under sub-section (1) of section 3, cause the boundaries thereof to be demarcated as if such land has vested in the Government under that sub-section.

**7. Constitution of Tribunals.—**(1) The Government may, by notification in the Gazette, constitute one, or more than one, Tribunal for the purposes of this Act.

(2) The Tribunal shall consist of a single person who is, or has been, or is qualified to be appointed as, a District Judge

(3) Where more than one Tribunal is constituted under sub-section (1), the Government shall also define the areas within which each Tribunal shall exercise jurisdiction.

(4) The Tribunal shall decide all matters within its competence and may review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein but subject thereto, the decision of the Tribunal on any matter within its jurisdiction shall be final and conclusive



(5) The Tribunal shall follow such procedure as may be prescribed.

8. **Settlement of disputes.**—(1) Where any dispute arises as to whether—

(a) any land is a private forest or not; or

(b) any private forest or portion thereof has vested in the Government or not,

the person who claims that the land is not a private forest or that the private forest has not vested in the Government, may apply to the Tribunal for decision of the dispute.

(2) Any application under sub-section (1) shall be in such form as may be prescribed.

(3) If the Tribunal decides that any land is not a private forest or that private forest or portion thereof has not vested in the Government, the custodian shall, as soon as may be, restore possession of such land or private forest or portion, as the case may be, to the person in possession thereof immediately before the appointed day.

9 **No compensation to be payable for vesting, etc.**—No compensation shall be payable for the vesting in the Government of any private forest or for the extinguishment of the right, title and interest of the owner or any other person in any private forest under sub-section (1) of section 3.

10. **Assignment of private forests.**—(1) The Government shall, after reserving such extent of the private forests vested in the Government under sub-section (1) of section 3 or of the lands comprised in such private forests as may be necessary for purposes directed towards the promotion of agriculture or the welfare of the agricultural population or for purposes ancillary thereto, assign on registry or lease to—

(a) agriculturists;

(b) agricultural labourers;

(c) Members of Scheduled Castes and Scheduled Tribes who are willing to take up agriculture as means of their livelihood;

(d) unemployed young persons belonging to families of agriculturists and agricultural labourers, who have no sufficient means of livelihood and who are willing to take up agriculture as means of their livelihood,

(e) labourers belonging to families of agriculturists and agricultural labourers, whose principal means of livelihood before the appointed day was the income they obtained as wages for work in connection with or related to private forests and who are willing to take up agriculture as means of their livelihood,

the remaining private forests or the lands comprised in the private forests on such terms and subject to such conditions and restrictions as may be prescribed.

(2) The Government may, by notification in the Gazette, delegate their power under sub-section (1) to any officer of the Government or any class of officers of Government, subject to such restrictions and control as may be specified in the notification.

(3) The extent of private forests or lands comprised in private forests which may be assigned to each of the categories of persons specified in sub-section (1) and the order of preference in which assignment may be made shall be such as may be prescribed.

**11. Assignment to be made within two years.**—Assignment of the private forests or the lands comprised therein under section 10 shall, as far as may be, be completed within two years from the date of publication of this Act in the Gazette.

**12. Power of Tribunal and custodian.**—The Tribunal and the custodian shall, for the purpose of exercising any power conferred by or under this Act, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit;

(d) issuing commissions for the examination of witnesses or for local investigation;

(e) inspecting any property or thing concerning which any decision has to be taken;

(f) requisitioning of any public record or copy thereof from any court or office; and

(g) any other matter which may be prescribed.

13. **Bar of jurisdiction of civil courts.**—No civil court shall have jurisdiction to decide or deal with any question or to determine any matter which is, by or under this Act, required to be decided or dealt with or to be determined by the Tribunal, the custodian or any other officer.

14. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Government or the Tribunal or the custodian or any other officer for anything in good faith done or intended to be done under this Act or any rule or order made thereunder.

15. **Constitution of Agriculturists Welfare Fund.**—(1) A fund called the Agriculturists Welfare Fund shall be constituted by the Government to be utilised for the settlement and welfare of persons to whom private forests or lands comprised in private forests have been assigned under section 10 and shall be administered in such manner as may be prescribed.

(2) The Fund referred to in sub-section (1) shall consist of grants or loans by or from the Government and monies received by the Government by the sale of trees standing in such portions of the private forests as are or may be assigned under section 10.

16. **Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order do anything not inconsistent with such provisions which appears to them necessary for the purpose of removing the difficulty.

17. **Power to make rules.**—(1) The Government may, by notification in the Gazette, make rules to carry 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) all matters expressly required or allowed by this Act to be prescribed;

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



(3) Every rule made under this section 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 makes any modification in the rule or decides 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

18. **Repeal.**—(1) The Madras Preservation of Private Forests Act, 1949 (Madras Act XXVII of 1949), as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Re-organisation Act, 1956 (Central Act 37 of 1956), the Kerala Private Forests (Assumption of Management) Act, 1957 (13 of 1958) and the Kerala Private Forests (Vesting and Assignment) Ordinance, 1971 (14 of 1971), are hereby repealed.

(2) Notwithstanding the repeal of the Kerala Private Forests (Vesting and Assignment) Ordinance, 1971 (14 of 1971), by sub-section (1), anything done or any action taken under that Ordinance shall be deemed to have been done or taken under this Act.—

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