



The Mizoram Gazette

EXTRA ORDINARY

Published by Authority

REGN. NO. N.E.—313 (MZ)

Rs. 2/- per Issue

Vol. XXXIII Aizawl, Tuesday, 14.12.2004, Agrahayana 23, S.E. 1926, Issue No. 362

NOTIFICATION

No. A. 10218/141/04-LJD/21, the 8th December, 2004. The following Act of the Mizoram Legislative Assembly which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Oil Palm (Regulation of Production and Processing) Act, 2004.
(Act No. 10 of 2004).

Received the assent of the Governor of Mizoram on the 2nd December, 2004.

AN ACT

to provide for the Regulation of Cultivation of Oil Palm and for orderly growth and processing thereof and for matters connected therewith.

It is enacted by the Legislative Assembly of the State of Mizoram in the Fifty Fifth Year of the Republic of India as follows:-

Short title, extent and commencement. 1. (1) This act may be called the Mizoram Oil Palm (Regulation of Production and Processing) Act, 2004.

(2) It extends to whole of the State of Mizoram except the areas constituted as autonomous districts under the sixth schedule to the constitution of India.

(3) It shall come into force from such date as may be notified by the State Government in the official Gazette.

Definition : 2. In this Act, unless the context otherwise requires,

- (1) "Advisory Committee" means the Mizoram Oil Palm Advisory Committee constitution under Section 3;
- (2) "Factory" means any premises including the precincts thereof or any part of which any manufacturing process connected with the processing of Oil Palm FFB is carried on with the aid of mechanical power;
- (3) "Factory Zone" means an area assigned to a factory under section 11;
- (4) "Government" means the State Government of Mizoram.
- (5) "Occupier of the factory" means the person who, or the authority which has the ultimate control over and, where the said affairs are entrusted to a Secretary, Manager, Managing Director, Executive Director or Chief Executive Director, such Secretary, Manager, Managing Director, Executive Director or Chief Executive Director shall be deemed to be the occupier of the factory;
- (6) "Oil Palm" means the palm of the genus, *Elaeis* and includes the species, *Elaeis guineensis*, *Malanococcea* or *Corozo oleifera* and hybrids of these species;
- (7) "Oil Palm Officer" means the Oil Palm Officer appointed under section 8;
- (8) "Oil Palm FFB" means, the unprocessed Oil palm fresh fruit bunch and includes its loose form also;
- (9) "Oil Palm Grower" means a person who cultivates oil palm whether by himself or by his own servants or by hired labour or by members of his family or by his tenants and includes Oil Palm Growers Cooperative Society, but not a member thereof and a Company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956);
- (10) "Oil Palm Growers Cooperative Society" means a Society registered under the Mizoram Cooperative Societies Act, 1991, (Mizoram Act 1991) which has among its objects and functions the cultivation and sale of oil palm FFB by its members, and includes the Federation of any such Societies;
- (11) "Oil Palm Inspector" means the Oil Palm Inspector appointed under section 9;
- (12) "Oil Palm Product" means any product obtained directly from the oil palm and it includes palm oil, palm kernel; palm kernel cake, palm fatty acids, oil palm seeds and oil palm seedlings.

(13) "Prescribed" means prescribed by rules made under this Act.

(14) "Zonal Committee" means a Zonal Committee constituted under section 5;

Constitu-
tion of the
Advisory
Committee.

3. (1) As soon as may be after the commencement of this Act, the Government shall, by notification, constitute a Committee for the State to be called "The Mizoram Oil Palm Advisory Committee"

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

(a) the Minister in-charge of Agriculture who shall be the Chairman;

(b) three members of the Legislative Assembly of the State to be nominated by the Government;

(c) Secretaries to the Government in-charge of Agriculture; Horticulture, Industries and Finance;

(d) Heads of Departments of Agriculture, Horticulture and Industries;

(e) Joint Director, ICAR Research Complex for NEH Region Mizoram Centre, Kolasib, Mizoram or his representative;

(f) the Director, Regional Research Laboratory, Jorhat, Assam

(g) a representative of the Government of India, in the Ministry of Agriculture;

(h) four representative of the oil palm processing Factories, as may be nominated by the Government;

(i) four persons from among the oil palm Growers as may be nominated by the Government;

(f) the Oil palm Officer.

(3) The Oil palm Officer shall be the Ex-Officio Member Secretary of the Committee.

(4) The term of Office of the Committee shall be three years, but the Government may, for reasons to be recorded in writing, re-constitute the Committee at any time before the expiry of the term.

Function of
the Advi-
sory Committee

4. It shall be the duty of the Advisory Committee to advise the Government on the following matters namely:

- (a) extension of the areas under cultivation of oil palm;
- (b) problems relating to the cultivation of oil palm;
- (c) problems faced by the oil palm processing industry;
- (d) co-ordination between the oil palm growers and industry and sorting out of all matters which may arise;
- (e) to bring to the notice of the Government any measures that will suit the orderly development of the oil palm cultivation and industry;
- (f) such other matters as may be prescribed;

Constitution of Zonal Committee 5. (1) The Oil Palm Officer may, by notification declare each area specified therein attached to a processing factory as a Zone (hereinafter referred to as 'Factory Zone') constitute an Oil Palm Zonal Committee for each such Zone:

Provided that the Oil Palm Officer may, with the approval of the Government, constitute one Zonal Committee for more than one factory zone or more than one Zonal Committee for each factory Zone, if it is deemed necessary in the interests of effectively carrying out the purposes of this Act.

- (2) The Zonal Committee constituted under Sub-Section (1) shall consist of the following members, namely:

- (i) a Chairman nominated by the Oil Palm Officer with the approval of the Government from among the persons residing in the factory zone.
- (ii) two persons representing the factory located in the factory zone to be nominated by the Managing Director of the factory concerned;
- (iii) four persons from among the growers to be nominated by the Oil Palm Officer;
- (iv) the District Agriculture Officer and Sub-Division Agril. Officer of the area, Divisional Agril. Engineer, Executive Engineer (Roads and Buildings) Executive Engineer (PHE) and Executive Engineer (P&E) representing the area;
- (v) the Oil Palm Inspector concerned who shall be the Member Secretary of the Committee;

Provided that the Members specified in clause (iv) shall have the right to speak and otherwise to take part in the meetings of the Zonal Committee but shall not be entitled to vote at any such meeting.

- (3) The Committee constituted under this section shall be a body corporate having perpetual succession and common seal with power to acquire, hold and dispose of property and to enter into contracts and may by its corporate name sue and be sued.
- (4) The term of the Zonal Committee shall be three years and upon its expiry, the Committee shall be reconstituted in accordance with the provisions of sub-section (1):

Provided that if the Oil Palm Officer is satisfied that it is necessary so to do, he may with the approval of the Government, by order dissolve the Committee before the expiry of its term:

Provided further that the Oil Palm Officer shall not pass any such order unless the Committee has had an opportunity of making its representations.

- (5) When a Committee dissolved, the following consequences shall follow:-
 - (a) all the members shall vacate their offices on the date specified in the order but without prejudice to their eligibility for renomination as members;
 - (b) the Committee may be reconstituted within three months of its dissolution by the Oil Palm Officer in accordance with the Provisions of sub-section (1);
 - (c) the powers and function of the Committee shall, pending its reconstitution be exercised and performed by the Secretary subject to such restrictions as may be specified in the order.
- (6) The Oil Palm Officer may, with the approval of the Government, remove any member of the Committee, including the Chairman, from his office after recording the reasons in writing for such removal:

Provided that the order removing a member shall not be passed by the Oil Palm Officer unless such member has had an opportunity of making his representation.

Powers and 6.
functions of
the Zonal
Committee

- (1) The functions of the Zonal Committee shall be to :-

- (a) consider the programme of development of Oil Palm Cultivation in the factory Zone;

(b) deliberate on the problems faced by the factory or the growers in cultivation and transport of Oil Palm;

(c) devise plans for removal of such problems with the funds as may be available with the Committee and to recommend to the Government such action as is necessary for solving the problems;

(d) recommend to the local bodies, Public Works Department of the Government for proper improvement and upkeep of roads leading to the factory Zone from the cultivating centres including feeder roads;

(e) take steps for prevention and control of Oil Palm diseases and pests affecting Oil Palm and render all possible help for the development of Oil Palm Cultivation;

(f) draw up Plans for training of the cultivators and for extension work in respect of Oil Palm with the funds as may be available with the Committee;

(g) consider complaints of the grower regarding transportation, purchase of Oil Palm FFB's and payment of price by the factory to the Oil Palm Cultivators;

(h) administer the funds as may be available.

(2) The Government or the Oil Palm Officer may call a joint meeting of the Chairman and Members of all the Zonal Committees for deliberating on the issues common to all the factory zones.

Zonal Committee Funds

7. (1) There shall be a fund at the disposal of the Zonal Committee for the performance of the various functions entrusted to it.

(2) The funds of the Committee shall consist of:-

(e) grants made by the State Government either for a general purpose or for any specific purpose for the performance of the functions of the Committee;

(b) such contributions as may be made by the factories, Oil Palm Grower', Oil Palm Growers' Cooperative Societies or such other organisations interested in the development of Oil Palm Cultivation and processing.

Appoint- ment of Oil Palm Com- missioner

8. Subject to such rules as may be made in this behalf the Government shall appoint an Officer of the Government as Oil Palm Officer or may designate an Officer of the Government as Oil Palm Officer to exercise the powers and perform the functions of the Officer under this Act.

**Oil Palm
Inspector**

9. (1) Subjects to such rules as may be made in this behalf; the Government may appoint such number of officers of the Government as Oil Palm Inspectors for such areas as may be specified under this Act to exercise the powers and perform the functions vested in the Oil Palm Inspectors under this Act.

(2) Notwithstanding anything contained in sub-section (1). the Government may designate any officer of the Department of Agriculture to exercise the powers and perform the functions of the Oil Palm Inspector under this Act.

**Register of
Oil Palm
Growers' and
Oil Palm
Growers' Co-
Operative**

10. (1) The occupier of the factory in every factory zone shall maintain in such form and in such manner as may be prescribed a Register of Oil Palm Growers in the Zone attached to the factory in of accordance with the provisions of section 11. The Register shall be updated every year and shall always be available in the office of the factory for inspection by the Oil Palm Inspector or any other authority authorised by the Government or Oil Palm Officer. A copy of the list of Oil Palm growers and the Oil Palm Growers Cooperative Societies in the concerned zone as in the Register shall also be made available by the said occupier to the Zonal Committee. It shall be competent for the Oil Palm Officer, on the report submitted by the inspecting authority, to order such corrections as he deems fit in the registers maintained under this section.

**Declaration
of factory
Zone**

11. (1) The Government shall have the power to declare by notification, any area as factory zone for the purpose of supply of fresh oil palm fruit bunches to the factory specified for the purpose or purchase of Oil Palm FFB and any other Oil Palm product by the factory.

(2) Where a particular area is declared as Factory Zone under sub-section (1) the Oil Palm growers in that area shall supply the fresh fruit bunches from the Oil Palm plantations grown in that area only to the factory to whom the factory zone is attached and to none else.

(3) Where a particular factory zone is declared under this section the occupier of the factory in the concerned factory zone and for which the zone is declared, shall buy all the Oil Palm FFB produced by all the Oil Palm growers or their Co-operative Societies in that factory zone as are offered for sale by them at a price which shall not be less than the price fixed by the authority empowered to fix the price under this Act.

**Failure to
buy**

12. (1) In the event of failure on the part of the occupier of a factory to buy all the fresh fruit bunches from the growers in the factory zone declared in relation to a factory, without any valid reason, the occupier of factory shall be liable to compensate the loss that may have been caused to the grower on

account of non-purchase of the Oil Palm FFBs by the factory in addition to the penalty specified in section 15.

(2) Where an occupier of a factory refuses to buy particular consignment or consignments of Oil Palm FFBs from a growers, he shall assign reasons thereof in writing:

Provided that damage, inefficient running, breakdown of plant machinery, failure to use capacities and any other operational problems shall not be valid reasons for refusal of the consignment of Oil Palm FFBs and shall be treated as the failure on the part of the factory to buy the oil palm FFBs for purposes of sub-section (1) :

Provided further that the Oil Palm Officer shall be the authority to decide whether there are valid reasons for the failure to buy oil palm FFBs and his decision thereon shall be final.

**Power to
fix prices**

13. (1) The Government may on their own fix the minimum price of oil palm FFBs or may authorise the Oil Palm Officer to do so, subject to such guidelines as they may give in that regard from time to time.

(2) Where the Oil palm Commissioner is authorised to fix the Prices of oil palm FFBs to be purchased by the factory, he shall declare at such intervals as may be directed by the Government the minimum price at which the oil palm FFBs be purchased by the factories.

**Maintenance of
Records and
Inspection.**

14. (1) Every occupier of the factory shall maintain such records as are prescribed or as required by the Oil palm Officer with the approval of the Government.

(2) An Oil Palm Inspector may at any time inspect a factory and verify such records, reports, statements and registers as may be required to be maintained in connection with due implementation of the provisions of this Act and may also direct the occupier of a factory to produce them for his verification.

(3) The powers under sub-section (2) may be exercised by any Officer authorised in this behalf by the Oil Palm Officer by a general or specific order.

(4) An occupier of the factory who fails to maintain the records as required by this section or fails or refuses to produce the same when called for by authority under this Act shall be punishable under section 15.

Penalties 15.(1) Every person or occupier of a factory who contravenes the provisions of section 11 shall be punishable with fine which may extend to rupees ten thousand and in the case of a continuing

contravention of the provisions of the said section with a further fine not exceeding rupees one thousand for each day during which the contravention continues.

(2) Any person or occupier contravening any of the provisions of this Act or of any rule or order made under this Act for which no penalty is provided in sub-section (1) shall be punishable with fine which may extend to rupees five thousand.

Institution of proceedings.

16. (1) No court shall take cognizance of an Offence punishable under this Act, or any rule or order made there under except upon a complaint in writing made by the Oil Palm Officer or any authority or Officer authorised by him in this behalf.

(2) No court inferior to the court of a Magistrate of the First Class shall take cognizance of, or try, an offence under those Act or any rule or order made thereunder.

Compounding of offences

17. On the application of a person accused of an offence under this Act or any rule or order made thereunder, the Oil Palm Officer or any authority or officer authorised by him, in this behalf may, at any stage, compound such offence by levying a compounding fee not exceeding rupees ten thousand.

Protection of acts done in good faith.

18. (1) 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 any provision of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provision of this Act or of any rule or order made thereunder.

Determination of occupier of factory for the purposes of this Act.

19. (1) Where the occupier of a oil palm factory is a firm or other association of individuals any one or more of the partners or members thereof may be prosecuted and punished under this Act for any offence for which the occupier of the factory or owner thereof is punishable.

Provided that the firm or association may give notice to the Oil Palm Officer that it has nominated one of its partners or members to be occupier of the factory for the purposes of this Act, and such individuals shall be deemed to be the occupier of factory for the purpose of this Act, until further notice cancelling his nomination is received by the Oil Palm Officer or until he ceases to be a partner or member of the firm or association as the case may be.

(2) Where the occupier of a factory is a company or a Co-operative Society, any one or more of the Directors thereof, or, in the case of a private company, any one or more of the shareholders thereof, may be prosecuted and punished under this Act, for any offence for which the occupier of the factory is punishable :

Provided that the company or co-operative society may give notice to the Oil Palm Officer that it has nominated a Director, and a private company may give notice to the said officer that it has nominated a shareholder, to be the occupier of the factory for the purposes of this Act, and such Director or share holder shall be deemed to be the occupier of the factory for the purposes of this Act, until further notice cancelling his nomination is received by the Oil Palm Officer or until he ceases to be a Director or shareholder, as the case may be.

**Payment of
Oil Palm
Price.**

20. (1) The occupier or owner of a oil palm factory shall make suitable provision to the satisfaction of the Oil Palm Officer for the payment of the price of oil palm FFB supplied to the factory.

(2) Upon the delivery of oil palm FFB, the occupier or owner of a factory shall be liable to pay within fourteen days from the date of such delivery the price of the oil palm FFB so supplied.

(3) The price of the oil palm FFB remaining un-paid on the expiration of the period specified in sub-section (2) shall carry interest at fifteen per cent per annum from the date of delivery, of oil palm FFB and it shall be recovered as if it were an arrear of land revenue.

(4) If any occupier or owner of a factory fails to pay the price of the oil palm FFB sold to him in accordance with the provision of sub-section (2) or the interest payable under the sub-section (3), he shall, in addition to the said price or the interest being recovered from him as an arrear of land revenue, be liable to the penalty provided for under clause (b) of sub-section (4) of section 3 of the Essential Commodities Act, 1955 (Central Act 10 of 1955) as if he has contravened a direction issued under that clause.

(5) Without prejudice to the provisions of the foregoing sub-sections, where the owner or occupier of a factory or any other person competent in that behalf, enters into an agreement with a bank under which the bank agrees to give advance to him on the security of palm oil produced or to be produced in the factory the said occupier, owner or other person, as the case may be, shall provide in such agreement that such percentage, which shall not be less than fifty percent of the total amount of advance, as may be prescribed, shall be set apart and be available only for payment to oil palm growers or other co-operatives societies on account of the

quantity of oil palm FFB purchased or to be purchased for the factory from those oil palm growers or from or through those societies and interest thereon and such societies commission in respect thereof.

(6) Every such occupier, owner or other person as aforesaid shall send a copy of every such agreement to the Oil Palm Officer within a week from the date on which it is entered into.

Levy on Tax on purchase of oil palm on FFBs 21. (1) Government may, by notification, levy a tax with a rate not exceeding Rs. one hundred per M.T on the purchase of FFBs required for use, consumption or sale in a factory.

(2) The Government may, by notification, remit in whole or in part such tax in respect of FFBs used or intended to be used in a factory for any purpose specified in such notification.

(3) The tax payable under sub-section (1) shall be levied and collected from the occupier of the factory or from the person receiving oil palm FFBs or the oil palm Processing Factory in such manner and by such authority as may be prescribed.

Purposes for which tax levied and collected. 22 The tax on Oil Palm levied and collected under the section 21 shall be used for the following purposes namely :--

(i) for the overall development of oil palm plantations;

(ii) to bring more areas under oil palm cultivation;

(iii) to monitor the schemes benefitting oil palm growers;

(iv) to develop the feeder roads to facilitate movement of oil palm FFBs; and

(v) any other purpose in the interests of Oil Palm Growers in particular or in the interests of general public residing in Oil Palm Growing Zones.

Power of Government to give direction. 23. The Government may, subject to other provisions of this Act, by order, direct the Oil Palm Officer or any other Officer to make an enquiry or to take appropriate proceeding under this Act, in respect of any matter specified in this order, and the Oil Palm Officer or the other officer, as the case may be, shall report to the Government in due course, the result of the enquiry made or the proceeding taken by him.

Delegation of powers. 24. The Government may, by notification, delegate all or any of their powers under this Act, except section 25 to any person or au-

of Govern- therity subordinate to them subject to such conditions and to such
ment. control and revision as may be specified in the notification; and
they may in the like manner withdraw any powers so delegated.

Power to 25. (1) The Government may, by notification make rules for car-
make Rules. rying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the Government may make rules :-

(a) as to the conditions governing the declaration of a factory zone and as to the alteration or cancellation thereof;

(b) as to the plucking, collection and delivery of the oil palm FFBs by the growers or as the case may be by the companies and the prescription of collection centres by the Oil Palm Officer.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the Mizoram Legislative Assembly.

Power to 26. If any difficulty arises in giving effect to the provisions of
remove this Act, the State Government may, by order not in inconsistent
difficulties. with the provisions of this Act, remove such difficulty.

P. Chakraborty,
Secretary to the Govt. of Mizoram,
Law, Judl. & Par. Affairs
Aizawl.