

MAHARASHTRA ACT No .XLV 1997

THE MAHARASHTRA TRANSFER OF OWNERSHIP OF MINOR FOREST PRODUCE IN THE SCHEDULED AREAS AND THE MAHARASHTRA MINOR FOREST PRODUCE (REGULATION OF TRADE) (AMENDMENT) ACT, 1997

An act to make provisions for transfer of ownership of Minor Forest Produce in the Scheduled area and to amend the Maharashtra Minor Forest Produce (Regulation of Trade) Act,1969

As amended as per RB/TC/e-11019(15)(2014) Notification 3/ Bamboo-MFP/741 issued by Governor of Maharashtra dated 19/8/2014

Preamble

No. RB/TC/e-11019(15)(2014)/Notification-3/Bamboo-MFP/741—The following notification issued by the Governor of Maharashtra is published for general information:-

WHEREAS under sub-paragraph (1) of Paragraph 5 of the Fifth Schedule of the Constitution, the Governor may, by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to the exceptions and modifications specified in the notification;

AND WHEREAS the Provisions of the Panchayats (Extension to the Scheduled Areas Act), 1996 is an Act of self empowerment of the village community which seeks to protect the customary law, social and religious practices, and traditional management practices of community resources;

AND WHEREAS as per the provisions of section 4 (m) (ii) of the Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996 the appropriate Panchayats and the Gram Sabhas are to be endowed specifically with the ownership of minor forest produce;

AND WHEREAS the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act,1997 has defined Minor Forest Produce to mean “ forest produce specified in the Schedule appended to this Chapter ” ;

AND WHEREAS the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act,2006 has provided a wider and comprehensive definition of Minor Forest Produce;

AND WHEREAS the definition of minor forest produce under the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade)(Amendment) Act,1997 has been found to be not comprehensive and failed to take into account some of the minor forest produce recognized under the subsequent The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, thus denying the fruits of ownership over many MFPs to the Scheduled Area Gram Sabhas ;

AND WHEREAS the above anomaly has led to denial of livelihood opportunities to village communities in the Scheduled Areas, primarily the members of the Scheduled Tribes ;

<p>Short title and commencement</p> <p>Application</p> <p>Definition</p> <p>Ownership of Minor Forest Produce to vest Panchayat</p>	<p>AND WHEREAS Article 46 of the Constitution of India casts duty on the State to promote with special care, the educational and economic interests of Scheduled Tribes;</p> <p>AND WHEREAS the Governor of Maharashtra has decided, for reasons outlined above, that the scope of the minor forest produce needs to be redefined to ensure economic upliftment and empowerment of the Gram Sabhas ;</p> <p>NOW, THEREFORE, in exercise of the powers conferred by sub-paragraph (1) of Paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor of Maharashtra hereby makes the following notification :--</p> <p style="text-align: center;">NOTIFICATION</p> <p>CONSTITUTION OF INDIA,</p> <p>In exercise of the powers conferred by sub-paragraph (1) of Paragraph 5 of the, Fifth Schedule to the Constitution of India, the Governor of Maharashtra hereby directs that the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997 and the Indian Forest Act, 1927, in its application to the State of Maharashtra, shall apply to the Scheduled Areas with the following modifications :-</p> <p style="text-align: center;">Chapter I</p> <p>1. (1) This Act may be called the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997.</p> <p>(2) It shall be deemed to have come into force on the 10th December 1997</p> <p style="text-align: center;">Chapter II</p> <p style="text-align: center;">TRANSFER OF OWNERSHIP OF MINOR FOREST PRODUCE TO PANCHAYATS IN SCHEDULED AREAS</p> <p>2. This Chapter shall apply to the Panchayats in the scheduled Areas in the State of Maharashtra, referred to in clause (1) of Article 244 of the Constitution of India.</p> <p>3. In this Chapter, unless the context otherwise requires :-</p> <p>^{1*} “(a) “minor forest produce” includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or Kendu leaves, medicinal plants and herbs, roots, tubers and the like. ”</p> <p>^{2*} (b) deleted</p> <p>^{2*} (c) deleted</p> <p>(d) “Working Plan” or “ Management Plan” or “Working Scheme” means a document of technical nature approved by a competent authority appointed by the State Government or the Central Government. as the case may be, laying the prescriptions for scientific management of specified forest area;</p> <p>(e) All words and expressions used in this Chapter but not defined herein shall have the meanings, respectively, as assigned to them in the Bombay Village Panchayat Act,1958.</p> <p>4.(1) The ownership of minor Forest Produce found in the Government lands in the scheduled areas, excluding the National Parks and Sanctuaries, shall vest in the Panchayat ^{1*} “ and Gram Sabha” within whose jurisdiction such area falls.</p> <p>-----</p> <p>1* Amended as per Notification No. RB/TC/e-11019(15)(2014) Notification 3/ Bamboo-MFP/741 dated 19/8/2014</p> <p>2* Deleted as per Notification No. RB/TC/e-11019(15)(2014) Notification 3/ Bamboo-MFP/741 dated 19/8/2014</p>	<p>Bom III of 1959</p>
---	---	------------------------

<p>XVI of 1927 53 of 1972</p>	<p>Explanation- The expressions “ National Parks” and “Sanctuaries” used in this section shall have the same meanings respectively, assigned to them under the Wild-life (Protection) Act,1972.</p> <p>(2) For removal of doubts, it is declared that the ownership of minor forest produce shall not include the ownership of land or trees in that Panchayat area and the same shall be governed by the provision of the Indian Forests Act 1927</p> <p>(3) If any dispute arises regarding the ownership of minor forest produce among the Panchayats, the decision of the “Rural Development Department ” shall be final.</p> <p>5.(1) The Panchayats ^{1*} “ and Gram Sabha” shall strictly adhere to the prescriptions contained in the Working Plan, Management Plan or Working Scheme with regards to the harvest of minor forest produce. However, in the areas not covered under the Working Plan, Management Plan or Working Scheme, the Panchayats ^{1*} “ and Gram Sabha” shall adhere to the rules made, with regard to the harvesting of minor forest produce, under this Chapter, by the Conservation of Forests of concerned Circle.</p> <p><i>^{2*} “Provided that while finalizing such management plan or the Rules, the suggestions made by the Panchayats and Gram Sabha about traditional sustainability and conservation practices and equitable management of such minor forest produce shall be suitably incorporated.” ;</i></p> <p>(2) ^{2*} Deleted</p> <p>6. (1) No suit prosecution of other legal proceedings shall lie against any public servant for anything which is in good faith done or intended to be so done in pursuance of the provisions of this Chapter.</p> <p>(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 Chapter or by anything which is done in good faith or intended to be so done in pursuance of the provisions of this Chapter.</p> <p>7. (1) The provisions of this Chapter shall be in addition to and shall not be in derogation, of, the provisions of the Indian Forests Act,1927, and the Wildlife (protection) Act,1972; and all the penal provisions obtaining in the said Act shall also apply to all the <i>Panchayats</i> to which this Chapter applies.</p> <p>(2) ^{2*} Deleted</p> <p>SCHEDULE – ^{2*} Deleted</p> <hr/> <p>1* Amended as per Notification No. RB/TC/e-11019(15)(2014) Notification 3/ Bamboo-MFP/741 dated 19/8/2014</p> <p>2* Deleted as per Notification No. RB/TC/e-11019(15)(2014) Notification 3/ Bamboo-MFP/741 dated 19/8/2014</p>	<p>53 of 1972</p> <p>16 of 1927</p> <p>Panchayats is to adhere strictly to Silviculture prescriptions of working plan, management plan or Working Scheme</p> <p>Saving in respect of acts done in good faith</p> <p>Offences by panchayats, and provisions of Indian Forest Act, 1927 and Wildlife (protection) Act 1972,to apply</p>
-----------------------------------	---	---