

GOVERNMENT OF KERALA

Forest and Wildlife (E) Department

NOTIFICATION

G. O. (P) No. 3/2007/F&WLD. Dated, Thiruvananthapuram, 3rd February 2007.

S.R.O No. 107/2007 – In exercise of the powers conferred by section 18 of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (21 of 2005), the Government of Kerala hereby make the following Rules, namely: -

RULES

CHAPTER – I

PRELIMINARY

1. *Short title and commencement* – (1) These rules may be called the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Rules, 2007.

(2) These shall come into force at once.

2. *Definitions*: - (1) In these rules unless the context otherwise requires, -

(a) “Act” means the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (21 of 2005);

(b) “Compensation” means any amount granted in respect of the land vested including the permanent improvements thereon under section 8 of the Act.

(c) “Custodian” means custodian as defined under clause (a) of section 2 of the Act.

(d) “Dispute” means a dispute referred to in sub-section (1) of section 10 of the Act.

(e) “Division” means a Forest Division.

(f) “Form” means the form appended to these rules.

(g) “Government” means the Government of Kerala.

(h) “Permanent improvements” means any work or products of work which add the value of the holding and includes, -

- (i) the erection of dwelling houses, buildings, apartment thereto and farm buildings;
 - (ii) the construction of tanks, wells, masonry kayyalas, random rubble kayyalas, channels, dams and other works for the storage of supply of water for agricultural or domestic purposes;
 - (iii) the preparation of land for irrigation;
 - (iv) the drainage, reclamation from rivers or other waters or protection from floods or from erosion or other damage by water, of land use for agricultural purposes, or waste land which is cultivated;
 - (v) the reclamation, clearance, enclosure or for permanent improvement of land for agricultural purposes;
 - (vi) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto; and
 - (vii) the planting or protection and maintenance of fruit bearing trees and other valuable trees and plants except royal trees such as Sandalwood, Rosewood and Teak.
- (i) “Residential house” means any building constructed for the purpose of residence and which has been in continuous occupation of the owner or possessor from a date prior to the 2nd day of June 2000;
- (j) “Recommendation” means the recommendation submitted by the Advisory Committee constituted under section 15 of the Act;
- (k) “Section” means section of the Act;
- (l) “Surroundings essential for the convenient use of residential building” means an area of 0.5 hectares surrounding the residential building;
- (m) “Working plan officer” means an officer appointed for the purpose of section 16 of the Act for the management of reserved forest areas and protected areas.

(2) Words and expressions used but not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

CHAPTER – II

THE ADVISORY COMMITTEE

3. *Identification of land by the Advisory Committee.* – The Advisory Committee may formulate and follow procedure under the Act for the identification of the ecologically fragile lands. The Committee shall forward their report along with the recommendation to the Government for the declaration such lands under sub-section (1) of section 4 of the Act.
4. *Term of office of the Non-official Member.* – Term of office of the nominated non-official member shall be for period of 3 years from the date of nomination. The quorum for a meeting of the Committee shall be seven including the Chairman.
5. *Notice to the Land Owner.* – On receipt of the recommendation to declare any land as ecologically fragile, the Government, if satisfied on the recommendations, shall cause to issue a notice to the owner or possessor of the land giving 30 days time, to show cause for not declaring the land as ecologically fragile as provided under sub-section (1) of section 4 of the Act.
6. *Enquiry into Claims/Objections.* – (1) After the receipt of the notice issued under rule 5, the owner or possessor or duly authorized agent shall file a statement of claims or objections if any, in writing to the Government within a period of 30 days.

(2) In case where objection have been filed, the Government shall duly cause enquiries into such objections through the custodian and obtain a report on the same. The Government shall examine the report of the custodian and shall pass orders, as it consider necessary on the objections and communicate the same to the owner.

(3) If no objection is filed in respect of any land within time stipulated in the notice, or on disposal of the objections as above, the Government shall by notification in the Gazette declare the land as an ecologically fragile land under sub-section (1) of section 4 of the Act.

7. *Vesting of Property.* – (1) After the disposal of the objections, the Government shall issue a notification under sub-section (1) of section 4 in the Gazette specifying the District, Taluk, Village, survey number, location, name of division, range, extent and the boundaries of the property so vested in Government.

(2) A copy of notification so published shall simultaneously be displayed in the Village Office, Panchayath Office, Office of the Tribunal, Forest Range Office, Office of the Divisional Forest Officer, the Office of the Custodian and the Office of the Sub-Registrar concerned.

(3) The Custodian shall cause to publish the notification, as published under sub-section (1) of section 4 in two newspapers having wide circulation in the locality.

(4) The ecologically fragile lands vested in Government under section 3 and 4 of the Act shall be deemed to be Reserve Forest and will be managed by the State Government under the provisions of the Kerala Forest Act, 1961 (Act 4 of 1962) for maintaining the ecological balance and preserving the flora and fauna of the ecologically fragile forest lands as such.

CHAPTER – III

DEMARCATION OF BOUNDARIES

8. *Demarcation of Boundaries.* – (1) All the lands notified under sub-section (2) of section 3 shall be demarcated by the custodian by erecting permanent cairns along the boundaries within a period of two years from the date of publication of these Rules.

(2) The custodian shall cause the demarcation of the boundaries of any ecologically fragile land notified under section 4 within a period of 2 years from the date of such notification for the land in question by erecting permanent cairns along the boundaries. If for any valid reasons the demarcation could not be done within the time frame, the custodian is empowered to grant reasonable extension of time as he deems fit.

(3) A notification specifying the details of ecologically fragile land, the boundaries of which have been demarcated such as survey and sub division number if any and local name and describing its boundaries shall immediately be published simultaneously in the Village Office, Panchayath Office, Office of the Tribunal, Forest Range Office, Office of the Divisional Forest Officer, the Office of the Custodian and the Office of the Sub Registrar concerned and two Dailies having wide circulation in the area.

CHAPTER – IV

COMMITTEE FOR DETERMINATION OF THE COMPENSATION

9. *Constitution of the Committee.* – (1) The Government may by notification in the Gazette, constitute a Committee in every Division for determining the compensation payable to the land owners whose land has been vested under sub-section (4) of Section 4 of the Act.

(2) the Committee shall consist of the following members, namely: -

- (i) the Divisional Forest Officer within whose jurisdiction the land is situated shall be the convener and shall preside over the meeting;
- (ii) the Joint Director of Agriculture of the District concerned;
- (iii) the Executive Engineer (Building Division), Public Works Department of the area;
- (iv) the Tahsildar of the Taluk concerned under whose jurisdiction the land situates;
- (v) the Deputy Director, Soil Conservation of the District;
- (vi) an Officer not below the rank of an Under Secretary to Government, Forest and Wildlife Department to be nominated;
- (vii) an officer not below the rank of an Under Secretary to Government, Finance Department to be nominated.

(3) The Committee constituted under sub-rule (1) shall meet as and when the meeting is called for by the convener to consider each case. The meeting shall normally be held in the Office of the Divisional Forest Officer, concerned.

10. *Quorum of the Committee.* – The quorum of the Committee shall be four including the Chairman and the decision of the majority shall be treated as the recommendation of the Committee.

11. *Local inspection by the Committee.* - (1) The Committee shall inspect the land and collect such details as it thinks fit for assessing the value of the land and the permanent improvements made thereon by the owner.

(2) The Committee shall also record the nature and the extent of the trees and plants, which are not being the natural tree growth found therein.

12. *Report of Valuation.* – (1) The Committee shall inspect the land and take samples or specimen or conduct statistical analysis as it thinks fit and proper for assessing the physical improvements made by the owner. Based on local inspection and the details collected from the notified land, the Committee shall prepare a report of valuation indicating the reasonable amount payable as compensation to the owner towards the land value and permanent improvements.

(2) When the Committee is assessing the land value it is mandatory that the Tahsildar of the concerned area should be present in its meeting.

(3) In case of assessing value of permanent improvements the concerned Executive Engineer (Building Division), Public Works Department should be present in the committee meeting.

13. *Compensation assessed to be reported to the custodian.* - The Committee shall forward a detailed report of valuation assessed by it to the custodian within three months from the date of reference of a case to it.

14. *Recommendation to Government.* – On receipt of the report of valuation of compensation from the Committee under rule 13 the Custodian shall verify the report and forward the same to the Government within 45 days with his detailed remarks. The Custodian may suggest modification of the amount of compensation payable detailing the reasons thereof.

15. *Quantum of compensation to be paid.* – The Government on receipt of the recommendation of the custodian shall examine the quantum of amount recommended and passed orders on the compensation payable to the owner of the land within a period of six months.

Provided that the Government shall have power to modify the amount of compensation recommended by the Custodian or the Committee for valid reasons to be recorded in writing.

16. *Mode of payment of compensation.* – (1) The Government shall allot sufficient funds under separate heads of account for the payment of compensation awarded to the owner.

(2) On receipt of the amount under sub-rule (1) in respect of the land vested, the custodian shall forward the same to the Divisional Forest Officer concerned within whose territorial jurisdiction the property is situated, for payment to the owners.

CHAPTER – V

APPLICATION FOR REVIEW OF NOTIFICATION

17. *Owner claiming exemption to apply.* – (1) Any owner or any person having the right of possession or enjoyment of any land notified under sub-section (1) of section 3 of the Act may file an application before the custodian giving details of the location, extent, survey number, crops cultivated etc.; seeking a scrutiny of the notification and to decide whether such land qualify to be notified as ecologically fragile in accordance with the provision of the Act.

(2) Every application filed under sub-rule (1) shall be accompanied by the following documents.

- (a) documents to prove ownership or possession or enjoyment of the land;
- (b) documents to prove that the land is cultivated by such crops that are exempted under the Act.
- (c) documents to prove the existence of a residential building if any, with the details thereof;
- (d) any other documents as may be necessary for the verification of the particulars mentioned in the application.

(3) Every application under sub-rule (1) shall be accompanied by an affidavit certifying that the records produced along with the application and the particulars mentioned therein are true and valid.

(4) Every application under sub-rule (1) shall be accompanied by a court fee stamp of Rupees One Hundred.

18. *Inspection of the land.* – (1) On receipt of the application under rule 17 the custodian shall as soon as possible cause a local inspection of the land through a committee consisting of the following members:

- (a) Divisional Forest Officer of the Territory where the land situated of Wildlife Warden having jurisdiction of the area, as the case may be, who shall act as the convener of the Committee.
- (b) The Technical Assistant of the Conservator of Forests of the area.
- (c) The Working Plan Officer.

(2) The Committee shall inspect the land in respect of which application has been filed and shall prepare a report as to whether the notified area is consistent with the provisions of this Act or not, and submit the same to the custodian with in one month from the date of receipt of the order from the custodian for local inspection of the land.

19. *The Power of the Custodian to make additional enquiries.* – On receipt of report of the Committee under rule 18, if required, the custodian may cause further enquired and call for further records, as he deems fit.

20. *Issue of Revised Notification.* – (1) The custodian, after verification of the particulars mentioned in the application and the documents produced along with the same and after considering the report of the Committee under rule 18 and after such further enquiry as he deems necessary, if satisfied that the land notified, or part thereof; is inconsistent with the provisions of the Act, shall by order make a declaration in writing that such land or part thereof is not vested in the Government as per the Act and issue a revised notification within three months from the date of receipt of an application under rule 17 accordingly.

Provided that in case a revised notification is to be issued in respect of the land notified the custodian shall arrange a survey and demarcation of such land before issuing the revised notification.

(2) A copy of the revised notification shall be communicated to the applicant.

(3) If on scrutiny as per sub-rule (1) of rule 20, the custodian finds that the land notified is consistent with the provisions of the Act, he shall make a declaration that effect in writing and communicate to the applicant.

21. *Suo-motu revision by the Custodian.* – The procedure prescribed above in rules 18, 19 and 20 and sub-rules (1) and (2) of rule 7 is applicable in all cases of suo-motu scrutiny of the notifications issued under sub-section (1) of section 3 of the Act by the custodian.

CHAPTER – VI

PREPARATION OF MANAGEMENT PLAN

22. Preparation of Management Plan. – The Management Plan for all the Ecologically Fragile Lands vested in the Government shall be prepared by the Divisional Forest Officer/Working Plan Officer under whose jurisdiction the area situates. The Management Plans shall be prepared as per the guidelines fixed by the State Government and Ministry of Environment and Forests, Government of India from time to time. The Management Plan so prepared shall be submitted to the Custodian for review and submission to Government for approval.

CHAPTER – VII

FUND FOR IMPLIMENTAION OF THE ACT

23. Funds for implementation of the Act. – (1) Government shall allot necessary funds under a separate heads of account for implementing the Act and the Rules issued thereunder including:

- (a) Payment of compensation awarded to the owner.
- (b) Survey and demarcation, Boundary consolidation etc.
- (c) Office expenses for Custodian's Office and Forest Tribunal.
- (d) Motor vehicles.
- (e) Traveling expenses.
- (f) Preparation of Management Plan.
- (g) Any other activities to be carried out for implementation of the Act and the Rules issued thereunder.

By order of the Governor,

L. RADHAKRISHNAN,
Secretary to Government.