

THE KERALA LIME SHELLS (CONTROL) ACT, 1957

(18 of 1958)

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ACT 18 of 1958

THE KERALA LIME SHELLS (CONTROL) ACT, 1957*

An Act to provide for the control of the acquisition, sale, supply and distribution of lime-shells in the State of Kerala.

Preamble.— WHEREAS it is expedient to provide for the control of the acquisition, sale, supply and distribution of limeshells in the State of Kerala;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Kerala Lime-shells (Control) Act, 1958.

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

(3) This section shall come into force at once, and the Government may, from time to time, by notification in the Gazette, direct that the rest of this Act shall come into force in the whole or any portion of the State with effect from such date as may be specified in the notification.

2. *Definitions.*— (1) In this Act, unless the context otherwise requires,—

(a) "dealer" means a person carrying on, either personally or through any other person the business of selling lime shells, whether wholesale or retail;

¹[(b) "Licensing Authority" means the Secretary of the local authority within whose jurisdiction the business of selling, collecting or stocking of lime shell is carried on or proposed to be carried on;]

(c) "Lime-shells" means the shells of all varieties of shellfish by whatever name called;

²[(cc) "local authority" means a Village Panchayat constituted under section 4 of the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under section 4 of the Kerala Municipality Act, 1994 (20 of 1994);]

(d) "offer for sale" includes an intimation by a dealer or producer of the price proposed by him for a sale of lime-shells made by the publication of a price list, by exposing his lime-shells for sale in association with a mark indicating price, by the furnishing of a quotation or otherwise howsoever ;

*Received the assent of the Governor on the 25th day of March, 1958 and published in the Kerala Gazette Extraordinary dated 26th March, 1958.

¹ Substituted by Act 16 of 2000.

² Inserted by Act 16 of 2000.

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

(f) "producer" means a person carrying on the business of collecting lime-shells and stocking the same for sale.

(2) A dealer or producer shall be deemed to be in possession of lime-shells.-

(a) when they are held on his behalf by another person;

(b) notwithstanding that they are mortgaged to another person.

3. *Licensing of dealers and producers.*— (1) No person other than a dealer or producer licensed under this section, shall carry on the business of selling lime-shells or of collecting lime-shells and stocking the same for sale.

(2) Every person, who carries on or wishes to carry on, the business of selling lime-shells or of collecting lime-shells and stocking the same for sale, shall make an application in the prescribed form for a licence to the Licensing Authority.

(3) The Licensing Authority may grant a licence in such form and subject to such terms and conditions as may be prescribed, or may refuse to grant a licence, in which case he shall communicate his reasons for such refusal to the applicant.

(4) The Licensing Authority may, at any time during the currency of a licence, rescind the licence by order in writing to the licence holder, for a breach of any of the terms and conditions of the licence.

¹[(5) Any person aggrieved by an order of the Licensing Authority under sub-section (3) or sub-section (4), may appeal to the village panchayat or municipality as the case may be within such time and in such form, as may be prescribed and the appeal shall be heard by the said authority in such manner as may be prescribed and the decision of that authority shall be final.]

4. *Fixing of maximum prices and maximum quantities which may be held or sold.*—(1) The Government may, by notification in the Gazette, fix in respect of lime-shells—

(a) the maximum price or rate which may be charged by a dealer or producer;

(b) the maximum quantity which may at any one time be possessed by a dealer or producer;

(c) the maximum quantity which may in any one transaction be sold to any one person.

(2) The prices or rates and the quantities fixed in respect of lime-shells under this section may be different in different localities or for different classes of dealers or producers.

5. *Restrictions on sale, etc., where maximum is fixed under section 4.*— No dealer or producer licensed under this Act shall—

¹ Substituted by Act 16 of 2000.

(a) sell, agree to sell, offer for sale or otherwise dispose of lime-shells for a price or at a rate exceeding the maximum fixed by notification under clause (a) of sub-section (1) of section 4;

(b) have in his possession at any one time a quantity of lime-shells exceeding the maximum fixed by notification under clause (b) of sub-section (1) of section 4; or

(c) sell, agree to sell or offer for sale to any person in any one transaction a quantity of lime-shells exceeding the maximum fixed by notification under clause (c) of sub-section (1) of section 4.

6. *Duty to declare possession of excess stocks.*—Any dealer or producer licensed under this Act, having in his possession a quantity of lime-shells exceeding that permitted under this Act, shall forthwith report the fact to the Licensing Authority and shall take such action as to the storage, distribution or disposal of the excess quantity as the Licensing Authority may direct.

7. *Refusal to sell.*— No dealer or producer licensed under this Act shall, unless previously authorised to do so by the Licensing Authority, refuse, without sufficient cause, to sell to any person lime-shells within the limits as to quantity, if any, imposed under this Act.

Explanation.—The possibility or expectation of obtaining a higher price for lime-shells at a later date shall not be deemed to be a sufficient cause for the purposes of this section.

8. *Cash memorandum to be given.*— (1) Every dealer or producer licensed under this Act, when selling lime-shells for cash, shall, if the amount of the purchase is five rupees or more, in all cases, and if the amount of the purchase is less than five rupees, when so required by the purchaser, give to the purchaser a cash memorandum containing such particulars of the transaction as may be prescribed.

(2) The Government may, by notification in the Gazette, exempt specified areas or classes of dealers or producers licensed under this Act from the operation of this section.

9. *Prohibition of sale, etc.*— If, in the opinion of the Government, it is necessary or expedient so to do, they may by order in writing—

(a) prohibit the disposal of lime-shells except in such circumstances and under such conditions as may be specified in the order;

(b) direct the sale of lime-shells to any such dealer or class of dealers licensed under this Act and in such quantities as may be specified in the order;

and may make such further orders as appear to them to be necessary or expedient in connection with any order issued under this section.

10. *Penalties.*— (1) Whoever contravenes any of the provisions of this Act or any of the terms and conditions of a licence issued under this Act or any directions made under authority conferred by this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) A court convicting any person of any offence punishable under this Act may order that the stock of lime-shells in respect of which the offence was committed and any property involved in or utilised for the commission of such offence shall be forfeited to the Government.

11. *Offences by companies.*— If the person contravening the provisions of this Act is a company, every person, who, at the time the contravention 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 contravention 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 contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an 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 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.

12. *Offences under the Act to be cognisable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Central Act V of 1898) all offences under this Act shall be cognisable.

13. *Procedure.*— No person other than a police officer of or above the rank of an Inspector of Police shall investigate any offence under this Act.

14. *Power of search and seizure.*— Any person competent to investigate any offence under this Act may search any place in which he has reason to believe that an offence under this Act has been, or is being, or is about to be, committed, and take possession of any stock of lime-shells in

respect of which the offence has been, or is being, or is about to be, committed and any property involved in or utilised for the commission of such offence.

15. *Protection of action taken in good faith.*— 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 under this Act.

16. *Exemptions.*— (1) The provisions of this Act shall not apply to the collection, stocking or selling of lime-shells by any person as curios or for making ornaments.

(2) Subject to such conditions and restrictions as the Government may think fit to impose, they may, by general or special order notified in the Gazette, exempt from all or any of the provisions of this Act, any person or class of persons who,-

(i) collect lime-shell and stock them for conversion into lime for use as an ingredient in chewing material; or

(ii) collect and sell lime-shells for the edible content thereof.

17. *Power to make rules.*— (1) The Government may 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) the charging of fees for licenses issued under this Act;

(c) the maintenance by licensed dealers and producers generally or by any licensed dealer and producer in particular, of records of all sale and purchase transactions or disposals made by him; and the production of such records to the Licensing Authority;

(d) the furnishing of such information as may be required by the Licensing Authority with respect to the business carried on by any dealer or producer;

(e) the furnishing of returns to the Licensing Authority by licensed dealers and producers and the particulars which such returns shall contain.

(3) All rules made under this Act shall be published in the Gazette.

18. *Repeal.*— The Travancore-Cochin Lime-shells (Control) Act, 1956 is hereby repealed.
