

**KERALA GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY**

9th June 1976

Vol. XXI Trivandrum, Wednesday,

19th Jyastha 1898

No. 357

**GOVERNMENT OF KERALA
Industries "F" Department**

No.17533/F2/76/ ID

Dated, Trivandrum, 9th June 1976.

THE KERALA RAW CASHEWNUTS (MARKETING AND DISTRIBUTION) ORDER, 1976

S.R.O.No.638/76 – WHEREAS maintenance of supplied of raw cashew nuts is essential for the continued employment of a large number of workmen in the State.

AND WHEREAS the Government of Kerala are of opinion that it is necessary and expedient so to do for the maintenance of supplies of raw cashew nuts and for securing their equitable distribution and availability at fair prices;

NOW, THEREFORE, in exercise of the powers conferred by sub-rules (2) and (3) of rule 114 of the Defense and Internal Security of India Rules, 1971, the Government of Kerala hereby make the following Order, namely:-

ORDER

1. Short title extent and commencement – (1) This Order may be called the Kerala Raw Cashew nuts (Marketing and Distribution) Order, 1976.
 2. In extends to the whole of the State of Kerala.
 3. It shall come into force at once.
2. Definitions.- In this order, unless the context otherwise requires, -
- (a) "agent" means and agent authorized under sub-clause (1) of clause 3;
 - (b) "Cashew Special Officer" means the Special Officer for Cashew Industry, Quilon;
 - (c) "Cultivator" means a person who actually cultivates any land with cashew;
 - (d) "Occupier" means an occupier as defined in the Factories Act, 1948 (Central Act 63 of 1948);
 - (e) "person" includes a body corporate, a company, a firm an association of individuals or a co-operative Societies Act, 1969 (21 of 1969)
 - (f) "raw cashew nut" does not include roasted cashew nut;
 - (g) "State" means the State of Kerala;
 - (h) "sub-agent" means a person appointed by an agent under clause 8.

3. Prohibition regarding purchase of raw cashewnuts – (1) No person other than an agent of the Government authorized by them in this behalf or a sub-agent shall purchase any raw cashewnuts produced in the State.

Provided that nothing contained in this sub-clause shall apply to the purchase of raw cashewnuts not exceeding one hundred kilograms in weight.

(2) The names of all agents authorized under sub-clause (1) shall be published in the Gazette.

4. Price to be paid by agents – (1) When raw cashewnuts tendered to an agent or a sub-agent by or on behalf of a cultivation such agent or sub-agent shall pay the price thereof calculated at the market rate prevailing in the locality.

(2) For the purposes of sub-clause (1), the Government shall from time to time, notify the market rates of raw cashewnuts in the different localities in the State, in such manner as they think fit.

(3) No agent or sub-agent shall be entitled to refuse to purchase any raw cashewnut tendered to him by or on behalf of cultivator.

5. Agents to furnish returns – Every agent shall furnish to the Government with copy to the Cashew Special Officer, on every Thursday, a return showing the place or places where raw cashewnuts have been stocked by him, the quantity thereof and the price paid by him therefore.

6. Power of Government to issue instructions to agents and sub-agents – The Government may, from time to time, give to the agents and sub-agents general instructions for the purpose of efficiently carrying out their duties under this Order, and the agents and sub-agents shall comply with such instructions.

7. Removal of agent – If any agent contravenes any of the provisions of this order or does not comply with any instruction issued by the Government under clause 6, his agency shall, without prejudice to any penalty to which he is liable under the Defence and Internal Security of India Rules, 1971, be liable to be terminated:

Provided that no agency shall be terminated without giving the agent an opportunity for making representations against such termination.

8. Appointment of sub-agents – (1) An agent may, by order in writing, appoint any person to be a sub-agent for the purposes of this order and define the local area for which he is appointed;

Provided that no such order shall be valid unless it is countersigned by the Cashew Special Officer.

(2) Every person appointed under sub-clause(1) shall furnish to the agent on such dates as may be specified by the agent in this behalf a return showing the place or places where raw cashewnuts are stocked by him. The quantity thereof and the price paid by him therefor.

(3) If any sub-agent contravenes the provisions of this order or does not comply with any instruction issued by the Government under clause 6 or any instruction issued to him by the agent, the Government or the agent may, without prejudice to any penalty to which he is liable under the Defence and Internal Security of India Rules, 1971, terminate his appointment as sub-agent.

Provided that before terminating the appointment of a sub agent, he shall be given an opportunity for making representations against such termination.

9. Prohibition of processing or conversion and restriction on distribution – No agent or sub-agent shall –
- a) Process or convert; or
 - b) Distribute except in accordance with the provisions of clause 10.

Any raw cashewnut purchased by him under this Order or under the Kerala Raw Cashewnuts (Restriction on Marketing) order, 1976.

Explanation-(1) For the purposes of this clause and clause 10, the total quantity of raw cashewnuts specified in the returns furnished by the agents under clause 4A of the Kerala Raw Cashewnuts (Restriction on Marketing) Order, 1976, shall be deemed to be the quantities of raw cashewnuts purchased by the agents and the sub-agents under that Order.

10. Distribution to cashew factories. – (1) All raw cashewnuts purchased by the agents and the sub-agents under this Order and under the Kerala Raw Cashewnuts (Restriction on Marketing) Order, 1976, shall be distributed to the cashew factories in the State which are eligible for the allocation of imported nuts under the Import Trade Control Policy for the time being in force of the Government of India, in such proportion as may be decided by the Government specified in the policy, the number of working days of the cashew processing units of the cashew factories in previous years, the operation of cashew processing units within and without the State and such other matters as the Government may deem fit.

(2) The decision of the Government under sub-clause (1) shall be served on the agents and the occupiers of the cashew factories concerned, and the raw cashewnuts covered by the decision shall be distributed by the agents within a period of three days from the date of service of the decision.

(3) Any raw cashewnuts which have not been distributed in accordance with the decision of the Government under sub-clause (1) within the period specified in sub-clause (2) may on complaint made by the occupier of any cashew factory to the Cashew Special Officer, be seized by such officer and distributed in accordance with such decision of the Government.

11. Price to be paid by the occupiers – (1) The price to be paid by the occupiers of cashew factories for the raw cashew nuts distributed to them shall be decided by the Government from time to time.

(2) In deciding the price under sub-clause(1), the Government shall take into consideration –

- (a) The grade and quality of the raw cashewnuts;
- (b) The market price of raw cashewnuts; and

12. Powers of entry, seizure, etc – The Cashew Special Officer, for Revenue Officers of and above the rank of Tahsildar or any other officer authorized by the Government in this behalf, or any police officer not below the rank of Sub-Inspector may, with a view to securing compliance with the provisions of this Order or to satisfying himself that the said provisions have been complied with –

- (a) Enter and search any premises;
- (b) Inspect any books, accounts or other documents maintained in the course of business or any stock of raw cashewnuts in the possession or under the control of any person.
- (c) Seize any such books, accounts or other documents which in this opinion would be useful for or relevant to any proceedings under this order.
- (d) Search any animal, vessel, vehicle or other conveyance or any receptacle which has been or is being used, or is about or likely to be used, for the contravention of this Order;
- (e) Seize any raw cashewnuts in respect of which he has reason to believe that a contravention of this Order has been, is being, or is about or likely to be, committed.

13. Power of court to direct forfeiture – Any court trying a contravention of this Order may direct that any raw cashewnuts in respect of which the Court is satisfied that this Order has been contravened shall be forfeited to the Government.

By order of the Governor,

SARALA GOPALAN
Additional Secretary to Government.

Explanatory Note

(This does not form part of the Notification but is intended to indicate its general purport)

It is considered necessary and expedient to regulate the marketing and distribution of rawnuts among Cashew Factories in the State so as to facilitate their equitable distribution and availability at fair prices. This order is intended to achieve this objective.