

KERALA PRIVATE FORESTS (ASSUMPTION OF MANAGEMENT) ACT, 1957 (NO.13 OF 1958)

43 THE KERALA PRIVATE FORESTS (ASSUMPTION OF MANAGEMENT) ACT, 1957 (Act 13 of 1958) CONTENTS Sections. 1. 2. 3 4. 5 6. 7. 8. 9 10 11. 12. 13. 14, 15

16. Short title and commencement Application. Definitions, Assumption of management of private forests. Power to take possession of private forests. Powers of Government. Disabilities of the owner. Appointment of officers. Surplus of receipts to be paid to owner. Keeping of accounts. Release from management. Service of notice and orders. Protection of action taken under the Act. Act to be supplemental to the Madras Preservation of Private Forests Act, 1949. Removal of difficulties. Power to make rules. 44 ACT 1.3 OF 1958 KARALA PRIVATE FORESTS (ASSUMPTION OF MANAGEMENT) ACT, 1957 An Act to provide for the taking over of the management of private forests for a limited period. Preamble.—WHEREAS it is expedient to provide for the taking over by the Government for a limited period of the management of private forests in the State of Kerala in the public interest or in order to secure proper management of such forest; BE It enacted in the Eighth Year of the Republic of India as follows 1. Short title and commencement—(1) This Act may be called the Kerala Private Forests (Assumption of Management) Act, 1957. (2) It shall come into force at once

2. Application —This Act shall apply to private forests in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) having a contiguous area exceeding 100 acres. Explanation —A private forest exceeding 100 acres in extent shall not cease to be such by reason only of the fact that, in a portion thereof, trees or shrubs are felled with or without the permission of the District Collector or lands are cultivated, or roads, tanks, rivers or the like exist, nor shall the area of such forest cease to be contiguous by reason only of the existence of all or any of the aforesaid circumstances

3. Definitions.—In this Act, unless the context otherwise requires, (1) "forest" includes waste or arable land containing trees and shrubs, pasture land and any other class of land declared by the Government to be a forest by notification in the Gazette, (2) "owner" in relation to a forest includes a mortgagee lessee or other person having right to possession and enjoyment of the forest, "person" includes a Hindu undivided family, Marumakkathayam or thavazhi or Aliyasanthana family or branch; (4) "prescribed" means prescribed by rules made under this Act. 4 Assumption of management of private Whenever it appears to the Government that it is necessary to take over the management of any private forest to which this Act applies in the receipt of the assent of the President on 22nd January 1958 and published in the Gazette Extraordinary dated 28th January 1958 45 public interest or in order to secure the proper management of such private forest, they may publish a notification to that effect in the Gazette. Copies of the notification shall be served on the person in possession of the forest and on all such persons known or believed to be interested therein. (2) Any person on whom a notification is served under sub-section (1) may within 15 days of the service of the notification object to the taking over of the management of the forest Any other person interested may object to the taking over of the management within 15 days of the publication of the notification in the Gazette. Such objections shall be in writing and presented to the Government in person or sent by registered post. (3) If after considering the objection, if any, made under sub-section (2), the Government are satisfied that it is necessary to take over the management of the private forest in the public interest or in order to secure the proper management thereof, they may, by order in writing, take over the management of the forest for such period not exceeding five years as may be specified in the order, and may make such further orders as appear to them to be necessary or expedient in connection with such taking over

5. Power to take possession of private Where an order has been made under section 4, the Government may by notice in writing order the owner or the person believed to be the owner or the person in possession of the private forest to surrender or deliver possession of the private forest to, the Government or any officer authorised by them in this behalf within thirty days of the service of the notice. (2) If any owner or person believed to be the owner or the person in possession of the private forest refuses or fails to comply with an order under sub-section (1), the Government or any officer authorised in

this behalf may take possession of the private forest. (3) If any owner or person believed to be the owner, or the person in possession of the private forest, refuses or fails to comply with an order under sub-section (1) he shall, on conviction, be liable to fine not exceeding Rs. 200 and in case the refusal or failure to comply with an order under sub-section (1), continues for more than one month, after such conviction. With further fine which may extend to Rs. 100 for every week or part thereof during which such refusal or failure continues. If such refusal or failure continues for more than two months, he shall on conviction be punishable with imprisonment for term which may extend to one year or with fine which may extend to Rs. 1,000 or with both. 46 6. Powers of Subject to the provisions of any rules that may be made in this behalf, the Government may take such measures as they consider necessary or expedient for the purposes of securing administration, preserving and managing any private forest, the management of which has been taken over under section 4. (2) Without prejudice to the generality of the provision contained in sub-section (1) such powers shall include the power— (1) (11) (v) to cut and remove tree in the forest, to sell by auction or otherwise the timber and other forest produce; to enter into contracts for cutting and removing trees, to carry on cultivation, and to improve the forest by planting or otherwise 7. Disabilities of the owner.—(1) The owner of a private forest the management of which has been taken over by the Government under this Act shall not— (a) transfer or otherwise dispose of the forest or any part thereof or create any charge, hypothecation, lien or other encumbrance; or (b) enter into any agreement in respect of the private forest or in respect of the trees or the forest produce thereon, without the previous approval of the Government, (2) Any transaction in contravention of sub-section (1) shall not affect the rights of the Government under this Act 8. Appointment Of officers. -- The Government may, by notification in the Gazette, appoint any officer or officers to manage the affairs of any forest the management of which has been taken over under section 4 and specify the powers which such officer or officers may exercise in respect of the management of the forest. 9' Surplus of receipts to be paid to owner —Out of the sums received on account of the management of any private forest by the Government under this Act, the cost of management incurred by the Government including the pay and allowances of officers appointed under section 8 and of the staff and other persons employed in the course of the management or such portion thereof as may be directed by the Government and the amount of any taxes, public charges and other dues payable to the Government in respect of the forest shall be deducted and the balance of the amount shall be paid by the Government to the owner. 4 47 10. Keeping of accounts.—(1) Accounts of all receipts and disbursements in respect of the management of a private forest, the management of which has been taken over by the Government, shall be maintained in such manner as may be prescribed. (2) Such accounts shall be inspected and audited at such intervals and by such persons as may be prescribed. 1) On the expiration of the period in which management of a private forest was taken over, or earlier, if the Government consider that it is no longer necessary to continue in management, the Government shall, by order, release such forest from their management. When the management of any private forest is to be released (2) as aforesaid, the Government may after such inquiry, if any, as they may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the forest shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the management or to the successors-in-interest of such person (3) The delivery of possession of the forest to the person specified in an order under sub-section (2) shall be a full discharge of the Government from all liability in respect of the forest, but shall not prejudice any rights in respect of the forest which any other person may be entitled by due process of law to enforce against the person to whom possession of the forest is given. (4) Where any person to whom possession of any forest is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the Government shall cause to be published in the Gazette the order passed under sub-section (1) (5) On and from the date of publication of the order under sub-section (4), possession of the forest shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any claim in respect of the forest for any period after the said date. (6) All agreements validly entered into by the Government in the course of management shall be binding on the owner

12. Service Of notice and orders -Every notice or order issued under Act—(a) of a general nature, shall be published in the Gazette, (b) affecting an individual corporation or firm, shall be served in the manner provided for the service of summons in Rule 2 of Order 48 XXIX or Rule 3 of Order XXIX, as

the case may be, in the First Schedule to the Code of CIVIL Procedure, 1908, and (c) affecting an individual person (not being a corporation or firm), shall be served on such person— (i) by delivering it or tendering it to that person; or If It cannot be delivered or tendered, by delivering it or tendering It to any officer of such person or any adult male member of the family of such person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or (111) by registered post. 13, Protection of action taken under the Act.—No suit, prosecution or other legal proceeding shall lie against any officer of Government for anything good faith done or intended to be done under this Act 14. Act to be supplemental to the Madras Preservation of Private Forests Act, 1949.—The provisions of this Act shall be in addition to and not in derogation of the provisions of the Madras Preservation of Private Forests Act, 1949, 15. Removal of difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty

16. Power to make rules The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act (2) All rules and notifications issued by the Government under sub-section (1) of this section and section 4 respectively, shall be placed on the table of the Legislative Assembly for a period of 14 days when the Assembly is in session and shall be subject to such modification, amendment or cancellation as might be made during the period when they are so laid

