



Legislative Assembly of the State of Goa

**The Goa Preservation of Trees
(Amendment) Bill, 2008**

(Bill No. 8 of 2008)

^{AS}
(~~To be~~ introduced in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY COMPLEX, PORVORIM
MARCH, 2008**

THE GOA PRESERVATION OF TREES (AMENDMENT) BILL, 2008

(Bill No. 8 of 2008)

A

Bill

*further to amend the Goa, Daman and Diu
Preservation of Trees Act, 1984.*

5 Be it enacted by the Legislative Assembly of
Goa in the Fifty^{eight}~~eight~~ Year of Republic of India
as follows:— ^{not}

1. *Short title and commencement.*— (1) This
Act may be called the Goa Preservation of Trees
10 (Amendment) Act, 2008.

(i) It shall come into force at once.

2 *Insertion of new section 12A.*— After section
12 of the Goa, Daman and Diu Preservation of
Trees Act, 1984 (Act No. 6 of 1984) (hereinafter
15 referred to as the "principal Act"), the following
section shall be inserted, namely:—

"12-A.— *Removal of trees, etc., which are in
ruinous state or likely to fall.*— (1)
20 Notwithstanding anything contained in any
other law for the time being in force, it shall be
lawful for the Tree Officer or the Deputy
Collectors having jurisdiction over their
respective areas, if it appears to him at any
time that any tree over any land or its branch

or a part thereof is in ruinous state or is in such condition that it is likely to fall and thereby cause injury to a person living or carrying on business in the neighbourhood or passerby or to a building or house or any public place, he may, by written order require the person owning or possessing such tree to lop or cut down such tree or portion of a tree, which is in such condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by:

Provided that no order under sub-section (1) shall be made unless the owner or occupier of land has been given a reasonable opportunity of being heard in the matter in person or by his agent in support of his objections;

Provided further that where the Tree Officer or the Deputy Collector in consultation with the Tree Officer is of the opinion that there is likelihood of the tree or any portion thereof falling and causing injury or danger to persons and danger is of hourly imminence and it is not expedient to provide opportunity to file objection, he may, for reasons to be recorded in writing, issue order directing the person owning or possessing such tree, to cut down and remove such tree or any portion thereof forthwith or within the time as fixed in the order and if he fails to do so the Tree Officer or the Deputy Collector, as the case may be, will take all necessary steps towards its removal.

(2) Every order required to be issued under sub-section (1) of section 12-A of the Act shall be deemed to be duly served,—

(i) where the person to be served is residing in the house, at the place of his residence or in case of company, if order is addressed in the name of company, at its registered office or at its principal office or place of business and is either,—

(a) sent by registered post; or

(b) delivered at its registered office or at its principal office or place of business; or

(c) is given or tendered to him; or

(d) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed at some conspicuous part of structure or tree or building, if any, to which it relates.

(3) Whoever fails to comply with any directions issued under sub-section (1) within a period as specified in the said order, the Tree Officer or the Deputy Collector appointed by the Government in this behalf, shall take all reasonable steps to cut, or remove such tree or any portion thereof which causes obstruction or nuisance or is likely to endanger life or property of any person, to remove the same at the cost and charges of the owner or occupier of the land or of the tree and all expenses incurred thereof shall be recovered as arrears of land revenue under the Goa Land Revenue Code, 1968 and the rules framed thereunder."

3. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (1).—

(i) for the words "Tree Officer", the words "Tree Officer or the Deputy Collector, as the case may be",— shall be substituted. 5

(ii) for the word and figures "and 12", the words and figures, "12 and 12A" shall be substituted.

4. *Inserting of new sections 35A and 35B.*— After section 35 of the principal Act, the following 10 sections shall be inserted, namely.—

"35-A *Constitution of tree protection fund.*— (1) There shall be constituted a fund to be called the Tree Protection Fund. The following amount shall be paid into and form part of the fund, 15 namely:—

(i) all Government grants, donations from company or institutions, fees, charges received by the Tree Officer;

(ii) all proceeds of the disposal of tree, if any, 20 by the Tree Officer;

(iii) all sums collected by the Tree Officer from such other source as may be decided by the Government.

(2) The funds shall be applied for meeting all 25 expenses incurred by the Tree Officer or the Deputy Collector exercising the power under section 12-A, as the case may be, in connection with discharge of his functions under this Act.

35-B (1) *Account and Audit.*— The Tree Officer and the Deputy Collector exercising the power under section 12-A of this Act shall prepare account and other relevant records and prepare 5 an annual statement of account in such form as may be prescribed by the Government in consultation with the Director of Accounts, Government of Goa. The account maintained under this section shall be audited by the 10 Directorate of Accounts, Government of Goa at such intervals as may be specified by the Government and any expenditure incurred in connection with such audit, shall be payable by the Tree Officer to the Directorate of Accounts 15 from the fund so created.

(2) The Account of Tree Protection Fund as certified by the Directorate of Accounts or any other person appointed by it in this behalf, together with audit report thereon, shall be 20 forwarded annually to the Government and the Government shall cause the same to be laid before the State Legislative Assembly."

Statement of Objects and Reasons

The Goa, Daman and Diu Preservation of Trees act, 1984 provides for preservation of trees in the State of Goa. The provisions of the Act do not empower any Tree Officer or Deputy Collector having jurisdiction over the area to remove trees which are in ruinous state or which are likely to fall and thereby cause injury to a person living or carrying on business in neighbourhood, etc.

In order to overcome the difficulties towards implementation of the provisions of the Act effectively, it is proposed to insert a new section 12A thereby empowering the Tree Officer as well as the Deputy Collector having jurisdiction over the area to issue an order for cutting or lopping of tree or its branch or part thereof which is in ruinous state or which is likely to fall and thereby cause injury to person living or carrying on business in the neighbourhood, etc.

The proposed Amendment also provides for constitution of a Tree Protection Fund for meeting all expenses incurred by the Tree Officer or Deputy Collector towards exercising of powers thereof by incorporating a new section 35A of the Act. Similarly, a provision relating to maintaining accounts by the officers thereof and audit by the Director of Accounts with reference to expenditure incurred towards implementation of the provisions of the Act have also been proposed by way of inserting section 35B to the Act.

An Amendment in section 15 is consequential in nature.

This Bill seeks to achieve the above object.

Financial Memorandum

The proposed section 35-A provides for the constitution of a Tree Protection Fund in which all Government grants, donations, fees, charges, shall be credited. The said fund shall be utilized for meeting all expenses incurred by the Tree Officer or the Deputy Collector while exercising powers under proposed section 12A of the said Act.

The financial implications can not be quantified at this stage.

Memorandum Regarding Delegated Legislation

Clause 4 of the Bill empowers the Government to frame rules for specifying the form of annual statement of account of the Tree Protection Fund.

This delegation is of normal character.

Porvorim, Goa.
14th March, 2008.

(FILIP NERY RODRIGUES)
Minister for Forests

Assembly Hall,
Porvorim, Goa.
14th March, 2008.

(R. KOTHANDARAMAN)
Secretary to the
Legislative Assembly of Goa.

**Governor's Recommendation under Article
207 of the Constitution**

In pursuance of Article 207 of the Constitution of India, I, Shri S. C. Jamir, Governor of Goa, hereby recommend the introduction and consideration of the Goa Preservation of Trees (Amendment) Bill, 2008, by the Legislative Assembly of Goa.

Raj Bhavan,
Dona Paula, Goa.
11th March, 2008.

Sd/-
(S. C. JAMIR)
Governor of Goa.

ANNEXURE

**Extract of sections 12, 15 and 35 of the Goa,
Daman and Diu Preservation of Trees Act, 1984
(Act No. 6 of 1984)**

SECTION 12:

12. Preservation of Trees.— (1) Subject to the provisions of section 14, it shall be the duty of the owner of the land to comply with an order made under section 9, or a direction issued under section 10 or section 11 and to plant trees in accordance with such an order or direction and to ensure that they grow well and are well preserved.

(2) All the owners shall effectively protect all the trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from any damage, he may direct the owner to take such measures as are considered necessary to protect trees from damage. In case of default, the tree officer may himself arrange such measures and recover the expenditure thereon from the owner in the prescribed manner.

SECTION 15:

15. Appeal.— (1) An appeal shall be against the order or direction of the Tree Officer under sections 9, 10, 11 and 12 to the Appellate Authority within a period of thirty days.

Provided that an appeal may be admitted after the expiry of the said period of thirty days if the appellants satisfies the appellate Authority that he had sufficient cause for not preferring the appeal within that period.

(2) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the order or direction appealed against and shall be accompanied by a fee of rupees ten.

(3) In disposing of an appeal, the Appellate Authority shall follow such procedure as may be prescribed.

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

SECTION 35:

35. *Power of the Government to give direction.*— The Government may from time to time give to the Tree Officers, other officers of the Tree Authority and officers subordinate to them general or special directions regarding the discharge of their functions and for carrying out effectively the purposes of this Act and such Tree Officers and other officers shall comply with the directions issued.

Assembly Hall,
Porvorim, Goa.

14th March, 2008.

(R. KOTHANDARAMAN)

Secretary to the

Legislative Assembly of Goa.