

**The J&K RESERVATION OF SPECIFIED TREES ACT, 1969**  
**ACT NO: V OF 1969**

An Act to make provision for the preservation of certain species of trees and for regulation of felling of export thereof.

Whereas certain species of trees growing in the state are the main sources of raw material for the specialized Industry of Kashmir Art or are otherwise of vital importance for the economy, prosperity and welfare of large section of citizens of the State;

And whereas it is necessary in the public interest to make special provision for the growth preservation and protection of such species of trees and for other matters connect therewith.

It is hereby enacted by the Jammu and Kashmir State Legislature in the nineteenth year of the republic of India as follows:

**1. SHORT TITLE, EXTENT AND COMMENCEMENT:**

- (1) This act may be called the Jammu and Kashmir preservation of specified Trees Act, 1969.
- (2) It shall extent to the whole of the State of Jammu and Kashmir.
- (3) It shall come into the force on the date it is published in the Govt. Gazette.

**2. Definitions:-**

In this act unless the context otherwise requires:-

- (a) 'Fell' or 'Felling' includes topping looping girdling of otherwise damaged a specified tree.
- (b) 'Goods of Kashmir Art' means article of wood carving, papier-machie, wood work and such other articles as may be declared by notifications by the Government as goods of Kashmir Art for purposes of the Act:
- (c) 'Prescribed' means prescribed by rules made under this Act.
- (d) 'Prescribed Authority' means the authority notified as such by the Government and different authorities may be notified for different provisions of this Act.
- (e) 'Specified tree' means walnut and includes such other speciefies of trees, weather the standing on the State land or private land as may be notified by the Government in the Government Gazette, but does not include such trees growing in a demarcated forests as defined in Jammu and Kashmir forests Act, 1987
- (f) 'Timber' means wood of any specified trees whether in logs or cut up in pieces or in any other form but does not include finished goods of Kashmir Art made of such wood.

**3. RESTRICTION OF FELLING:**

Not withstanding anything contained in any other law for the time being in force, no person shall fell any specified tree except under in the accordance with the terms and conditions of permission granted by the prescribed authority under this Act. Provided that a permit granted under this section shall not authorised the felling of specified tree by any person other than the owner.

#### **4. APPLICATION FOR PERMIT:**

- (1) Every person desiring to obtain a permit under section 3 shall make an application in writing to the prescribed authority, in such form and containing such information, as may be prescribed.
- (2). On receipt of such application, the prescribed authority shall, subject to the provisions of sections 5 and 6 by order in writing either:-
  - a) Grant the permit subject to such conditions if any, as may be specified in the permit; or
  - b) Refusal to grant such permit. (iv 1973)

#### **5 Obligation To Grant Permit:-**

Subject to the provision of section 6, prescribed authority shall grant permit, if on inquiry, it is established that:

- (a) The timber of a specified tree desired to be felled is required to be used for the manufacture of finished Kashmir Arts; Or
- (b) The timber is required to be exported by a person registered as an exporter for the purpose of this Act in the prescribed manner.
- (c) The felling of a specified tree is necessary for the prevention of danger or abatement of nuisance to life or property or for prevention of plant disease; Or
- (d) The specified tree desired to be felled is completely dried up.

#### **6. Obligation To Refuse To Grant Permit:-**

The prescribed authority shall refuse to grant permit, if on inquiry, it is satisfied that:-

- (a) The application for permit relates to a specified tree which is green, healthy or if it belongs to a fruit bearing species, is fruit bearing; or
- (b) The felling of the specified tree is likely to extinguish the species of the tree in the local area in which it grows, or;
- (c) There is any other sufficient reason which he may record in writing to warrant refusal of permit.

#### **7. Consultation:-**

In considering whether to grant or refuse a permit, the prescribed authority may in its discretion and, if so required by a general or special order of the Government shall obtain the advice of any department of the Government or any officer thereof regarding any question of technical nature involved therein.

#### **8. Combinations To Be Reasonable:-**

Where the prescribed authority grants a permit for felling a specified tree by exporting timber of a specified tree subject to any condition under the provision of this Act, the condition so imposed shall be such as may be reasonable having regard to the circumstances of each case and the interest of the general public.

**9. No Compensation Payable For Loss Or Injury:-**

No person shall be entitled to claim compensation for any injury damage or loss caused or alleged to have been caused by the refusal to grant permit or by any conditional subject to which permit is granted under this Act.

**10. APPEAL:**

Any person aggrieved or effected by an order of the prescribed authority under this Act- within 60 days from the date of the orders.

**11. POWER TO REVISE ORDERS:**

The Government may at any time either on its own motion or on any application made to it in this behalf call for the record of any case pending before or disposed of by the prescribed authority of the Financial Commissioner, and if any such case the Government is of the opinion, that any other passed on proceeding taken should be modified, annulled or reversed, it may pass such order in relation thereto as it thinks fit. Provided that he Government Shall not pass any order under this section prejudicial to any person applying for permit without giving him a reasonable opportunity of being heard

(1) Any person who contravenes any provision of this Act or rule made there under of any term or condition of any permit granted under this Act, shall be punishable by the prescribed authorities with a fine which extend to One Thousand Rupees in addition to such compensation for any loss or damage caused to the owner of the specified tree as the prescribed authority may determine and where the contravention relates to falling of specified tree, the timber of such trees shall also be liable to be confiscated by the prescribed authority.

(2) Any amount of fine or compensation payable under sub-section (1) shall be recoverable as arrears of land revenue.

**13. A Disposal of timber fallen Due To Natural Calamities:-**

The timber of any specified tree proved to have fallen due to any natural calamity or disease shall, in the case of private lands be allowed to be taken by the owner thereof and, in the case of State lands, be disposed of by the prescribed authority in such manner as may be prescribed.

**14. Protection of actions Taken To Good Faith:-**

No audit or prosecution or other legal proceedings shall lie against any officer or person empowered to exercise powers or to perform duties under this Act for anything done in good faith or intended to be done under this Act or the rules made there under.

**15. Effect Of Act & Rules, Etc. Inconsistent With Other Actments:-**

The provision of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

## 16. Power To Make Rules:-

- (1) The Government may make rules for purpose of carrying into effect the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
  - (a) Form application for grant of permit authorizing felling of specified tree.
  - (b). Form of permit to be granted by the prescribed authority authorizing falling of a specified tree.
  - (c) Information to be supplied by the applicant under section 4(I) and 8 (2) substituted in the word brackets and figures see 4 (I) (b) Fees chargeable in respect of a permit; (c) Manner and procedure for holding inquiry substituted under section 5, 6 and the matter to be considered therein;
  - (d) Conditions in which permits may be granted for the export of timber from the state;
  - (e) Period of validity of permits disposal of timber confiscated under section 13, or fallen due to natural calamities or disease;
  - (f) Form and manner in which accounts and registers relating to felling spices trees shall be maintained by the prescribed authority.
  - (g) Form and procedure in which information related to felling of specified trees permitted by the prescribed authority shall be submitted to Government from time to time.
  - (h) Form and manner in which appeals may be preferred against the orders of prescribed authority and procedure for hearing appeals;
  - (i) The number of specified trees which a permit may authorize to fell at a time.
  - (j) Procedure and manner in which the conditions subject to which exporters of timber are registered under this Act and the fee for registration;
  - (k) Any other matter which has to be or may be prescribed.

## 17. Repeal And Saving:-

- (1) The jammu and Kashmir preservation specified Trees ordinance, 1968 is hereby repealed.
- (2) Not with standing such repeal, any thing done, any action or proceeding taken, notification issued, permit granted, fees charged order, injury or rule made or form or register prescribed under the said ordinance shall be deemed to have been respectively done, taken, issued granted charged, made or register prescribed under this Act as if this substituted by Act. No: of 1970 dated 24th October, 1970.
- (3) The following two sections namely 4 and 5 were also provided in the Jammu and Kashmir preservation of specified trees (Amendment) Act 1970 for repeal and savings by the Government and passed by the State Legislature vide Act No. XIII of 1970 dated: 08th and 24th October, 1970.
- (4) Saving. Save as otherwise provided in this Act, nothing in this Act shall be deemed to effect:-
  - (a) The validity, invalidity, effect or consequence or anything done or suffered to be done before the 27th day of August, 1970;
  - (b) Any right, privilege, obligation of liability already acquired accused or incurred before such dates;

- (c) Any penalty, forfeiture or punishment incurred in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if the principal Act had not been amended by this Act.
- 5 Repeal And Saving:-
  - (1) The Jammu and Kashmir preservation of specified trees (Amendment) ordinance, 1970 (VI of 1970) is hereby repealed.
  - 2. Now with standing such repeal anything done, any action or proceeding taken, any confiscation made or any penalty imposed under the said ordinance, shall be deemed to have been respectively, done taken, made or imposed under this Act as if this Act had come into force on the 07th August, 1970. It is not necessary to substitute these two sections in the Act. This is only for record and reference.