

The U.P. Resin and Other Forest Produce (Regulation of Trade) Act 1976²

(U.P. Act No. 13 of 1976)

An Act to provide in the interest of the general public for the carrying on by the state of the trade of purchase and distribution of resin to the exclusion of others, and for the regulation of manufacture and preparation of various articles based on forest-produce, and for matters connected therewith.

It is hereby enacted in the Twenty-Seventh Year of the Republic of India as follows.

Statement of Objects and Reasons—(1) The tapping and sale of resin in the reserved, civil Panchyati and soyam forests was done by the Forest Department while the tapping and sale of resin in the forests in the areas of local bodies, cantonments and nap lands was being done by the owners thereof themselves. Due to the demand of resin being more the resin of Forest Department was being clandestinely sold to owners of name lands by the tappers resulting in large loss to Government revenues. It was not possible to detect or check this theft as there is no demarcation between nap and benan lands.

The consumption of resin in different industries has greatly increased and its production should be increased having regard to all these considerations it was considered necessary to provide for the carrying on by the state of the trade of purchase distribution and transport of resin to the exclusion of others.

It was also considered necessary to provide for registration and regulation saw mills a view to prohibiting illegal cutting of khair trees.

As the State Legislature was not in session the Uttar Pradesh resin and other Forest Produce (Regulation of Trade) Ordinance, 1975, was promulgated on October 4, 1975 for carrying out the above purposes.

In the meantime President's rule was imposed in the State on November 30, 1975 and on account of the commencement of the session of the parliament; on January 5, 1976 the aforesaid Ordinance would have ceased to operate after February 16, 1976. It was, therefore, considered necessary to repeal and replace said Ordinance by a fresh Ordinance and the Uttar Pradesh Resin and Other Forest Produce (Regulation of Trade) Ordinance, 1976, was accordingly promulgated on February 16, 1976.

CHAPTER I

Preliminary

1. Short title, extent and commencement—(1) This Act may be called the Uttar Pradesh Resin and Other Forest Produce (Regulation of Trade) Act, 1976.

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

(2) (a) Chapters I and III shall be deemed to have come into force on October 4, 1975.

(b) Chapter II—

(i) Shall be deemed to have come into force on October 4, 1975 in Almora, Naini Tal, Pithoragarh, Garhwal, Tehri-Garhwal, Uttarkashi, Dehradun, Bareilly and Saharanpur District; and

(ii) in the remaining areas of Uttar Pradesh, Shall come into force on such date as the State Government may, by notification in the official Gazette, appoint in that behalf, and different dates may be appointed in relation to different such areas.

CHAPTER II

Regulation of the Trade Resin

2. Definitions—In this Chapter, unless the context otherwise requires:

- (a) appointed day, in relation to any area, means the day on which this Chapter comes into force in that area;
- (b) Authorized officer' means an officer of the state Government authorized by it to purchase or sell resin on its behalf and to grant permits under Section 5:
- (c) 'Prescribed means prescribed by the rules made under this Chapter.
- (d) Resin means the secretion extracted by tapping from Chir or Kail trees.
- (e) resin depot means a place specified as such by the Conservator of Forest for the purchase, storage or sale or resin tapped in an area specified in relation to that depot;
- (f) resin products means derivative obtained by processing of resin and includes resin, turpentine, hardened resin and also includes paints and varnishes manufactured directly from resin;
- (g) tapper of resin means a person who taps resin;
- (h) unit means a unit constituted under section 3;

(a) words and expressions used but not defined in this chapter and defined in the Indian forest act 1927 as amended from time to time, in its application to Uttar Pradesh shall have the meanings assigned to them in that Act.

3. Constitution of Units—The State Government may, by notification in the Gazette, divide the state into such numbers of units as it may deem fit, and until varied by such notification, each forest circle (as for the time being delimited by general or special orders of the state government) shall constitute a unit.

4. Restriction on sale, purchase and transport of resin, etc—
On and after the appointed day;

(a) no person shall tap resin or manufacture any resin product or export any resin product unless he is registered under and in accordance with section 10;

(b) No person shall sell resin to any person other than the state Government or an authorized officer;

(c) no person other than the state government or an authorized officer shall purchase resin from any tapper of resin;

(d) No person other than the state government or an authorized officer shall transport resin except in the following cases;

(i) Where he being a tapper of resin transports it to the resin depot specified for the area where the resin is tapped; or

(ii) Where he transports it on behalf of the state government or an authorized officer;

(e) no person other than the state government or an authorized officer shall transport resin products manufactured in a unit to any place outside that unit without a permit issued in that behalf by such authority in such manner and subject to such terms and conditions as may be prescribed.

5. permit for sale, transport, etc—Notwithstanding anything in section 4, the state government or an authorized officer may on such terms and condition san in such manner as may be prescribed.

(a) permit any person, who had purchased any resin before the appointed day within an area to which this chapter applied to transport and sell such resin to any person other than the State Government or an authorized officer and permit any person other than the state government or an authorized officer to purchase and transport the same; or

(b) permit any person, who has purchased resin from the state government or an authorized officer for manufacture of resin products to transport the same and to sell any resin which he has been unable to utilise in the manufacture of resin products; or

(c) permit any person, who has purchased any resin outside Uttar Pradesh to bring the same inside the State either for manufacture of resin products within the state or for transporting them elsewhere outside Uttar Pradesh; or

(d) Permit any person, who has purchased any resin within Uttar Pradesh outside any area to which this chapter applies to transport it to any area to which this chapter applies for the manufacture of resin products.

(2) A person to whom a permit is granted under sub-section (1) shall be liable to payment of such fees as may be prescribed.

6. Constitution of an advisory committee-- (1) The State Government shall for each year constitute for each unit in which resin is tapped, an advisory committee which shall consist of not more than nine members nominated by the state government;

Provided that one third of such members shall be officers of the Forest Department and not more than one-third of such members shall be form amongst tappers of resin.

(2) The advisory committee for each until shall advise the state Government in the matter of fixation, from time to time, of a fair and reasonable price at which resin offered for sale may be purchased by or on behalf of the State Government in the unit, 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.

7. Fixation of price by State Government—The State Government shall, having regard to following factors, fix the price at which resin shall be purchased by or for it in each unit during the year namely;

(a) The price of resin, if any, fixed under this chapter during the preceding three years in respect of the unit;

(b) The quality of the resin tapped in the unit;

(c) The cost of transport;

(d) The general rate of wages labour prevalent in the unit;

(e) The cost of extraction of resin;

(f) The cost of packing of resin including the cost of container in which resin is delivered;

(g) Any other factor which the State Government considers relevant.

(2) The price so fixed shall be published in such manner as the State Government may direct, shall not be altered during the year to which it relates.

(3) The price so fixed shall be for net weight of resin excluding the weight of container in which resin is packed.

(4) Where an advisory committee has been constituted under section 6 it shall, wherever practicable, be consulted by the State Government before the fixation of price under sub-section (1)

8. State Government to purchase all resin offered for sale--- (1) The State Government Shall be bound to purchase at the price fixed under Section offered for sale to or for if during the normal hours of business at a resin depot.

Provided that it shall be open to an authorized officer to refuse purchase of such resin as in his opinion is not fit for the purpose of manufacture of resin products.

(2) Any person aggrieved by the authorized officer's refusal to purchase resin under the proviso to sub-section (1) may, within fifteen days from such refusal, and in the manner prescribed, complain to the divisional forest officer to such other officer as may be empowered by the State Government in that behalf thereafter referred to as the competent officer.

(3) On receipt of a complaint under sub-section (2) the competent officer shall hold a summary inquiry and pass such order within thirty days of the receipt of the complaint as he may deem fit, and in case he finds such refusal to be improper, he may direct the authorized officer to purchase the same.

(4) Where the competent officer finds the refusal of the resin proper but in his opinion, the resin may be purchased at a lower price, he may direct the authorized officer to purchase the same at such lower price as he deems fit.

(5) Notwithstanding anything in sub-section (1) where the State Government or an authorized officer has reason to believe that any resin offered for sale was tapped from trees standing on any land which was vested in or belonged to the State Government or which was constituted as a Reserved Forest or protected Forest or panchayati Forests, such resin may be appropriated without payment of price, and on payment only of such collection Charges, if any as the State Government or the authorized officer may determine.

(6) The provision of Sub-sections (2) to (4) shall mutis mutandis apply in relation to any action taken under sub-section (5)

(7) Every order passed under this Section Shall be Final.

9. Tapping of trees which are not being tapped—(1) If the State Government or any authorized officer finds that any Chir or Kail tree standing in a unit is not being tapped, the State Government or the authorized officer may by, notice, require the owner of such tree to commence tapping of the same or to cause its tapping commenced within such time as may be prescribed.

(2) If after the service of the notice sub-section(1) the owner of the tree fails to comply with such notice, the State Government or the authorized officer may in the manner prescribed, Cause the tree to be tapped for extraction of resin.

(3) All resin extracted from a tree under sub-section(2), Shall be sold in accordance with the provisions of the Chapter and the rules made thereunder and the price thereof shall, after deducting the expenses of tapping be paid to the owner of such trees.

Explanation- For the purposes of this section, the term owner in relation to a chir or kail tree, includes the person in possession management or control of such tree.

10. Registration of tappers of resin. etc.- Every tapper of resin, every manufacturer of resin product and every manufacturer of resin product and every exporter of resin or resin products shall be entitled to registration on payment of such fee, to such authority and in such manner as may be prescribed.

11. Disposal of resin- Resin purchased by the State Government shall be sold or otherwise disposed of in such manner as the State Government may, by general or special order direct.

12. Delegation of Powers- The State Government may, by general or special order, delegate any of its powers or functions under this chapter or the rules 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.

13. Powers of entry, search, seizure, etc—(1) Any police officer not below the rank of sub-Inspector or any forest officer may, with a view to securing compliance with the provisions of this chapter or the rule made thereunder or to satisfying himself that the said provisions have been complied with—

(i) Stop and search any person, vessel, vehicle or receptacle used or interned to be used for the transport of resin or resin product;

(ii) Enter and search any place;

(iii) Seize resin or resin product in respect of which he suspects that any provision of this Chapter or the rules made thereunder has been, is being or is about to be contravened along with the receptacle containing or carrying such resin.

(2) The provisions of Section 100 of the code of criminal procedure 1973 [2 of 1974] relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

14. Penalty- If any person contravenes any of the provisions of this chapter or the rules made there under, he shall be deemed to have committed a forest offence, and the resin or resin product, 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 (Act XVI of 1927), as amended in its application to Uttar Pradesh (excepting Section 69 thereof) , shall accordingly apply with necessary modifications.

15. Offences by companies- (1) If the person committing an offence under this Chapter is a company, the company as well as every person in charge 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 to commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Chapter 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, secretary, treasurer, director, manager or other officer of the company, such managing agent secretary, treasurer, 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 anybody corporate, and includes a firm or other association of individuals and;
- (b) Director in relation to a firm, means a partner in the firm.

16 Cognizance offences—No court shall take cognizance of any offence punishable under this Chapter except on a report in writing of the facts constituting such offence made by any forest officer not below the rank of a range officer or by such other officer as may be empowered by general or special order of the State Government in that behalf.

17 Provision of this Chapter to have over-riding effect—The provisions of this chapter shall have notwithstanding anything inconsistent therewith contained in any other law or in any contract or other instrument.

18. Saving in respect of acts done in good faith—No Suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this chapter or the rules made there under.

(2) No Suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused or nay injury suffered or likely to be suffered or likely to be suffered by virtue of the provision of this chapter or the rules made there under or by anything which is in good faith done or intended to be done in pursuance of this Chapter or the rules made there under.

19. Power to make rules—(1) The State Government may, by notification in the Gazette, make rule for carrying out purposes of this Chapter.

(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 publication of the price list of the resin;

(b) The manner of holding inquiries under this Chapter;

(c) The authority by whom, the manner in which and the condition subject to which permits may be issued under section 5 and the fees payable for such permits.

(d) The disposal of the resin, the purchase of which was refused under section 8.

(e) The manner of tapping the trees for resin under section 9.

- (f)** The manner of registration under section 10, the period within which such registration shall be made, and the fees payable there for;
- (g)** Specifications of resin for purposes of determination of quality;
- (h)** Any other matter which is to be or may be prescribed.

(3) All rules made under this chapter 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 comprised in its one session or two or more successive sessions, and, shall unless some later date is appointed take effect from the date of their publication in the official gazettee, subject to such modification or annulments as the two houses of the legislature may during the said period, agree to make so, however, that any such modification annulment shall be without prejudice to the validity of anything previously done there under.

(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 such commencement.

Transitory provisions—where at any time the appointed day, any person had entered into any contract or the sale of resin expected to be tapped by him to any trader and obtained an advance from such trader towards the price of the resin expected to be delivered to the under such contract, than notwithstanding that by virtue of the provisions of Sections 4 and 17, such contract shall have become void on the appointed day, the side person and trader may make a joint application before the divisional forest officer or an officer authorized 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 said person, may direct officer to pay on behalf on the side person to such trader a sum equivalent to the said advance (less the amount already repaid by said person, to such, trader) without any interest or compensation, out of the price due to the said person for resin sold under section 8, and the liability of the State Government to the said person and of the said person to the trader shall to the extent of such payment stand discharged, and the said person shall not be liable to pay any interest or compensation in respect of such advance.

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