

Thirteenth Kerala Legislative Assembly
Bill No. 334

**THE KERALA PROMOTION OF TREE GROWTH
IN NON-FOREST AREAS (AMENDMENT)
BILL, 2015**

©
Kerala Legislature Secretariat
2015

KERALA NIYAMASABHA PRINTING PRESS.

Thirteenth Kerala Legislative Assembly
Bill No. 334

[Translation in English of “2015-ലെ കേരള വനേതര പ്രദേശങ്ങളിൽ വൃക്ഷം വളർത്തൽ പ്രോത്സാഹന (ഭേദഗതി) ബിൽ” published under the authority of the Governor.]

THE KERALA PROMOTION OF TREE GROWTH
IN NON-FOREST AREAS (AMENDMENT)
BILL, 2015

A

BILL

further to amend the Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2005.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2005 for the purposes hereinafter appearing;

BE it enacted in the Sixty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Promotion of Tree Growth in Non-Forest Areas (Amendment) Act, 2015.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2005 (46 of 2005) (hereinafter referred to as the principal Act),—

(i) in clause (e), for the words and brackets “or Ebony (*Diospyrus* sp.)”, the words and brackets “Ebony (*Diospyrus* species) and Mangrove species (*Mangrove* species)” shall be substituted;

(ii) in clause (g), for the words “and includes bamboos”, the words “and includes bamboos and mangrove species” shall be substituted.

3. *Amendment of section 9.*—In section 9 of the principal Act, in clause (a) of sub-section (3), for the words and figure “transported in contravention of section 6”, the words and figure “cut or transported in contravention of section 6” shall be substituted.

259/2015.

STATEMENT OF OBJECTS AND REASONS

The mangrove species in the State are not properly preserved under the existing provisions of the Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2005 (46 of 2005). As per sub-section (3) of section 6 of the said Act, the owners of land who are small holders have the right to cut or remove any tree, other than Sandal wood, Teak, Rose wood, Irul, Thempavu, Kampakam, Chadachi, Chandana Vempu, Vellakil and Ebony coming under the definition of the term 'specified tree' in their land in the areas notified under the said sub-section, without permission of the Authorized Officer. Though it has been specified in the note to the said sub-section that all mangrove areas shall be deemed to be notified areas for the purposes of the said sub-section, since they do not come under the definition of the term 'specified tree', the owners of land who are small holders can cut or remove the mangrove species in their land without permission. In order to avoid this situation, the Government consider that the mangrove species shall also be included in the definition of the term 'specified tree'. Moreover, any woody plant and bamboo alone are included under the definition of the term 'tree' in the Act. Therefore, the mangrove species shall also be included in the definition of the term 'tree' so as to specify that the provisions of the Act are applicable to all kinds of mangroves.

2. As per clause (a) of sub-section (3) of section 9 of the said Act, only if the Divisional Forest Officer is satisfied that the timber mentioned in the report submitted as to the seizure of articles under sub-section (1) of the said section is the timber of any tree 'transported' in contravention of section 6, he shall make a report to the Magistrate in respect of the timber so seized. The Government consider that there is a technical defect in the said sub-section as the report cannot be made under the said sub-section if a tree is 'cut'. Therefore, only if the 'cutting' of tree is also included in the said sub-section, the Divisional Forest Officer can make a report to the Magistrate as to the trees so cut and the trees transported also. Therefore, in order to refer the seizure of trees cut also in the report of the said officer, an amendment in clause (a) of sub-section (3) of section 9 incorporating the words "the trees cut or transported in contravention of the provisions of section 6" shall be made.

3. This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation would not involve any additional expenditure from the Consolidated Fund of the State.

THIRUVANCHOOR RADHAKRISHNAN

EXTRACT FROM THE KERALA PROMOTION OF TREE
GROWTH IN NON-FOREST AREAS ACT, 2005
(46 OF 2005)

** ** ** **

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

(e) “specified tree” means “Sandalwood” (*Santalum Album*), Teak (*Tectona grandis*), Rosewood (*Dalbergia latifolia*), Irul (*Xylia xylocarpa*), Thempavu (*Terminalia tomentosa*), Kampakam (*Hopea Parviflora*), Chadachi (*Grewia tiliaefolia*), Chandana vempu (*Cedrela toona*), Vellakil (*Dysoxylum malabaricum*) or Ebony (*Diospyrus sp.*);”

** ** ** **

(g) “tree” means any woody plant, whether fruit bearing or not, and includes bamboos.

** ** ** **

6. *Right of owners to cut and remove trees in non-notified areas in non-forest land.*—(1) ** ** **

(3) The Government may, with a view to preserve the tree growth in the interest of protecting the ecology or in public interest by notification in the Gazette direct that no tree standing in any area of non-forest land specified in the notification shall be cut, uprooted, burnt or otherwise destroyed except on the ground that the tree constitute a danger to life or property or is windfallen:

Provided that the small holders in the area notified under this sub-section are free to cut and remove any tree except the specified trees:

Provided further that the small holders in the area notified under this sub-section may cut and remove any specified tree other than sandalwood only

with the prior permission in writing of the Authorized Officer and such prior permission shall not be required for the cutting and removal of trees except specified trees:

Provided also that the owners other than small holders in an area notified under this sub-section may cut and remove any tree other than sandalwood tree only with the prior permission in writing of the Authorized Officer and such permission shall not be required for the cutting and removal of trees mentioned in the Schedule:

Provided also that such permission mentioned in the second and third provisos shall not be refused by the Authorized Officer if the tree constitutes a danger to life or property or is windfallen.

Note:—For the purpose of this sub-section all the mangrove areas or cardamom or coffee plantations shall be deemed to be notified areas.

** ** ** **

9. Power to seize timber and other articles involved in the commission of the offence.—(1) Where any Officer of the Forest Department, not below the rank of a Forester, has reason to believe that any timber has been transported in contravention of section 6, he may seize the timber together with all tools, ropes, chains and other articles used in the commission of such offence and all vehicles, boats or animals used for carrying such timber.

** ** ** **

(3) The Divisional Forest Officer to whom a report is made under sub-section (2) shall,—

(a) if he is satisfied that the timber mentioned in such report is of any tree transported in contravention of section 6, make a report of the seizure of such timber to the Judicial Magistrate of the First Class, having jurisdiction over the area in which such seizure has been made;

** ** ** **
