



**LAW REFORMS COMMITTEE**  
**GOVERNMENT OF KERALA**

**FIRST REPORT**

**NOVEMBER 2002**

# **LAW REFORMS COMMITTEE**

GOVERNMENT OF KERALA

**K.M. MANI**

CHAIRMAN

**V. RAMACHANDRAN**

MEMBER

**V. RAMKUMAR**

MEMBER

## **FIRST REPORT**

**CHAIRMAN**

**MEMBER**

**MEMBER**

**30 NOVEMBER 2002**

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## CHAPTER I

### INTRODUCTION

The question of Law Reforms has been considered from time to time since the formation of the State of Kerala in 1956. In the first few years after the States' reorganization, the laws which needed urgent unification were attended to. By 1963, the need for constituting a Law Commission was recognized. However it was only in 1966 that a Law Commission was actually constituted (G.O. (MS) No 5/66/Law dated 14.1.1966). The terms of reference of the Commission included the examination of all laws in force in the State in detail and their consolidation, amendment and simplification. The objectives of the Commission as stated in the Government order were quite wide. However, since the tenure of the Commission was for a period of two years, only limited amount of work was done. No Law Commission was appointed in the State afterwards.

The Administrative Reforms Committee, (ARC), appointed by the Government headed by Shri E.K. Nayanar from 1996, considered this question in its Seventh Report presented in August 2000. The Committee observed, "the present position as far as the Administrative Reforms Committee could assess it indicates that the issues sought to be tackled with the appointment of the Law Commission remain, to this day, largely unchanged." The Administrative Reforms Committee further observed as follows:-

*"For historical and other reasons, our Statute Book has become an exceedingly complex one. The number of laws is too large. New enactments increase this number every year. No serious exercise has been done to identify and repeal laws that have lost their relevance. There are instances where for the same subject different laws apply to different parts of the State. This was unavoidable as the State was formed in 1956 from three different political units of the earlier period – the independent princely states of Travancore and Cochin and the Malabar district and Kazaragod Taluk of South Canara district of the formerly British Ruled Madras Presidency. But the same situation has continued for too long. For some of the laws, timely codification of rules has not been done and for some others timely modifications have not been attempted either. Some*

*of the old laws in force appear to be not quite consistent with unanimously accepted goals of State policy. Some others which do address those goals seem to suffer from elements of half heartedness and adhocism."*

After considering the experience of the Law Commission at the Centre and the attempts at Law Reforms in Tamil Nadu and Karnataka, the ARC recommended the constitution of a State Law Commission with one of the retired Chief Justices functioning in Thiruvananthapuram heading such bodies like Lok Ayukta or Human Rights Commission as Chairman, two retired High Court Judges functioning in the City as Chairpersons of other bodies and a certain number of ex-officio and part-time members. A tenure of five years and the following terms of reference were indicated for the Commission

- "(a) To identify laws which are no longer needed or relevant and which are liable to be repealed.*
- (b) To identify laws which are not in harmony with the changing times or modern times and which need change.*
- (c) To identify laws which require changes or amendments in the normal course and to make suggestions for their amendment.*
- (d) To consider in a wider perspective the suggestions for revision/amendment suggested by Supreme Court or High Court or by Expert Groups in various Departments with a view to co-ordinate and harmonise them.*
- (e) To consider reference made to it by Departments in respect of legislation having bearing on the working of more than one Department.*
- (f) To examine the existing laws in the light of generally accepted objectives of State Policy like social and economic justice to the weaker sections of society and to suggest such legislation as might be necessary to implement those policies.*
- (g) To revise the State Acts and Rules framed under various Acts of general importance so as to simplify them by consolidation of amendments or otherwise and to remove anomalies and ambiguities.*
- (h) To consider and to convey to the Government its views on any other subject relating to laws and allied matters that may be referred to it.*

*These are only suggestions arising from the Administrative Reforms Committee's own study of this matter. These terms could be suitably modified or widened by Government in consultation with eminent jurists."*

In the context of the preparation of the Tenth Five Year Plan which according to the approach paper, was also to be a Reform Plan and in the light of the UDF Manifesto for the general elections in 2001 and the declared policies of the present Government to undertake major reforms in order to accelerate growth, increase investment and employment and improve the quality of social services that had been established in the State over the last several decades (but which had started deteriorating in recent years) and to improve the quality of governance, the question of constituting a Law Commission was raised before the full Planning Board at its third meeting held on 8<sup>th</sup> October, 2001. It was felt after detailed discussions that a Commission of the kind recommended by the ARC with a number of persons from outside working part-time and on a voluntary basis would not help the Government to achieve the objective and that what was needed was quick action. Since a number of proposals and suggestions were already under consideration in the Government and were at various stages and a number of others have been recently received, it was felt that it would be much more useful if an internal committee headed by the Law Minister could examine all these proposals and suggestions, as well as others, as expeditiously as possible and make recommendations to the Government.

This view was accepted by the State Government and the Law Reforms Committee was constituted by G O (Rt) No 1054/2001/Law dated 26<sup>th</sup> November, 2001. The composition of the Committee and the terms of reference are given in the Government order appended to this Chapter. No separate staff was sanctioned for the Committee.

The Committee adopted the following method of work:

- ❖ A list of State Laws in force was already available with the Law Department. The Law Department was requested to prepare a list of obsolete laws, which were no longer relevant, and which could be repealed.
- ❖ As regards laws to be unified as well as new laws to be framed in accordance with the policies of the Government, an exercise was undertaken to locate all the existing drafts and proposals in the Departments of the Secretariat.
- ❖ Fresh proposals were also invited from the Departments. The Chairman and members also proposed subjects to be considered.
- ❖ After the initial set of materials was obtained, the Committee started its work in January 2002.
- ❖ Over the last 10 months the Committee has held nineteen sittings to consider the proposals in detail. It had discussions with Ministers and Secretaries to Government in one or two sittings. In addition to the formal sittings the Chairman and individual members of the Committee, as well as officers assisting the Committee, had a number of discussions with the concerned Secretaries to Government and other officers as well as representatives of organizations like the Small Industries Association, which had sent memoranda to the Committee. There were thus many interactions.
- ❖ The list of 84 obsolete laws considered fit for repeal by the Committee was published in 21.5.2002 and was also sent to legal experts, Bar Associations and members of the Legislature for comments, if any.



During the working of the Committee a number of reform measures had to be attended to on an urgent basis. Though the Committee did not as a whole formally examine them and make recommendations, the Chairman and one or more members of the Committee were involved in the preparation and finalization of these measures in the field of finance, labour, power and other matters. A list of such measures and the present state of their finalisation/enactment is given in the statement appended to this Chapter.

In this volume, the Committee has finalised its first Report for presentation to the Government for urgent consideration. The proposals made in this Report are those of the Committee as prepared by it after due consideration and have not been referred to the departments for concurrence. In this Report itself some of the measures that require examination and which will be considered in the second report of the Committee are indicated. A great deal more work needs to be done in this field and the Committee hopes to accomplish this task in the subsequent Reports that will be presented by it in the coming months.

The committee did not appoint any additional staff for its work nor did it incur any financial expenditure on account of its work.

### **Acknowledgements**

The Committee wishes to record its gratefulness to the Honourable Ministers and Secretaries to Government and other senior officers with whom it interacted, for their co-operation and valuable suggestions and for the readiness with which any matter or response was given when asked for by the Committee. All the officers of the Law Department attended to the work of the Committee in addition to their normal duties and it was only in October, 2002 that a special cell was formed from out of the existing staff of the Law Department. The Committee wishes to record its thankfulness for the assistance given, in particular, by Shri D. Sarat Chandran (Former Special Secretary for Law and now Addl. P.S. to Minister for

Law), Smt. P R Geetha, Additional Secretary, Smt. Sheela R Chandran, Under Secretary, Shri S. Suresh Chandran, Section Officer and Shri.Biju Varghese Erumala, and Shri L.Shaji Kumar, Legal Assistants. Drafts of legislation go through different stages of finalisation and that involves much typing work. The personal staff of the Chairman and members and the typists attached to the Committee attended to this work cheerfully and the final typing of the entire report was done by Shri V.Gopalakrishnan, office of the Minister for Revenue and Law. We are grateful to all of them.

**GOVERNMENT OF KERALA**

Abstract

**LAW (ADMINISTRATION) DEPARTMENT**

**G.O. (Rt.) No.1054/2001/Law**

**Dated, Thiruvananthapuram, 26.11.2001**

**Read - D.O. Lr, No 4523/PC/2001/SPB dt. 18 10.2001 of the Member Secretary, State Planning Board.**

ORDER

In the meeting of the State Planning Board held on 8.10 2001, it was decided to set up a Law Reforms Committee for Kerala for modernizing laws in tune with liberalization and decentralization. Accordingly Government are pleased to constitute the Law Reforms Committee for the State consisting of the,

1 Minister (Revenue & Law)	:	Chairman.
2 Vice Chairman, State Planning Board	:	Member.
3 Law Secretary	:	Member.

2 The Committee is empowered to hold discussions with individual Departments and call for any details from any Departments in connection with its works All Secretaries to Government would extent maximum co-operation to the Committee with a view to facilitate the work of the Committee.

- 3 The Committee shall perform the following tasks:
- (a) to identify laws which are no longer needed or relevant and which are liable to be replaced.
  - (b) to identify laws which are not in harmony with the changing time or modern times and which need change.
  - (c) to identify laws which require changes or amendments in the normal course and to make suggestions for their amendment.
  - (d) to consider in a wider perspective the suggestions for revision / amendment suggested by Supreme Court or High Court by Expert Groups in various Departments with a view to co-ordinating and harmonizing them
  - (e) to consider reference made to it by Departments in respect of legislations having bearing on the working of more than one Department.
  - (f) to examine the existing laws in the light of generally accepted objectives of State Policy like social and economic justice to the weaker sections of society and to suggest such legislation as might be necessary to implement those policies
  - (g) to revise the State Acts and Rules framed under various Acts of general importance so as to simplify them by consolidation of amendments or otherwise and to remove anomalies and ambiguities
  - (h) to consider any other matters referred to by Government.

The Committee would prioritize its recommendations by 31.12.2001.

By Order of the Governor,

V. RAMKUMAR.,  
Law Secretary.

**PROGRESS OF REFORM LAWS DURING LAST ONE YEAR**

<b>Law</b>	<b>Present position</b>
1. The Value-added Tax Bill, 2002	Draft Bill approved by the Cabinet
2 The Kerala Court Fees and Suit Valuation (Amendment) Bill, 2002	Promulgated as an Ordinance on 26.10 2002 as ordinance No 8 of 2002
3 The Kerala Ceiling on Government Guarantees Bill, 2002	Draft approved by Council of Ministers
4 The Kerala Fiscal Responsibility Bill, 2002.	Ready for publication
5. The Kerala Loading and Unloading (Regulation of Wages and Restriction of Unlawful Practices Bill, 2002)	Bill as passed by the Legislative Assembly received assent of the Governor on 29 <sup>th</sup> August, 2002
6 The Kerala Infrastructure Development Bill, 2002	The Bill is referred to a Select Committee of the Legislative Assembly
7 The Electricity (Kerala Amendment) Bill, 2002	Draft before Council of Ministers
8 The Kerala University Laws (Amendment) Bill, 2002	Draft finalised by the Cabinet Committee

## CHAPTER II

### REFORM LAWS - FIRST SET

#### INTRODUCTION

It is a common saying that we have many laws but few are implemented effectively. At the same time there are lakhs of cases pending in Courts, many of them for long years. The reasons for the present situation are many: softness of the State, widespread disrespect for law, gulf between some continuing social practices and the law and draconian and impracticable provisions in some laws themselves. Since the essence of democracy is Rule of Law, it is necessary to ensure effective implementation of laws. The State has to be true and objective in the implementation of laws transcending the exigencies and expediency of political considerations. Citizens' respect for law will improve when laws are implemented objectively and effectively. It is inevitable that in social matters, some laws are ahead of current practices as they are enacted in the interest of human rights, equality of all sections of society and protection of the weak. Effectiveness of those laws depends a great deal on parallel social reform movements and education of the type that we had during the decades of the struggle for independence and the years immediately thereafter. The Committee is, however, concerned with the changes that are necessary in the laws themselves and that relates to the fourth reason mentioned above.

The present situation of laws is that the same field is occupied in many cases by laws of varying vintage and applicable to different areas of the State. Laws of the colonial period vested large powers with the executive and restricted the exercise of rights by citizens to a considerable extent. The laws formed after the Constitution had to be in accordance with the provisions of the Constitution. However, since many laws were enacted in the same mould as before or restricted fundamental rights based on the needs of progressive legislation, they had to be specially protected in the ninth Schedule of the Constitution. In the light of the constitutional provisions, many social laws have been enacted and are being implemented with varying degrees of success. As regards economic matters, the laws enacted were in accordance with the requirements of an economy of shortages and of directed development, controls and licensing regarding production, marketing and prices.

In the last few years major changes have been taking place in the approach of society and the judiciary, to laws. The acceptance of public interest litigation by the higher Courts of the country since the last 15 years is a major landmark. There is increasing resort to it and this has its consequences not only for correction of executive action but also in the promulgation of judicial pronouncements having the force of law. It has been held by the highest Court of the country that where there is legislative delay and vacuum in an area in which a citizen is entitled to constitutional protection and rights, the judiciary has the duty to fill the vacuum when the matter is raised before it. Another

important change that has come about is the recognition of the responsibility of Governments as public trustees of common assets like the environment.

In the economic sphere we are moving away from controlled and directed development to more open development with freedom to invest in any sector (except for very few strategic areas). The economy of shortages in food grains (for the country as a whole) and foreign exchange has changed to one of large surpluses

In the field of governance, the Constitution 73<sup>rd</sup> and 74<sup>th</sup> Amendments brought about a decade ago made it mandatory for Central and State governments to devolve functions and responsibilities to local governments in such a way as to make them 'self-governing institutions' The local governments have therefore to be entrusted with functions and responsibilities in the laws relating to those subject matters under which functions are devolved to them. Existing laws have to be amended and every new law that is enacted has to lay down the extent to which functions are assigned to different tiers of local governments

In the interest of rapid development of the State increase in employment and removal of poverty, the present government is committed to reforms in economic matters and in governance. The declared objective of the Government is to bring about far-reaching reforms with a human face. The laws dealing with economic matters have to be such as to promote investment, increase employment and provide a level playing field for all the concerned parties. The infrastructure for development has to be improved and expanded. Laws have to provide for public-private participation in this. They have also to be of a promotional nature to release people's energies rather than being highly restrictive. Governance reform is sought to be brought about on a wide front dealing with

- Fiscal reforms to enable the State Government to get back its fiscal capacity to implement well and efficiently what it undertakes to do
- Strengthening of local governments with more functions and responsibilities in the process of their evolution as self-governing institutions
- Reform of public sector including public utilities to make them efficient, economically viable and deliver better services.
- To improve the quality and modernize education at all levels so that the skills and the knowledge of younger generation are in tune with the requirements of the coming years
- Simplification of rules and procedures and introduction of e-governance for removing the transaction costs of the citizens in dealing with government agencies.
- Increase in the responsiveness, accountability and transparency of governance.
- Social Security measures and special provisions for children, women and weaker sections.

The laws regarding governance reforms have to deal with all these aspects.

The above considerations have to be kept in mind while looking into the question of obsolete laws, unification of laws and the suggestions regarding new laws. The Committee's recommendations on repeal of old laws are given in Chapter IV. The laws to be unified are indicated in the Chapter III. In the present Chapter the Committee is proposing the first set of original and amendment Bills that have been prepared by it after examining the drafts that were at various stages of preparation in the Government and after considering new suggestions that have been received by the Committee. In all, seventeen original laws and nine amending laws are proposed. The draft of each of these laws is given in the following pages, with a brief background note in each case.





## **THE KERALA BUILDINGS LEASE BILL, 2002**

### **Background Note.**

Rent control and accommodation control were conceived as short-term measures to overcome shortage of rented buildings and accommodation during the war period in 1940s. The Rent and Accommodation Control Acts were intended to be in operation for a short and limited duration. In almost all States the Acts apply only to urban areas.

The continuance of Rent Control Laws and enactment of new ones, however became a common feature in the interest of protection of tenants. Accommodation control which was most difficult to operationalize became inoperative over the years.

The Kerala Buildings (Lease and Rent Control) Act was enacted in 1959 integrating the laws in force in Travancore-Cochin and Malabar areas. The Act provided for the regulation of the letting of the buildings, the prevention of unreasonable eviction of tenants from buildings and for the control of rents in respect thereof. Even this Act was initially in force for a period of three years and was later extended up to end of March 1965 when the Kerala Buildings (Lease and Rent Control) Act, 1965 was enacted. The object of the amended Act was also the same. The provision for accommodation control became inoperative. The major provisions of the Act related to the control of rents, the fixation of fair rent, ban on the increase of fair rent and prohibition on the landlords to claim or receive anything in excess of fair rent or agreed rent. The Constitutional validity of the concerned provisions in the law was questioned before the Kerala High Court and in *Issac Ninan Vs. State of Kerala* (1955 (2) KLT 848), the High Court declared the provisions of sections 5, 6 and 8 of the Act as ultravires the Constitution of India and void. The Court also held that apart from the fact that the provisions are unjust and unreasonable as they offend Article 14 of the Constitution, they would also offend Article 19(1)(g) of the Constitution. Constructing buildings and letting them out for rent to tenants would fall within the ambit of "Business" in Article 19(1)(g). The limitation imposed on a person should not be arbitrary or of an excessive nature beyond what is required in the interest of general public.

A number of studies have been made in the country on Rent Control legislations during the last 30 years. They have shown how the rent control laws with a freeze on rents and extreme difficulty in resuming possession resulted in very low or even negative investments and has thus adversely affected housing both in the creation of new stock and the proper maintenance of existing housing. The Rent Control laws were amended in a number of States. After the Judgment of the Kerala High Court in the case referred to above the State Government took a decision to frame a law on the lines of the Delhi Rent Control Act. The Delhi Act provides for compulsory registration of rent deeds irrespective of its duration, appointment of rent authorities and Tribunals and periodic revision of rent.

In the light of the experience with the working of the rent control laws in the State and elsewhere, the inoperative nature of many of the provisions in the 1965 Act and the change in circumstances, the Committee has considered the whole question and prepared

The Kerala Buildings Lease Bill whose provisions would be fair both to tenants and the owners and the proceedings under which will be expeditious. The draft Kerala Buildings Lease Bill prepared by the Committee is appended.

DRAFT**THE KERALA BUILDINGS LEASE BILL, 2002****A****BILL**

to provide for the leasing of buildings and to protect the rights of land lords and tenants of such buildings in the State of Kerala

*Preamble.* – **WHEREAS**, it is expedient to provide for the leasing of buildings and to protect the rights of land lords and tenants of such buildings in the State of Kerala,

**BE** it enacted in the Fifty-third Year of the Republic of India, as follows:-

**1 Short title, extent and commencement** – (1) This Act may be called the Kerala Buildings Lease Act, 2002.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once

**2 Definitions.** - In this Act, unless the context otherwise requires,-

(1) “appellate authority” means appellate authority notified under section 13,

(2) “building” means any building, flat or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes and includes, –

(a) the gardens, grounds, wells, tanks and structures, if any, appurtenant to such building, hut, or part of such building or hut, and let or to be let along with such building, flat or hut,

(b) any furniture supplied by the land lord for use in such building, flat or hut or part of a building, flat or hut,

(c) any fittings or machinery belonging to the landlord, affixed to or installed in such building, flat or part of such building, or flat and intended to be used by the tenant for or in connection with the purpose for which such building or part of such building is let or to be let, but does not include a room in a hotel or boarding house;

(3) “land lord” includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant

**Explanation.** - A tenant who sub-lets shall be deemed to be a landlord within the meaning of this Act in relation to the sub-tenant;

(4) “prescribed” means prescribed by rules made under this Act;

(5) “rent” means, the rent agreed to by the tenant and landlord under a contract;

(6) “tenant” means any person by whom or on whose account rent is payable for a building and includes,

(i) the heir or heirs of a deceased tenant, and

(ii) a person continuing in possession after the termination of the tenancy in his favour;

(7) "Tribunal" means the tribunal constituted under section 3.

**3. Constitution of Tribunal** - The Government may, by notification in the Gazette appoint a person who is or is qualified to be appointed a Munsiff to be the tribunal for such local areas as may be specified therein

**4 Rent payable.** - The rent payable in relation to a building shall be the rent agreed to between the landlord and the tenant.

**5. Period of tenancy** - (1) The period of tenancy in relation to a building shall be the period agreed to between the land lord and the tenant unless terminated otherwise

(2) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force, or in any judgment, decree or order of any Court, in case the period of a tenancy in relation to a building is over before the commencement of this Act and no proceedings for eviction of tenant is pending before any Court and the tenant is continuing in possession of the building, then the period of tenancy in such cases may continue up to six months from the date of commencement of this Act

Provided that at any time before the said period the landlord and tenant may by a written agreement extend the period of tenancy

(3) It shall be the duty of the tenant to hand over the physical vacant possession of the building to the landlord or his authorised agent immediately after the period of tenancy is over or the period of tenancy is terminated at the will of the tenant or the landlord

**6 Rights and liabilities of land lord and tenant.**- (1) Subject to the contract in writing between the land lord and tenant and other provisions contained in this Act, the land lord and the tenant of a building, as against one another, respectively, shall possess the rights and shall be subject to the liabilities enumerated under section 108 of the Transfer of property Act, 1882.

(2) Notwithstanding anything contained in sub-section (1) the tenant shall not whether during the subsistence of tenancy or thereafter without the written permission of the land lord,-

- (a) sublet the whole or any portion of the building leased to him,
- (b) make any permanent alteration in the building or change its occupancy.

**7 Payment of rent or advance by tenant.**- (1) A tenant may pay the rent or advance in relation to a building to the landlord or to his authorised agent in cash or in money order or through bank or by crossed cheque, as may be agreed between the landlord and tenant

(2) If the payment is agreed to be made through bank, the landlord shall specify the bank into which the rent or advance shall be deposited by the tenant to the credit of the landlord

(3) The tenant who pays the rent or advance in cash to the landlord or his authorised agent shall be entitled to get a receipt for the amount paid, duly signed by the landlord or his authorised agent

(4) Where a landlord refuses to accept or evades the receipt of any rent lawfully payable to him by a tenant in respect of any building, the tenant may either remit the rent to the landlord by money order after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent

**8. Protection against arbitrary eviction of tenants.-** (1) Notwithstanding anything to the contrary contained in any other law or contract a tenant shall not be evicted, whether in execution of a decree or otherwise, except in accordance with the provisions of this Act

Provided that nothing contained in this section shall apply to a tenant whose landlord is the State Government or the Central Government or other public authority notified under this Act

Provided further that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Tribunal shall decide whether the denial or claim is bona fide and if it records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a Civil Court and such court may pass a decree for eviction on any of the grounds mentioned in this section, notwithstanding that the court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded

(2) No land lord shall be entitled to evict a tenant during the subsistence of the lease period unless the land lord proves to the satisfaction of the tribunal that, -

(i) the tenant has not paid or tendered the rent in respect of the building within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable:

(ii) the tenant before or after the commencement of this Act, without the written consent of the landlord, transfers his right under the lease or sub-lets the entire building or any portion thereof if the lease does not confer on him any right to do so

Provided that an application under this clause shall not be made for the first time in respect of one and the same tenancy unless the landlord has sent a registered notice to the tenant intimating the contravention of the said condition of the lease and the tenant has failed to terminate the transfer or the sub-lease, as the case may be, within thirty days of the receipt of the notice or the refusal thereof

**Explanation.** - Where on the partition of a joint family or the rights of co-tenants or on the dissolution of a firm, the right of the joint family or the co-tenants or the firm under a lease is vested in a member of the joint family or a co-tenant or a partner, as the case may be, whether by act of parties or otherwise, no transfer by the tenant of his right under the lease shall be deemed to have taken place within the meaning of this clause; or

- (iii) the tenant uses the building in such a manner as to destroy or reduce its value or utility materially and permanently, or
- (iv) the landlord bonafide needs the building for his own occupation or for the occupation of any member of his family depend on him;
- (v) the building is in such a condition that it needs reconstruction and if the landlord requires bona fide to reconstruct the same.
- (vi) the tenant ceases to occupy the building continuously for six months without reasonable cause

Provided that an application under clause (iii) to clause (vi) of this section shall be made only if the land lord has sent a registered notice to the tenant intimating the violation or the need, as the case may be, and give the tenant a reasonable time to vacate the building for putting the landlord in possession of the building.

(3) Where the tenant has not vacated the building even after the period of tenancy is over, the landlord or his authorised agent may apply to the Tribunal directing the tenant to put the landlord in possession of the building

(4) The Tribunal after giving the tenant a reasonable opportunity of showing cause against the application referred to in sub-section (2) or sub-section (3) is satisfied that the claim of the landlord is bonafide or that the period of tenancy is expired and the tenant has not vacated the building make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Tribunal and if the Tribunal is not so satisfied, it shall make an order rejecting the application

Provided that the Tribunal may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

(5) Where an application made under sub-section (2) or sub-section (3) for evicting a tenant has been rejected by the Tribunal, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same terms and conditions as before and shall not be terminable by the landlord except on one or more of the grounds mentioned in the above said sub-sections

(6) Notwithstanding anything contained in this section, no person who is receiving or is entitled to receive the rent of a building merely as an agent of the landlord shall, except with the previous written consent of the landlord be entitled to apply for the eviction of a tenant.

**9. Landlord not to interfere with amenities enjoyed by the tenant.** - (1) No landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Tribunal complaining of such contravention

(3) If the tenant satisfies the Tribunal that the amenities were cut off or withheld with a view to compel him to vacate the building or to pay an enhanced rent, the Tribunal may pass an interim order, directing the landlord to restore the amenities immediately, pending the enquiry referred to in sub-section (4)

**Explanation.** - An interim order may be passed under this sub-section without giving notice to the landlord. Any interim order so passed may be modified or cancelled by final order and the Tribunal may give effect to such modification or cancellation

(4) If the Tribunal on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, it shall make an order directing the landlord to restore such amenities and for the purpose of enforcement of such orders, the Tribunal may exercise all the powers of a civil court in executing a decree for injunction or for specific performance

(5) The Tribunal may in its discretion direct that compensation not exceeding five thousand rupees,

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously,

(b) be paid to the tenant by the landlord, if the landlord had cut off or withheld the amenities frivolously or vexatiously;

(6) A tenant or landlord aggrieved by an order passed by the Tribunal under this section may within thirty days from the date of receipt of such order prefer an appeal in writing to the appellate authority within whose jurisdiction the building in respect of which the order appealed against is passed is situated and he shall pass such order on the appeal as he may deem fit

**10. Execution of orders.** -Every order made under section 8 or section 9 or section 13 and every order passed on appeal under section 12 shall, after the expiry of the time allowed therein, be executed by the Munsiff or if there are more than one Munsiff, by the Principal Munsiff having original jurisdiction over the area in which the building is situated as if it were a decree passed by him

Provided that an order passed in execution under this section shall not be subject to an appeal but shall be subject to revision by the court to which appeals ordinarily lie against the decisions of the said Munsiff

**11. Decisions, which have become final not to be re-opened.** - The Tribunal shall summarily reject any application under sub-section (2) or sub section (3) of section 9 which raises between the same parties or between parties under whom they or any of them claim substantially the same issues as have been finally decided or purports to have been finally decided in the former proceeding under this Act or under the corresponding

provisions of any law in force prior to the commencement of this Act or the corresponding provisions of any law repealed or superseded by such law.

**12. Appeal.-** (1)(a) The Government may, by general or special order notified in the Gazette, confer on such officers and authorities not below the rank of a Subordinate Judge the powers of appellate authorities for the purpose of this Act in such areas or in such classes of cases, as may be specified in the order.

(b) Any person aggrieved by an order other than an order under sub-section (3) of section 9 passed by the Tribunal may, within thirty days from the date of such order, prefer an appeal in writing to the appellate authority having jurisdiction. In computing the thirty days aforesaid, the time taken to obtain certified copy of the order appealed against shall be excluded.

2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall send for the records of the case from the tribunal and after giving the parties an opportunity of being heard and, if necessary after making such further inquiry as it thinks fit, either directly or through the Tribunal, shall decide the appeal.

**Explanation.** - The appellate authority may, while confirming the order of eviction passed by the Tribunal, grant an extension of time to the tenant for putting the landlord in possession of the building

(4) The appellate authority shall have all the powers of the Tribunal including the fixing of arrears of rent.

(5) The decision of the appellate authority, and subject to such decision, an order of the Tribunal shall be final and shall not be liable to be called in question in any Court of Law

**13. Costs.-** Subject to such conditions and limitations, if any, as may be prescribed, the costs of and incident to all proceedings before the Tribunal or the appellate authority referred to in section 12 shall be in the discretion of the Tribunal or the appellate authority which shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

**Explanation.** - The appellate authority may set aside or vary any order passed by the Tribunal in regard to the costs of and incident to the proceedings before it.

**14. Power to remand.** -In disposing of an appeal under this Act, the appellate authority may remand the case for fresh disposal according to such directions as it may give.



**15. Order under the Act to be binding on sub-tenant.** -Any order for the eviction of a tenant passed under this Act shall be binding on all sub-tenants under such tenant, whether they were parties to the proceedings or not, provided that such order was not obtained by fraud or collusion. In cases where sub-tenancy is allowed under the original agreement of tenancy the sub-tenant shall be made a party to the proceedings if he had given notice of the sub-tenancy to the landlord.

**16. Proceeding by or against legal representative.** -The provisions of section 146 and Order XXII of the Code of Civil Procedure, 1908 (5 of 1908), shall, as far as possible, be applicable to the proceedings under this Act.

**17. Summons etc.** -(1) Subject to such conditions and limitations as may be prescribed, the Tribunal and the appellate authority shall have the powers which are vested in a Court under the Code of Civil procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters:-

- (a) discovery and inspection,
- (b) enforcing the attendance of witnesses, and requiring the deposits of their expenses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath,
- (e) granting adjournments;
- (f) reception of evidence taken on affidavit;
- (g) issuing commission for the examination of witnesses and for local inspection;
- (h) setting aside exparte orders;
- (i) enlargement of time originally fixed or granted;
- (j) power to amend any defect or error in orders or proceedings, and
- (k) power to review its own order.

(2) The Tribunal or the appellate authority may summon and examine suo moto any person whose evidence appears to it to be material, and it shall be deemed to be a civil court within the meaning of sections 557 and 561A of the Code of Criminal Procedure, 1973 (2 of 1974).

**18. Time within which proceedings have to be disposed of.** - The Tribunal or the appellate authority shall, as far as may be practicable pass final orders in any proceedings before it within four months from the date of appearance of the parties thereto.

**19. Exemption.** - Notwithstanding anything contained in this Act, the Government may, in public interest or for any other sufficient cause, by notification in the Gazette, exempt any building or class of buildings from all or any of the provisions of this Act.

**20. Power to make rules.** – (1) The Government may by notification in the Gazette make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,-

- (a) all matters expressly required or allowed by this Act to be prescribed,
- (b) the procedure to be followed by the Tribunal and appellate authorities in the performance of their functions under this Act;
- (c) the manner in which notices and orders under this Act shall be given or served;
- (d) setting aside ex parte orders passed under this Act;
- (e) applications for making legal representatives of deceased persons as parties to proceedings under this Act and the time within which such applications shall be preferred;

(3) Every rule made under this Act and every notification issued under section 19 shall be laid as soon as may be after it is made or issued before the Legislative Assembly for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification shall there after have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification

**21. Protection of action taken in good faith.** – (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, order or direction made or issued thereunder.

(2) No suit or other legal proceedings shall lie against the Government, any officer or authority 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 this Act, any rule, order or direction made or issued thereunder

**22. Repeal savings and special provision.** – (1) The Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965) is hereby repealed

(2) Notwithstanding the repeal of the Kerala Buildings (Lease and Rent Control) Act, 1965 (Act 2 of 1965) (hereinafter in this section referred to as the said Act), the provisions of Sections 4 and 23 of the Interpretation and General Clauses Act 1125 (VII of 1125), shall apply upon the repeal of the said Act.

(3) The Rent Control Court and appellate authorities constituted under the said Act shall continue as Tribunals and appellate authorities as the case may be, constituted under this Act.

(4) All investigations or proceedings pending before the Rent Control Courts, and appellate authorities immediately before the commencement of this Act may be continued in accordance with the provisions of this Act

### **STATEMENT OF OBJECTS AND REASONS**

1 Rent Control and accommodation control were conceived as short-term measures to overcome shortage of rented buildings and accommodation during the war period in 1940s. The Rent and Accommodation Control Acts were intended to be in operation for a short and limited duration. In almost all States the Acts apply only to urban areas.

2 The continuance of Rent Control Laws and enactment of new ones, however became a common feature in the interest of protection of tenants. Accommodation control which was most difficult to operationalize became inoperative over the years.

3 The Kerala Buildings (Lease and Rent Control) Act was enacted in 1959 integrating the laws in force in Travancore-Cochin and Malabar areas. The Act provided for the regulation of the letting of the buildings, the prevention of unreasonable eviction of tenants from buildings and for the control of rents in respect thereof. Even this Act was initially in force for a period of three years and was later extended up to end of March 1965 when the Kerala Buildings (Lease and Rent Control) Act 1965 was enacted. The object of the amended Act was also the same. The provision for accommodation control became inoperative. The major provisions of the act related to the control of rents, the fixation of fair rent, ban on the increase of fair rent and prohibition on the landlords to claim or receive anything in excess of fair rent or agreed rent. The Constitutional validity of the concerned provisions in the law was questioned before the Kerala High Court and in *Issac Ninan Vs State of Kerala* (1995 (2) KLT 848), the High Court declared the provisions of Sections 5, 6 and 8 of the Act as ultravires the Constitution of India and void. The Court also held that apart from the fact that the provisions are unjust and unreasonable as they offend Article 14 of the Constitution, they would also offend Article 19(1)(g) of the Constitution. Constructing buildings and letting them out for rent to tenants would fall within the ambit of "Business" in Article 19 (1)(g). The limitation imposed on a person should not be arbitrary or of an excessive nature beyond what is required in the interest of general public.

4 1965 Act, which was justified when enacted, had become unreasonable with the change in circumstances. It has resulted in a freeze on rents, very low returns in resuming possession and has adversely affected investment in rental housing and caused deterioration of rental housing stock. The existing provisions of the Act are not suitable for the local conditions in our State.

5. Therefore it is necessary to have to new law for building lease to protect the right of landlord and tenants
6. The Bill seeks to achieve the above objects.

### **FINANCIAL MEMORANDUM**

Clause 3 of the Bill seeks to provide that the Government may, by notification in the Gazette appoint a persons who is or is qualified to be appointed a Munsiff to be the tribunal for such local areas as may be specified therein.

Clause 12 of the inter-alia provides that the Government may by general or special order notified in the Gazette, confer on such officers and authorities not below the rank of a Subordinate Judge the powers of appellate authorities for the purpose of this

The amount required for payment of salaries and allowances of the above-mentioned officers and for maintenance of the establishment of such officers will have to be met from the consolidated Fund of the State

Sub-clause (3) of clause 22 of the Bill further provides that the Rent Control Courts and appellate authorities constituted under the Kerala Buildings (Lease and Rent Control) Act, 1965 (2 of 1965) shall continue as Tribunals and appellate authorities constituted under the proposed legislation. Further if any new tribunal or appellate authorities will necessary in any area the same can be entrusted to the existing civil courts in that area. Therefore if the Bill if enacted and brought into operation would not involve any additional expenditure from the consolidated fund of the State

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. Clause 3 of the Bill seeks to empower the Government by notification in the Gazette appoint a person who is or is qualified to appointed a Munsiff to be the tribunal for a local area.

2. Clause 12 of the Bill seeks to empower the Government by general or special order notified in the Gazette, confer on such officers and authorities non-below the rank of a Subordinate Judge the powers of appellate authorities for the purpose of the Act

3. Clause 20 of the Bill seeks to empower the Government by notification in the Gazette make rules to carry out the purposes of the Act.

4. The matters in respect of which rules may be made or orders may be issued are matters of procedure or of details and are of routine and administrative in nature. Further every rule made under the Act is subject to scrutiny by the Legislative Assembly. The Delegation of legislative power is this of a normal character.

## **THE KERALA CHILD LABOUR (RELEASE, REHABILITATION AND WELFARE) BILL, 2002.**

### **Background Note.**

In the Supreme Court Judgment on Child Labour pronounced in *M.C. Mehta Vs State of Tamil Nadu*, the State Governments were directed to scrupulously follow certain stipulations for the regulation and abolition of Child Labour and their rehabilitation and welfare. The Kerala Government started District Child Labour-cum-Welfare Societies in each district. The Government also promulgated an ordinance namely "The Kerala Child Labour (Release, Rehabilitation and Welfare) Ordinance, 2000 (14 of 2000)" vide Notification No 18059/Leg.C2/Law dated 21<sup>st</sup> November, 2000 for the constitution of a State Council for rehabilitation and welfare of children released from occupations and processes which are of hazardous in nature and prohibited by statutes. The said ordinance could not be got passed as an Act within the stipulated time and was re-promulgated twice in 2001. Both these ordinances also lapsed.

The Committee has looked into the question in consultation with the Labour Department. While the earlier Ordinance's aim was to rehabilitate only children released from hazardous and prohibited occupations and process, it was felt that rehabilitation and welfare should cover all children released from any type of employment in the State. The Committee has therefore prepared a revised draft of the Kerala Child Labour (Release, Rehabilitation and Welfare) Bill for the creation of a State Council which will be tripartite in nature with powers to establish institutions and centres for rehabilitation, to levy contribution so as to provide opportunities and facilities to children released from employment to develop in a healthy manner and in conditions of freedom and dignity. The draft Bill is appended.



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**THE KERALA CHILD LABOUR  
(RELEASE, REHABILITATION AND WELFARE) BILL, 2002**

**A  
BILL**

to provide for the constitution of a State Council for rehabilitation and welfare of children released from employments in the State, in order to give them opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and matters connected therewith;

*Preamble.*- **WHEREAS**, it is desirable for the public interest to constitute a State Council for the rehabilitation and welfare of children released from employments in the State, in order to give them opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and matters connected therewith

**BE** it enacted in the Fifty third -Year of the Republic of India as follows:-

**CHAPTER I.**

**PRELIMINARY**

**1. Short title and commencement.**- (1) This Act may be called the Kerala Child Labour (Release, Rehabilitation and Welfare ) Act, 2002

(2) It shall come into force at once.

**2 Definitions.**- In this *Act* unless the context otherwise requires,-

(a)"child" means a person who has not completed his fourteenth year of age,

(b)"District Child Labour Rehabilitation -Cum- Welfare Society" means the District Child Labour Rehabilitation -cum-Welfare society constituted as per the direction of the Government for each district and registered as society under the Societies Registration Act, 1860 (Act XI of 1860) or under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act, 1955;

(c)"Fund" means the fund of the State Council,

(d)"Government" means the Government of Kerala,

(e)"Member" means member of the State Council;

(f)"prescribed" means prescribed by rules made under this *Act*.

(g)"rehabilitation" includes providing food, shelter, clothing, education, vocational training and amusement to a child till the age of fourteen years;

(h)" State Council" means the Kerala State Child Labour ( Release, Rehabilitation and Welfare) Council constituted under section 3 of this *Act*.

(i)All other words and expressions used but not defined in this *Act*, and defined in the Child Labour (Prohibition and Regulation) Act, 1986(Central Act of 1986), shall have the same meanings assigned to them in that Act.

## CHAPTER II

### CONSTITUTION OF THE STATE COUNCIL

3. Constitution and composition of the Kerala State Child Labour (Release, Rehabilitation and Welfare) Council.- (1) The Government may by notification in the Gazette, constitute a State Council known as the Kerala State Child Labour (Release, Rehabilitation and Welfare ) Council, for the purpose of performing the powers, duties and functions under this *Act*.

(2) The State Council shall consist of a Chairman, who shall be a non-official representing Social workers and working for the welfare of children, appointed by the Government and of the following other members, namely:-

- |   |          |
|---|----------|
| (a) the Labour Commissioner, Kerala   | - Member |
| (b) all District Collectors of the State  | - Member |
| (c) an officer of the Labour Department , not below the rank of a Deputy Labour Commissioner appointed by Government who shall be the Member Secretary of the State Council;                        | --Member |
| (d) four persons nominated by Government representing the owners of factories, plantations, shops and commercial establishments   | -Member  |
| (e) six persons nominated by Government representing social workers and social scientists and Non- Governmental Organisations working for welfare of children of whom at least three shall be women | -Members |

(3) The State Council shall be a body corporate having perpetual succession and a common seal with power to acquire property both movable and immovable and shall by the said name sue and be sued

4 **Term of office and conditions of services of non official members.-** (1) Every non official member shall hold office for a period of three years.

(2) Notwithstanding anything contained in sub-section (1), a non- official member may,-

- (i) by writing under his hand and addressed to the Government resign his office at any time;
- (ii) be removed from his office in accordance with the provisions of the section 8.



(3) A vacancy arising by reason of resignation or removal of any non official of the State Council under sub-section(2) or otherwise shall be filled up in accordance with the provisions contained in section 3:

Provided that a person so appointed shall hold office for the remaining period of the term of the person in whose place such person is appointed.

(4) The Chairman and members shall receive such sitting and travelling allowances as may be prescribed.

**5 Quorum.**- The quorum for a meeting of the Council shall be nine.

**6 Disposal of business.**- (1) The meeting of the State Council shall be presided over by the Chairman or in his absence a member chosen for the purpose by the members present

(2) All questions at a meeting of the State Council shall be decided by the majority of the votes of the members present and voting and in case of equality of votes the Chairman or the member presiding, as the case may be, shall have a second or casting vote.

(3) The State Council may invite, if it is considered necessary, for such purposes and on such conditions as may be prescribed, any person with expert knowledge in particular subject to be present at the meeting to assist the State Council in arriving at a decision, but such person shall not be entitled to vote.

**7 Acts of the State Council not to be invalidated by infirmity or any vacancy etc.**- No act or proceeding of the State shall be invalidated by reason only of any defect or irregularity in its constitution or on the ground of existence of any vacancy in the office of any member

**8 Removal of non- official members from office.**- Any non- official member of the State Council may be removed from office by an order of the Government, if he, becomes an undischarged insolvent,

(a) is convicted and sentenced to imprisonment for an offence which involves moral turpitude,

(b) becomes unsound mind;

(c) refuses to act becomes incapable of acting,

(d) is without obtaining leave of absence from the State Council absents from three consecutive meetings of the State Council; or

(e) in the opinion of the Government has so abused the position of member as to render that person's continuance in office detrimental to the public interest.

Provided that a member shall not be removed under this section until that person has been given a reasonable opportunity of being heard in the matter.

**9 Powers and functions of the State Council.-** The State Council shall have the following powers and functions, namely:-

- (a) to advise Government in matters relating to abolition, regulation, rehabilitation and welfare of child labour;
- (b) to take steps to release the children employed in occupations and processes prohibited under the Child Labour (Prohibition and Regulation) Act, 1986 (Central Act 61 of 1986) or under any other law for the time being in force;
- (c) to co-ordinate, control and monitor the functioning of the District Child Labour Rehabilitation –cum- Welfare Societies;
- (d) to establish educational institutions for the children released from employments independently or through other agencies;
- (e) to establish centres for rehabilitating the children released from employments, independently or through other agencies.
- (f) to undertake awareness generation programme on the evils of child labour,
- (g) to network various activities of International and National organisations or agencies, Governmental as well as Non- Governmental, for the prevention of exploitation of children and for their welfare;
- (h) to assign duties and functions to the District Child Labour Rehabilitation-cum- Welfare Societies, from time to time,
- (i) to recommend Government, the welfare measures to be adopted and implemented by the Government with a view to ameliorating the conditions of children released from employments.
- (j) to recommend to the appropriate authority to take prosecution proceedings in respect of offences committed against abolition or regulation of child labour under any statute providing for penalty or punishment for violation of the provisions of such statute,
- (k) to formulate a comprehensive and affirmative scheme for welfare of children released from employments and devise a programme for implementing such schemes which shall be forwarded to the Government for approval and on obtaining the approval thereof with or without modifications, implement the scheme,
- (l) to maintain comprehensive data bank relating to the social economic development of children and to report the Government the lacunae, inadequacies or shortcomings in the laws in force which affect the child labour abolition and also on the remedial legislative measures to be taken to meet the situation,
- (m) to participate and advise on the planning process of socio economic development of children and to report the Government the lacunae, inadequacies or shortcomings in the laws in force which affect the child labour abolition and also on the remedial legislative measures to be taken to meet the situation;
- (n) any other functions incidental or ancillary to achieve the above objects or functions as may be assigned by Government from time to time

## CHAPTER III

### FINANCE

10. **State Council's Fund.**- (1) The State Council shall have its own fund.

(2) The State Council may accept grants, donations and gifts from the Central or State Government or a local authority or an individual or organisation whether incorporated or not for all or any of the purposes of this *Act*.

(3) The Fund of the State Council shall also consists of. –

- (a) amounts received under sub-section (2),
- (b) contributions from owners of factories, plantations, shops and commercial establishments,
- (c) amounts received as aid from International or National organisations for the rehabilitation or welfare of children,
- (d) any amount borrowed by the State Council,
- (e) such other sums as may be received

(4) All moneys forming part of the State Council's fund shall be deposited in such Scheduled or Co-operative bank as the State Council may decide and the accounts shall be operated by the Member Secretary

(5) The Fund shall be utilized for the following purposes, namely:-

- (a) for giving grants to the District Child Labour Rehabilitation –cum- Welfare Societies;
- (b) for the construction of or giving grants to non- Governmental organisations to build child care homes for accommodating the released children who were employed or engaged in contravention of the provisions of the Child Labour (Prohibition and Regulation) Act, 1986(Central Act 61 of 1986) or this Act,
- (c) for establishing and running educational institutions for imparting quality education to the children,
- (d) for meeting the expenses for exercising or performing other powers and functions of the State Council mentioned under section 9;
- (e) such other purposes as may be prescribed by Government from time to time

11 **Power of the State Council to levy contributions.**- The State Council shall have the power to levy such contributions as may be fixed by the Government from time to time from the owners of the factories, plantations, shops and commercial establishments

12 **Annual audit of accounts.**- The accounts of the State Council shall be done by a Chartered Accountant appointed by Government from time to time

CHAPTER IV  
MISCELLANEOUS

13 **The Government to consult the State Council.-** The Government shall consult the State Council on all major policy matters regarding child labour.

14 **Deployment of Officers.-** (1) The Government may deploy any officer of the Labour Department to assist the State Council for the purpose of performing the functions entrusted to it under this Act.

(2) The officers so deployed under sub-section(1) shall continue to be Government servants

15. **Members and Officers deployed to the State Council to be public servants.-** All members and all officers deployed under section 14 shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants within the meaning of section 21 of the Indian Penal Code, 1860(Central Act 45 of 1860)

16. **Application of other laws not barred.-** Save as otherwise provided, the provisions of this Act shall be in addition to and not in derogation of any other laws for the time being in force except to the extent the provisions of other laws are inconsistent with the provisions of this Act.

17 **Protection of action taken in good faith.-** No suit , prosecution or other legal proceedings shall lie against any member of the State Council or any officer of the State Council for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

18. **Annual Report and audited statement of accounts.-** (1) The annual report of the State Council shall be prepared under the direction of the State Council and after approval by the State Council, a copy of the report together with an audited statement of accounts shall be submitted to the Government before the end of July every year.

(2) The Government shall, as soon as the annual report is received cause the same together with the audited statement of accounts to be laid on the table of the Legislative Assembly

19. **Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order do anything not inconsistent with such provisions, which appear to them necessary for the purpose of removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

**20. Power to make rules.**-(1) The Government may, by notification in the Official Gazette, make rules for carrying into effect the provisions of this *Act*.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rules or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### **STATEMENT OF OBJECTS AND REASONS.**

1 In the Supreme Court Judgment on Child Labour pronounced in *M.C Mehta Vs State of Tamil Nadu*, the State Governments were directed to scrupulously follow certain stipulations for the regulation and abolition of Child Labour and the rehabilitation and welfare. The Kerala Government started District Child Labour Rehabilitation cum Welfare Societies in each district, as per the direction of the Supreme Court. Now it is proposed to bring a legislation for the constitution of a State Council for rehabilitation and welfare of children released from occupations and processes which are of hazardous in nature and prohibited by statutes. The State Council will be tripartite in nature with powers to establish institutions and centres for rehabilitation to levy contribution so as to provide opportunities and facilities to children released from employment to develop in a healthy manner and to conditions of freedom and dignity.

1 The Bill seeks to achieve the above objects.

### **FINANCIAL MEMORANDUM**

Clause 3 of the Bill provides for the Constitution of the Kerala State Child Labour (Release, Rehabilitation and Welfare) Council with official and non-official members. The said council shall be a body corporate having perpetual succession and a common seal which requires the travelling allowance and sitting allowances to the Chairman and members for attending the meeting of the Council. There may be variation in the amounts to be spent under these items depending on the number of meetings convened and the venue of the meeting. These amounts will have to be paid from the Fund of the State Council. The Fund of the State Council includes grants from the State Government also. This amount will have to be paid to the State Council for every year from this budgetary provision. However, the exact amount that may be paid to the State Council from consolidated Fund cannot be calculated any degree of accuracy.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Clause 3 seeks to empower the Government to constitute a State Council by notification in the Gazette for the purpose of the performing the powers, duties and functions under this Act

2 Sub-clause (4) of clause 4 seeks to empower the Government to prescribe the sitting and traveling allowances of the Chairman and members.

3 Sub-clause (3) of clause 6 empowers the Government to prescribe such purposes and such conditions to invite any person with expert knowledge in a particular subject to be present at the meeting to assist the State Council in arriving at a decision

4. Clause 8 seeks to empower the government to remove any non-official member of the State Council by an order and in accordance with the provision contained clause 8.

5. Item (e) of Sub-clause (5) of clause 10 seeks empower the Government to prescribe such other purposes of which the Fund of the State Council shall be utilized.

6 Clause 11 seeks to empower the Government to fix the contributions, form the owners of the factories, plantations, shops and commercial establishments, from time to time and it also empowers the State Council to levy such contributions

7 Sub-Clause (1) of clause 14 empowers the Government to deploy any officers of the Labour Department to assist the State Council for the purpose of performing the functions entrusted to it under this Act

8 Clause 19 seeks to empower the Government to make orders not inconsistent with the provision of the Act, for the purpose of removing any difficulty in giving effect to the provision of this Act

9. Clause 20 seeks to empower the Government to make rules for carrying into effect the provisions of this Act.

10 The above are matters of an administrative or of routine nature or matters of details. Further, the rules after they are made are subject to the scrutiny of the Legislative Assembly The delegation of legislative power is therefore of a normal character

## **THE KERALA INDUSTRIAL EMPLOYMENT (PROHIBITION OF OBSTRUCTIVE PRACTICES) BILL, 2002**

### **Background Note.**

Amongst the practices that have been developed in certain parts of the State, which have acted as disincentives to the establishment of industries and therefore also to increases in employment and about which potential investors have been complaining, are those resorted to by some groups of persons ostensibly belonging to trade unions, local dwellers or political parties – by way of obstruction of even preliminary work connected with the industry. There have been repeated request and suggestions that there should be a ban on such practices, which are not really in the nature of trade union activities. It has also adversely affected the employment opportunities of the educated and skilled youth in our State. In order to promote the industrial investment in our State and to enhance the employment opportunities among the youth it is necessary to prohibit all such obstructive practices. Therefore, an investor who has obtained necessary clearances to start an industry will be protected from all such obstructive practices and he has given the right to undertake all legitimate activities in connection with such investment.

The growth of such practices over the years has adversely affected investment in the State. It has also denied employment opportunities to educated and skilled youth in the State.

The committee has considered the matter in consultation with Industries and Labour Department. It has drafted a Bill for the prohibition of obstructive practices in respect of works relating to the commencement and establishment of industry and to give the right to an investor, who has obtained the necessary clearances (which will include clearance from the Local Government), to undertake all legislative activities for establishing the industry, free from such obstructive practices. The draft Bill is appended





DRAFT

**THE KERALA INDUSTRIAL EMPLOYMENT (PROHIBITION OF  
OBSTRUCTIVE PRACTICES) BILL, 2002.**

A

**BILL**

to prohibit certain **obstructive practices** that have crept into certain parts of the State in respect of works relating to or involving the commencement, establishment or development of industries or commercial or service establishments and all other infrastructural projects and for matters connected therewith.

*Preamble* – **WHEREAS**, in the interests of promoting industrial investment and consequently enhancing employment opportunities; it is desirable to prohibit certain obstructive practices that have crept into certain parts of the State in respect of works relating to or involving the commencement, establishment or development of industries or commercial or service establishments and all other Infrastructural Projects,

**BE** it enacted in the Fifty-third Year of the Republic of India as follows -

**CHAPTER I  
PRELIMINARY**

**1 Short title, extent and commencement.** - (1) This Act may be called the Kerala Industrial Employment (Prohibition of Obstructive Practices) Act, 2002.

(2) It extends to the whole of the State of Kerala

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

(4) It shall apply to,-

(a) every work or activity or process starting from the acquisition of land to the commencement of production or establishment or development of industries and all infrastructural projects;

(b) such other work or activity or process or establishment or undertaking as the Government may, by notification in the official gazette, specify in this behalf

**Explanation.-** For the purpose of this section every work starting from the acquisition of land to the commencement of production or establishment or development include the erection of boundary walls, construction of buildings, roads ,bridges, tunnels, canals, drains, dams and any other works relating to or involved in the course of these work.

**2. Definitions.-** In this Act, unless the context otherwise requires, -

(a) "Government" means the Government of Kerala;

(b) "industry" means any work or activity relating to the acquisition of land, licensing of projects, establishments or undertakings, erection of boundary walls, construction of buildings, roads, bridges, tunnels, canals, drains, transportation of goods or materials involved in the commencement, establishment or development of any commercial or industrial units or all other infrastructural projects and including any factory, shop, plantation or any other establishment which the Government may by notification in the Official Gazette declare from time to time for the purpose of this Act;

(c) "investor" means a person or Company or trust or firm or corporation or society or any other association of persons whether they are registered or not, intending to invest money for the commencement or establishment or development of an industry in the State and who has obtained the necessary clearances if any, and includes a contractor, managing agent or manager, superintendent or any other person by any other name who acts for and on behalf of the investor.

**Explanation.** - For the purposes of this section 'contractor' in an industry means a person who undertakes to produce a given result for the industry, other than a mere supply of goods or articles of manufacture to such industry, through contract labour or who supplies contract labour for any work of the industry and includes a sub-contractor;

(d) "mischief" means mischief as defined in section 425 of the Indian Penal Code, 1860 (Central Act 45 of 1860);

(e) "obstructive practices" means any conduct or work or activity set out in the Schedule to this Act,

(f) "prescribed" means prescribed by rules made under this Act,

(g) "trade unions" means the trade unions registered under the Trade Unions Act, 1926 (Central Act 16 of 1926),

(h) "unauthorised entry" means criminal trespass as defined in section 441 of the Indian Penal Code 1860 ( Central Act 45 of 1860 )

## CHAPTER II

### FREEDOM AND PROTECTION FOR INDUSTRIAL INVESTMENT

3. **Freedom and protection for industrial investment;** - Every investor who intends to establish or develop an industry in the State and who has obtained the necessary clearances if any, shall have the right to undertake all legitimate activities in connection with such investment and to protection from restrictive or obstructive practices from any person or group of persons or organizations of any nature or trade unions or local dwellers in the work or activities relating to or involved in the commencement, establishment or development of such industry.

**4 Prohibition of obstructive practices in the commencement, establishment or development of industry.** - No person or group of persons or trade unions or local dwellers or other social or political organizations or associations of any nature, shall resort to any obstructive practices in the work relating to or involved in the commencement, establishment or development of an industry

**5 Prohibition of entry into private property.** – No person or group of persons or trade unions or local dwellers or other social or political organizations or associations of any nature shall unauthorise make any entry into the private property of an investor and commit any mischief or destruction or damage to the land and property of the investor whether or not such act constitute an offence under any other law for the time being in force

### CHAPTER III

#### APPOINTMENT AND POWERS OF LABOUR INSPECTOR AND INSPECTOR

**6. Appointment and powers of Labour Inspectors and Inspectors.**- (1) The Government may, by notification in the Official Gazette, appoint officers of the Labour Department not below the rank of a Assistant Labour Officer (Grade II) as Labour Inspector for the purposes of this Act and may define the local limits within which they shall exercise their jurisdiction

(2) An Labour Inspector appointed under sub - section (1) may for the purpose of ascertaining whether any of the provisions of this Act has been violated or to prevent such violation,-

(a) either suo motu or on a written complaint made in this behalf by an investor, or any person aggrieved, enter to any premises connected therewith or any place at any reasonable time and with such assistance as he thinks necessary for the inspection, examination or enquiry or investigation with regard to such violations or apprehended violations

(b) require an investor or any person to furnish such information as he may consider necessary;

(c) make copies of or to take extracts from, any book, register or other documents maintained in relation to the work carried out;

(d) exercise such other powers as may be prescribed

(3) The Government may by notification in the Official Gazette, appoint officers of the Police Department of and above the rank of a Sub-Inspector as Inspectors for the purposes of this Act and may define the local limits within which they shall exercise their jurisdiction.

° (4) An Inspector appointed under sub-section (3) may for the purpose of ascertaining whether any of the provisions of this Act has been violated or to prevent the commission of an offence,-

(a) either suo motu or on a written complaint made in this behalf by an investor, or any person aggrieved, enter any premises connected therewith or any place at any reasonable time and with such assistance as he thinks necessary for the examination, enquiry or investigation into the alleged offence under this Act,

(b) require an investor or any person to furnish such information as he may consider necessary;

(c) make copies of or to take extracts from, any book, register or other documents maintained in relation to the work carried out;

(d) exercise such other powers as may be prescribed.

(5) Every Labour Inspector or Inspector appointed under sub section (1) or sub-section (3), as the case may be, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1960 (45 of 1860).

(6) Any person required to produce any document or thing or to give any information to a Labour Inspector or Inspector under this section shall be legally bound to do so within the meaning of section 175 and 176 of the Indian Penal Code, 1860 (45 of 1860)

## CHAPTER IV

### PENALTIES

**7 Penalty for committing any obstructive practices in the commencement, establishment or development of an industry.** - Whoever commits any obstructive practice or practices in the work relating to or involved in the commencement, establishment or development of an industry shall be punishable with imprisonment for a term which shall not be less than three months and which may extend to one year or with fine which shall not be less than two thousand rupees and which may extend to ten thousand rupees or with both.

**8. Penalty for unauthorised entry and damage.** - Whoever commits any unauthorised entry into the private property of an investor and creates any mischief or destruction or damage to the land or property of the investor whether or not such act constitute an offence under any other law for the time being in force, shall be punishable with imprisonment for a term which shall not be less than one year and which may extend to two years or with fine which shall not be less than five thousand rupees and which may extend to twenty thousand rupees or with both.

**9. Penalty for obstruction of duties.** - Whoever obstructs any Inspector or any other officer appointed under this Act in the discharge of his duties or refuses or willfully neglects to afford him reasonable facilities for making any entry, inspection, examination or enquiry authorised by or under this Act, shall be punishable with imprisonment for a

term which shall not be less than one year and which may extend to two years or with fine which shall not be less than five thousand rupees and which may extend to twenty thousand rupees or with both.

**10. Violation of the provisions of this Act not to attract other enactments.-** Notwithstanding anything contained in any other law for the time being in force, the violation of any of the provisions of this Act shall not constitute a dispute as defined in any other law and any such violation shall be dealt with in accordance with the provisions of this Act and the rules made thereunder.

**11. Offences to be cognizable. -** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences punishable under this Act shall be deemed to be cognizable offences within the meaning of that Code.

**12 Information and complaints regarding offences. -** (1) An investor who anticipates the occurrence of an offence under this Act may give a written information to the Inspector having jurisdiction over the area, whose duty is to prevent or take cognizance of the commission of any such offence

(2) An investor aggrieved by the conduct of any person or group of persons or trade unions or local dwellers or other social or political organisations or associations of any nature in the implementation of this provisions of this Act may raise a complaint before the Inspector immediately after its occurrence

Provided that no such complaint shall be entertained after the expiry of thirty days after the date of occurrence of such aggrieved conduct unless the Inspector is satisfied that the complainant had sufficient cause for not making the complaint within the said period Provided that no such complaint shall be entertained after a period of three months.

(3) As soon as a complaint is received under sub- section (2) the Inspector shall, to the best of his ability, for the purpose of preventing the commission of an offence or for the purpose of ascertaining whether any offence under this Act has been committed by any person or group of persons or trade unions or local dwellers or other social or political organisations or associations of any nature exercise all or any of the powers conferred on him under this Act or the rules made thereunder.

## CHAPTER V

### MISCELLANEOUS

**13 Delegation of Powers. -**The Government may by notification in the Official Gazette, direct that any power exercisable by them under this Act or the Rules made thereunder, other than the powers conferred by this section, sections 14, 16 and 17 shall, in relation to such matters and subject to such conditions, if any, as may be specified in

the notification, can be exercised also by such officer or authority subordinate to the Government, as may be specified in the notification.

**14 Power to remove difficulties.** - (1) If any difficulty arises in giving effect to the provisions of this Act, or the Rules made thereunder, the Government may, by order, do anything, not inconsistent with the provisions of this Act which appears to them to be necessary or expedient for the purpose of removing the difficulty

Provided that, no such order shall be passed after two years from the date of commencement of this Act

2) Every order made under this section, shall, as soon as may be, after it is made, be laid before the Legislative Assembly

**15 Protection of action taken in good faith.** - No suit, prosecution or other legal proceeding shall lie against the Government or any authority or officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made under this Act

**16 Power to amend Schedule.** - (1) The Government may, if it is of opinion that it is expedient or necessary in the public interest so to do, by notification in the Official Gazette, add to or delete or alter or amend the Schedule and on any such notification being issued, the Schedule shall be deemed to have been amended accordingly

(2) Every such notification shall as soon as possible after it is issued, be laid before the Legislation Assembly

**17 Power to make rules.** - (1) The Government may, by notification in the Gazette, make rules, for the purpose of carrying into effect the provisions of this Act

(2) Without prejudice to the generality of the foregoing power, such rules may,-

(a) prescribe the obligations of the investor,

(b) prescribe the method of summoning witnesses, production of documents relevant to the subject-matter of the investigation or enquiry before the Inspector or any other officer authorised by the Government;

(c) prescribe the powers of Inspectors and other officers appointed for the purpose of this Act,

(d) prescribe the modalities for preferring complaint, and matters consequential thereto,

(e) provide for any other matter which is to be or may be prescribed for the effective implementation of the provisions of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the

Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

## **THE SCHEDULE**

(Section 2 (f))

### ***Obstructive Practices***

1 Obstructing or impeding the activities relating to the acquisition of land, licensing of projects, establishments or undertakings, erection of boundary walls, construction of buildings, roads, bridges, tunnels, canals, drains, transportation of goods or materials involved in the commencement, establishment or development of any commercial or industrial units or all other infrastructural projects and including any factory, shop, plantation or any other establishment which the Government may by notification in the Official Gazette declare from time to time for the purpose of this Act

2 Obstructing or impeding the investor in the activities relating to the acquisition of land, licensing of projects, establishments or undertakings, erection of boundary walls, construction of buildings, roads, bridges, tunnels, canals, drains, transportation of goods or materials involved in the commencement, establishment or development of any commercial or industrial units or all other infrastructural projects and including any factory, shop, plantation or any other establishment which the Government may by notification in the Official Gazette declare from time to time for the purpose of this Act, with the objective of obtaining employment or for giving preference in employment to the members of the trade unions or local dwellers or other social or political organisations.

## **STATEMENT OF OBJECTS AND REASONS**

Amongst the practices that have been developed in certain parts of the State, strike have acted as disincentives to the establishment of industries and therefore also to increases in employment and about which potential investors have been complaining, are those resorted to by some groups of persons ostensibly belonging to trade unions, local dwellers or political parties – by way of obstruction of even preliminary work connected with the industry. There have been repeated request and suggestions that there should be a ban on such practices, strike are not really in the nature of trade union activities. It has also adversely affected the employment opportunities of the educated and skilled youth in our State. In order to promote the industrial investment in our State and to enhance the employment opportunities among the youth it is necessary to prohibit all such obstructive practices. Therefore, an investor who has obtained necessary clearances to start an industry will be protected from all such obstructive practices and he has given the right to undertake all legitimate activities in connection with such investment.

This has adversely affected the employment opportunities of the educated and skilled youth in our State. In order to promote the industrial investment in our State and to enhance the employment opportunities among the youth it is necessary to prohibit all

such obstructive practices Therefore, an investor who has obtained necessary clearance to start an industry will be protected from all such obstructive practices and he has given the right to undertake all legitimate activities in connection with such investment.

2 The Bill seeks to achieve the above objects

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

### **MEMORANDUM REGARDING DELEGATED LEGISLATION.**

Sub-clause (3) of clause 1 of the Bill seeks to empower the Government by notification in the Gazette to fix a date for bringing into force of the Act.

2. Sub-clause (b) of clause 2 of the Bill seeks to empower the Government by notification to declare the names of establishment that may come under the term industry for the purpose of the Act.

3. Sub-clause (1) of clause 6 of the Bill seeks to empower the Government by notification appoint officers in the Labour Department not below the rank of an Assistant Labour Officer as Labour inspectors for the purposes of the Act and also define the local limits within which such officers shall exercise their jurisdiction.

4. Sub-clause (3) of clause 6 of the Bill seeks to empower the Government by notification appoint officers in the Police department of and above the rank of a Sub-Inspector as inspectors for the purposes of the Act and define the local limits within which such officers shall exercise their jurisdiction.

5 Clause 13 of the Bill seeks to empower the Government by notification delegate the administrative powers of the Government under the Act to such officer or authority subordinate to the Government.

6 Sub-clause (1) of the clause 14 of the Bill seeks to empower the Government issue orders for removing any difficulty that may creep in while enforcing the provision of the Act

7. Clause 16 of the Bill seeks to empower the Government by notification add to or delete or alter or amend the schedule to the Act.

8. Sub-clause (i) of clause 17 of the Bill seeks to empower the Government by notification frame rules for the purposes of carrying into effect the provisions of the Act

9. The matter to be prescribed or the orders or notifications to be issued are matters of procedure and details and are of routine and administrative in nature. Further the rules and orders are subject to the scrutiny of the Legislative Assembly after issue. The delegation of legislative powers therefore, of a normal character.



## THE KERALA KISAN PASS BOOK BILL, 2002

### **Background Note.**

The vast majority of Agriculturists in Kerala are small and marginal farmers with less than one hectare of land. Many of them including those belonging to Scheduled Tribes possess land assigned to them by Government. They have only heritable right over such land. This restriction on the right has been made while assigning the land in the interest of the assignee so that he does not alienate the land and become landless once again. This has however had an unintended adverse effect. Since the assignees have no alienable right over the property they find it very difficult to raise loans from Cooperative Societies and Banks. Further, once a mortgage or charge is created by the landholder for raising loans the title deeds have to be deposited with the financial institutions. They are thus unable to raise further loans during the subsistence of an early loan. They have also to incur expenditure by way of stamp duty and registration fee for registering mortgage and release deeds. In order to get over these problems it has been suggested for long that Pass Books may be issued to agriculturists so that the record of right and liabilities could be entered in it and they could also be enabled to avail themselves of credit from Co-operative Societies, Banks and financial institutions without having to mortgage their holdings.

The Kerala Kisan Pass Book Bill is proposed by us in this context. It is proposed to issue a Kisan Pass Book to every agriculturist in the State in order to facilitate flow of credit for purposes of agricultural production and development. The draft Bill prepared by us is appended.



DRAFT**THE KERALA KISAN PASS BOOK BILL, 2002****A  
BILL**

to provide for the issue of Kisan Pass Books to agriculturists containing record of rights and liabilities of their agricultural holdings in a revenue estate and to enable them to have credit facilities and for other matters connected there with or incidental thereto

**Preamble.** – WHEREAS, it is expedient to provide for the issue of Kisan Pass Book to agriculturists containing record of rights and liabilities of their agricultural holdings in a revenue estate and to enable them to have credit facilities,

**BE** it enacted in the Fifty-third Year of the Republic of India as follows -

**1. Short title, extent and commencement** - (1) This Act may be called the Kerala Kisan Pass Book Act, 2002.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date, as the Government may by notification, appoint

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

(a)“agriculture” includes making land fit for cultivation, cultivation of land, improvement of land including development of sources of irrigation, soil conservation and land development measures, raising and harvesting of crops, horticulture, forestry, cattle breeding, animal husbandry, dairy farming, seed farming, pisciculture, sericulture, bee-keeping, piggery, poultry farming and other activities including transportation of agricultural produce, etc. as are generally carried on by agriculturists, dairy-farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities and the words ‘agricultural purposes’ shall be construed accordingly;

(b)“agriculturist” means a person having an interest in a holding whether as a land owner, mortgagee or pattadar including lessee or assignee of Government lands;

(c)“co-operative society” means a co-operative society registered or deemed to have been registered under the Kerala Co-Operative Societies Act, 1969 (20 of 1969);

(d)“financial assistance” means an assistance rendered by way of loans, advances or otherwise for the purposes of agriculture by a financial institution or Government;

(e)“financial institution” means and includes, -

(i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949),

(ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955);

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959),

- (iv) a corresponding new bank as specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970);
- (v) the Agricultural Finance Corporation Limited a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956);
- (vi) the Regional Rural Bank established under the Regional Rural Banks Act, 1976 (Central Act 21 of 1976);
- (vii) the National Bank for Agriculture and Rural Development established under the National Bank for Agriculture and Rural Development Act, 1981 (Central Act 61 of 1981);
- (viii) the Kerala State Co-operative Bank or any other co-operative society;
- (ix) the Kerala Agro Industries Corporation;
- (x) the Kerala State Khadi and Village Industries Board, and
- (xi) any financial other institution which may be notified in this behalf by the State or Central Government;

(f) "Kisan Pass Book" means a Pass Book containing certified extracts from record of rights maintained under the Kerala Record of Rights Act, 1968 (26 of 1968) or from other revenue records, showing the nature and extent of interest of an agriculturist in his agricultural holding or holding in a revenue estate and other particulars as may be prescribed,

(g) "land" means land occupied or has been let for agricultural purposes or for purposes sub-servient to agriculture, or for pasture, and includes the sites of buildings and other structure on such land;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "public servant" means the public servant as defined in section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860);

(j) "revenue officer" means the prescribed officer as defined in the Kerala Record of Rights Act, 1968 (26 of 1968),

(k) "Sub-Registrar" shall have the same meaning as assigned to it in the Registration Act, 1908 (Central Act 16 of 1908);

(l) the words and expressions used to denote the holder of any right, title or interest shall be deemed to include the predecessors and successors of any right, title or interest of such person; and all the words and expressions defined in the Kerala Land Reforms, Act 1963 (1 of 1964) and the Kerala Land Assignment Act, 1960, but not defined in this Act shall wherever used herein be construed to have the meanings assigned to them by the said Acts.

**3. Removal of restrictions on alienation.** – Notwithstanding anything contained in any law for the time being in force or any custom or usage having the force of law, it shall be lawful for an agriculturist to alienate the land or his interest therein whether or not a charge or mortgage is subsisting on such land or such interest, by creation of charge or mortgage of such land or interest therein in favour of a financial institution as security for the financial assistance given to him by such financial institution.

**4. Vesting, agriculturists not having alienable rights, with rights of alienation.** - Notwithstanding anything contained in the Kerala Land Assignment Act, 1960 (30 of 1960) or the rules made there under or anything contained in any law for the time being in force, the State Government may by notification, vest the assignees of lands under the said Act with rights of alienation, including the right to create a charge or mortgage in such land or interest in favour of a financial institution for the purpose of obtaining financial assistance from the financial institution subject to such restrictions as may be specified in such notification.

**5. Act to override other laws.** - The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything contained in the Registration Act, 1908(Central Act 16 of 1908), or in any other law for the time being in force.

**6. Issue of Kisan Pass Book.** - As soon as may be after the commencement of this Act, there shall be issued a Kisan Pass Book to every agriculturist in his revenue estate

Provided that in respect of co-shares an entry shall be made showing the extent and nature of their interest in the joint holding.

Provided further that in the revenue estate where settlement or consolidation operations are being conducted, a fresh Kisan Pass Book shall be issued as soon as operations are concluded and record-of-rights is prepared.

**7. Contents of Kisan Pass Book.** - (1) The Kisan Pass Book shall be in such form containing such particulars of the agriculturist and valid for such period as may be prescribed

(2) The Kisan Pass Book shall be completed by such persons and in such manner as may be prescribed.

(3) On the presentation of Kisan Pass Book at the time of attestation of mutation or otherwise with regard to any changes in the interest of the holding of the Agriculturist, the revenue officer after being satisfied of the correctness of the changes on the basis of the mutation proceedings and other relevant evidence, shall make an entry with respect to such changes in the Kisan Pass Book, in such form and manner as may be prescribed.

(4) It will be obligatory on the part of the Kisan Pass Book holder to get it updated after the expiry date mentioned on title page of the Kisan Pass Book, otherwise it will not be entertained as legal document whenever presented. The holder of the Kisan Pass Book shall, before the expiry date, hand it over to the Tahsildar for updating the entries in such manner as may be prescribed. However, pending updation of the Kisan Pass Book, the entries therein for the preceding period would continue to remain valid for that period only

**8. Evidentiary value of Kisan Pass book.** - (1) Every entry made in the manner prescribed under section 7 in the Kisan Pass Book issued under section 6 shall be presumed to be true until the contrary is proved

(2) The entries in the Kisan Pass Book shall carry the same evidentiary value as if these were certified copies of the record-of-rights and other public record for all intents and purposes, before the public servant, courts or financial institutions

(3) If there be any mistake in the Kisan Pass Book, the same can be rectified by making an application to the Revenue Divisional Officer who shall make such appropriate orders to rectify it as he deems fit.

**9 Transfer not to be registered except on production of Kisan Pass Book.-**

(1) No transfer made by the holder of a Kisan Pass Book in respect of any land specified in such Kisan Pass Book or any interest in such land or any crop standing thereon shall be registered by the Sub-Registrar unless the Kisan Pass Book is produced before him, and on the production thereof, he shall incorporate the particulars of the transfer registered by him in such form and such manner as may be prescribed

(2) Any transfer effected in contravention of this section shall be void

**10 Alteration not to be made in the revenue record except on production of Kisan Pass Book.** - (1) No alteration in the revenue record shall be made by the revenue officer as a consequence of any transfer of land or any interest therein except on the production of the Kisan Pass Book

(2) It shall be lawful for the revenue officers to direct the transferor or transferee of any right or interest in the land to produce the Kisan Pass Book on demand within fifteen days by issuing him a notice and it shall be incumbent upon such transferor or transferee to produce the Kisan Pass Book either personally or through an authorised agent for making an entry indicating the change.

(3) Any alteration made in contravention of this section shall be void.

**11. Grant of financial assistance by financial institutions.-** (1) Financial assistance shall be granted by a financial institution to an agriculturist on production of Kisan Pass Book. However, production of Kisan Pass Book shall not be necessary for crop loans advanced by co-operative societies

(2) A financial institution granting any financial assistance to the holder of the Kisan Pass Book shall incorporate in the Kisan Pass Book the factum of such financial assistance and where such financial assistance has been given on the security of any holding, the financial institution shall also make an entry against the holding on the security of which the financial assistance has been granted by it, and the entry so made shall have the effect of creating a charge in favour of the financial institution on the holding against which the entry has been made and the holder of the Kisan Pass Book

shall be debarred from alienating the said holding until the outstanding amount of the financial assistance granted by the financial institution has been repaid together with interest due thereon:

Provided that where any charge on any land or interest therein was created by an agriculturist in favour of a financial institution before the commencement of this Act, it shall not debar him from creating, after such commencement, a subsequent charge on such land or interest therein in favour of a financial institution as security for any financial assistance given to him by such institution:

Provided further that the financial institution which sanctions the first loan after the issue of the Kisan Pass Book shall ascertain and verify within fifteen days all outstanding loans, except crop loan advanced by co-operative societies and encumbrances created by the agriculturist, as the case may be, by procuring an affidavit to that effect and shall enter and authenticate the details thereof in the Kisan Pass Book.

(3) The financial institution shall endorse a copy of the relevant entries incorporated in the Kisan Pass Book to the revenue officer as well as the Sub-Registrar within the local limits of whose jurisdiction the whole or any part of the property which has been so charged is situated and on receipt of the same the revenue officer and the Sub Registrar shall cause necessary entry to be made in the record of rights maintained in their offices

**12. Removal of bar to attachment and sale by process of court.** – Nothing in any law shall prevent in any manner a financial institution from causing any land or any interest therein charged to it by an agriculturist to secure any financial assistance, to be attached and sold through a civil court and applying the proceeds of such sale towards all moneys due to it from that agriculturist including the costs and expenses as may be awarded by the court.

**13. Recovery of dues of a financial institution under Revenue Recovery Act.-** On an application made by a financial institution for the recovery of arrears of any sum due to it by an agriculturist towards the financial assistance given to him under this Act, the District Collector or an officer authorised by him may grant a certificate for the recovery of the said sum as per the provisions of the Revenue Recovery Act, for the time being in force as if it were an arrear of public revenue due on land.

**14. Validity of Kisan Pass Book.** - A Kisan Pass Book issued under section 6 and made up to date shall remain in force only for three years and shall be valid thereafter only if it has been made up to date and so certified in the manner, as may be prescribed

**15. Cost of Kisan Pass Book.** -The Kisan Pass Book shall be issued to an agriculturist on payment of such amount as may be prescribed.

**16. Protection of action taken in good faith.**- No suit or other legal proceedings shall lie against the Government or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

**17. Penalty for disobedience of orders of revenue officer and for interpolation etc. in the Kisan Pass Book.** - (1) If any person fails or refuses to produce a Kisan Pass Book on demand by Revenue Officer or interpolate or erase anything in the Kisan Pass Book with an intent to defraud any authority under this Act or makes any false statement knowingly or having reasons to believe the same to be false or which he does not believe to be true with a view to gain wrongfully, shall be liable to be punished with an imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both.

(2) No court shall take cognizance of an offence punishable under sub-section (1) except on a complaint made by the revenue officer. However, financial institutions may inform the revenue officer about any tampering within the Kisan Pass Book coming to their notice. Each page of the Kisan Pass Book will be serially numbered and name of the agriculturist will be written on each page to avoid tampering with.

**18. Power to make rules.** - (1) The Government may, by notification in the official gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act

(2) In particular and without prejudice to the generality of the fore-going power, such rules may provide for, -

- (a) the form, particulars and period of validity of the Kisan Pass Book under sub-section (1) of section 7;
- (b) persons and manner for the completion of Kisan Pass Book under sub-section (2) of section 7;
- (c) the form and manner in which the entry shall be made in the Kisan Pass Book under sub-section (3) of section 7;
- (d) the form and manner in which the particulars of the transfer shall be incorporated in the Kisan Pass Book under sub-section (1) of section 9,
- (e) the manner in which the Kisan Pass Book shall be made up-to-date and certified under section 14,
- (f) the amount of Kisan Pass Book under section 15;
- (g) any other matter for which provision is in the opinion of the Government necessary for giving effect to the purposes of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid, or the session immediately following the Legislative Assembly makes any modification in the rule or the Legislative Assembly



agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

### **STATEMENT OF OBJECT AND REASONS**

The Agriculturists in Kerala mainly depend on financial institutions like banks, co-operative societies etc. for raising fund for cultivation of their lands. Majority of the Agriculturists including tribal community who possess land assigned by the Government have only heritable right over such land. Since they have no alienable right over the property it is very difficult for them to raise loan from the financial institutions. Further once a mortgage or charge is created by the Agriculturist for raising loans their title deeds will have to be deposited with the financial institution. This has created difficulty for the agriculturist to raise further loan during the subsistence of the earlier loan taken by them. It is also necessary to incur huge amount by way of stamp duty and registration fee for registration fee for registering mortgage and release deed etc. Therefore in order to make provisions to facilitate flow of credit for the purposes of agricultural production and development through financial institutions, it is proposed to issue Kisan pass books to agriculturist containing record of rights and liabilities for their agricultural holdings in a revenue estate and to enable them to have credit facilities without mortgaging their properties.

2. The Bill seeks to achieve the above purposes,

### **FINANCIAL MEMORANDUM**

Clause 6 of the Bill seeks to provide that as soon as may be after the commencement of the proposed legislation there shall be issued a Kisan Pass Book to every agriculturist in his revenue estate by the revenue officer. Clause 15 of the Bill provides that the Kisan Pass Book shall be issued to an agriculturist on payment of such amount as may be prescribed. Therefore, some expenditure will have to be incurred initially for the issue of the Kisan Pass Book. However the said amounts can be recovered from the agriculturist at the time of issuing the same. Therefore, the Bill if enacted and brought into operation would not involve any additional expenditure from the consolidated Fund of the State. The initial amount that may be required for printing of the Kisan Pass Book cannot be estimated at any degree of accuracy at this stage

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub-Clause (3) of clause 1 of the Bill seeks to empower the Government by notification appoint a date for bringing into force of the proposed legislation

- (2) Item (xi) of Sub-clause (e) of clause 2 of the Bill empowers the Government to notify any institution as financial institution for the purpose of the Act

(3) Clause 4 of the Bill seeks to empower the Government by notification vest the assignees of lands under the Kerala Land Assignment Act, 1960 with rights of alienation, including the right to create a charge or mortgage in such land or interest in favour of a financial institution

(4) Sub- clause (1) of cluse 7 of the Bill seeks to empower the Government to frame rules prescribing the form, contents and period of Kisan Pass Book.

(5) Sub-Clause (1) of clause 9 of the Bill empowers the Government to make rules prescribing the particulars to be incorporated by the Registrar in the Kisan Pass Book at the time of registration of a document.

(6) Clause 15 of the Bill seeks to empower the Government to prescribe the cost of Kisan Pass Book issued under the Act.

(7.) Clause 18 of the Bill seeks to empower the Government by notification in the Gazette make rules to carry out the purposes of the Act

(8) The matters to be prescribed or notifications to be issued are matters of Procedure and details and are of routine and administrative in nature. Further the rules are subject to the scrutiny of the Legislative Assembly after issue. The delegation of legislative power is, therefore, of a normal character

## **THE KERALA LABOUR AUTHORITY BILL, 2002.**

### **Background Note.**

A number of Welfare Funds have been created in the State for different categories of workers and Welfare Fund Boards to administer the funds have been created by law. A number of Welfare Funds have improved the social security of workers but those relating to agriculture, handloom, Beedi etc., are not found to be viable. In order to integrate the existing Welfare Fund Boards and make them more effective the State Government promulgated an Ordinance namely The Kerala State Labour Authority Ordinance, 2000 (15 of 2000) published vide Notification No 18149/Leg.C2/2000/Law dated 21<sup>st</sup> November 2000 to establish a Labour Authority in the State to serve as an apex body to co-ordinate, regulate, streamline, monitor and control the activities of the Labour Welfare Schemes of Welfare Boards and the Government. But this Ordinance could not be introduced in the Legislative Assembly as a Bill and got passed. It was twice re-promulgated as 'The Kerala State Labour Authority Ordinance, 2001' (11 of 2001) and 'The Kerala State Labour Authority Ordinance, 2001 (23 of 2001) vide Notification Nos 18149/Leg.C2/2000/Law dated 28-1-2001 and 18149/Leg.C2/2000/Law dated 13-3-2001 respectively. These Ordinances also faced the same fate of the earlier Ordinances.

The Committee has considered the question in consultation with the Labour Department. Though the proposal was to establish an umbrella authority to control all Welfare Boards the Committee felt that since the Welfare Boards have been created under separate Laws the proposed Labour Authority may deal with all new Welfare Schemes or Funds to be created instead of having separate laws for them, to administer the existing non-statutory Welfare Funds and Schemes and to recommend to Government on the reorganization of other Welfare Funds and Schemes including those that are not viable. The Authority would also make arrangements for training and capacity building in the case of Welfare Boards and suggest improved methods of working, the interest of the Members being the paramount consideration.

The Committee has prepared a revised Kerala Labour Authority Bill, 2002 for consideration of the Government.



DRAFT**THE KERALA LABOUR AUTHORITY BILL, 2002****A  
BILL**

to establish a labour authority in the State to serve as an apex body to co-ordinate, regulate, stream line, monitor and guide the activities of the Labour Welfare Schemes and advise the Government for the matters relating to Labour administration and Labour Welfare and for matters connected therewith or incidental thereto.

*Preamble.*- **WHEREAS**, it is desirable in public interest to establish a labour authority in the State to serve as an apex body to co-ordinate, regulate, stream line, monitor and guide the activities of the Labour Welfare Schemes framed under this Act and advise the Government in matters relating labour administration and labour welfare and for matters connected therewith or incidental thereto,

**BE** it enacted in the Fifty-third Year of the Republic of India as follows -

**CHAPTER I  
PRELIMINARY**

**1 Short title, extent and commencement.**- (1) This Act may be called The Kerala Labour Authority Act, 2002.

(2) It extends to the whole of the State of Kerala

(3) It shall come into force at once

**2. Definitions.**- In this Act, unless the context otherwise requires,-

(a) "contribution" means the sum of money payable to the Fund under section 11 of the Act;

(b) "employee" means an employee as defined in the Kerala Labour Welfare Fund Act, 1975 (11 of 1977);

(c) "employer" means an employer as defined in the Kerala Labour Welfare Fund Act, 1975 (11 of 1977);

(d) "fund" means the 'Kerala Labour Authority Fund' established under section 8 of the Act

(e) "Government", means the Government of Kerala,

(f) "labour Authority", means the Kerala Labour Authority constituted under section 3 of the Act,

(g) "member", means a member of the Labour Authority,

(h) "member Secretary", means the Member Secretary of the Labour Authority and the Labour Commissioner of the State;

(i) "prescribed", means prescribed by rules made under this Act;

- (j) "schedule", means a schedule to this Act;
- (k) "scheme", means a scheme framed under section 7 of the Act;
- (l) "year" means the financial year,

## CHAPTER II

### CONSTITUTION, POWERS AND FUNCTIONS OF LABOUR AUTHORITY

**3. Constitution of Labour Authority.-** (1) The Government may, by notification in the Gazette, constitute with effect from such date as may be specified therein an Authority to be called 'the Kerala Labour Authority' for the administration of the Fund to supervise or carry out the activities financed from the Fund and to serve as an apex body to co-ordinate, regulate, streamline, monitor and guide the activities of Labour Welfare Schemes framed under this Act,

(2) The Labour Authority shall be a body corporate by the name aforesaid having perpetual succession and common seal and shall by the said name sue and be sued.

- (3) The Labour Authority shall consist of the following members, namely -
- (i) (a) The Secretary to Government, Labour Department, ex- officio; who shall be the Chairman of the Labour Authority
  - (b) The Labour Commissioner, ex-officio who shall be the Chief Executive Officer and Member, Secretary of the Labour Authority;
  - (ii) seven members representing the employees in the State;
  - (iii) seven members representing the employers,

(4) The Government shall publish in the Gazette the names of the members of the Labour Authority.

(5) The Labour Authority may, with the previous approval of the Government delegate to the Member Secretary or any Member of the Board such of its powers and functions under this Act or of the scheme it may consider necessary for the efficient administration of the Fund, subject to such restrictions and conditions, if any, as it may specify.

**4 Term of Office of the members.-** (1) Non- official members of the Labour Authority shall hold office during the pleasure of the Government or for a period of three years from the date such member assumes office, which ever is less

Provided that a member may continue as such until his successor assumes office.

(2) Any nominated member may resign his office, by giving notice in writing to the Chairman, but shall continue in office until his resignation is accepted by the Chairman

(3) A casual vacancy in the office of a member may be filled up, as soon as may be, by the Government and a member so appointed to fill such vacancy shall hold office for the un-expired portion of the term of office of the member whose place he fills.

**5. Removal of non-official members.-** (1) The Government may, by notification in the Gazette, remove any non-official member of the Labour Authority from office,-

(a) If he has, without the permission of the chairman been absent from the meeting of the Labour Authority from three consecutive meetings:

Provided that such absence may be condoned by the chairman before publishing the notification in the gazette.

(b) If in the opinion of the Government, he is unsuitable or has become incapable of acting as a member or has so abused his position as a member as to render his continuance as such member detrimental to the public interest,

Provided that before removing a member under this sub-section, he shall be given a reasonable opportunity to show cause why he should not be removed

(2) A non-official member of the Labour Authority removed under clause (a) of sub-section (1) shall be disqualified for re-nomination as a member of the Labour Authority for a period of three years from the date of his removal unless otherwise ordered by the Government

(3) A non-official member of the Labour Authority removed under clause (b) of sub-section (1), shall not be eligible for re-nomination until he is declared by an order of the Government to be no longer ineligible

**6. Powers and functions of the Labour Authority.-** Subject to the provisions of this Act, the Labour Authority shall have the following powers and functions, namely:-

(a) to advise the Government on matters relating to Labour Administration, Labour Welfare and other matters pertaining to labour

(b) to administer the existing non-Statutory Welfare Funds and Schemes transferred by the Government to the Labour Authority;

(c) to recommend to the Government on the reorganization of Welfare Funds and Schemes in the interests of their members;

(d) to prepare project reports for getting financial assistance from international organisations, Government of India and other agencies;

(e) to set up a training fund for the training of workers;

(f) to utilise the financial assistance received from various agencies for the common welfare of workers.

### CHAPTER III

#### WELFARE SCHEMES

7. **Framing of Schemes.**- (1) The Government may, in consultation with the Labour Authority and after pre-publication, frame welfare schemes for any class of employment and entrust the same to the Labour Authority for implementation

(2) The Scheme shall provide for all or any of the matters mentioned in the Schedule.

(3) The Government may, by notification in the Gazette, add to, amend or vary the scheme framed under this Act either prospectively or retrospectively

(4) Every Scheme framed under this section shall be laid, as soon as may be, after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the scheme, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme

### CHAPTER IV

#### FUNDS OF THE LABOUR AUTHORITY

8. **Funds of the Labour Authority.**- (1) As soon as may be after the commencement of this Act, the Labour Authority shall establish a fund, called, "The Kerala Labour Authority Fund"

- (2) There shall be credited to the Kerala Labour Authority Fund,
- (a) the amount borrowed by the Labour Authority under section 9
  - (b) grants, loans or advances made by the State Government or the Government of India;
  - (c) any donations and financial assistance from any persons or agencies or institutions;
  - (d) contribution received from employees and employers under any scheme administered by the Labour Authority;
  - (e) any amount transferred from the existing non-statutory schemes and unclaimed or untied funds with the existing welfare boards
  - (f) contribution by the employer under section 11;
  - (g) contribution by employees and Labour Welfare Fund Boards;
  - (h) contributions, if any, from Government and Non Governmental Organisations.

(3) The Kerala Labour Authority Fund may be utilised for all or any of the following purposes, namely -



- (a) implementation of common Welfare Schemes for the beneficiaries;
- (b) setting up and functioning of the institutions envisaged in this Act.
- (c) the cost incurred for the administration and implementation of the provisions of this Act.
- (d) the salaries and allowances of the staff appointed for the various welfare schemes administered under this Act.
- (e) for capacity building of workers to equip them to meet the emerging skill requirements in the Labour market;
- (f) to introduce appropriate institutional mechanism for manpower development, training and retraining to develop a scientifically trained work force which would cater to the emerging work needs;
- (g) for any other purposes specified in the Scheme.

(6) The amount in the Funds of the Labour Authority shall be credited to the Scheduled Banks or Co-operative Banks

**9. Power of Labour Authority to borrow.-** (1) The Labour Authority may, from time to time, with the previous sanction of the Government and subject to such conditions as the Government may, by general or special order determine, borrow any sum required for the purposes of this Act whether by the issue of bonds or debentures or otherwise or by making arrangements with Banks or Institutions approved by the Government in that behalf.

(2) Bonds or debentures issued by the Labour Authority under this section shall be issued, transferred, dealt with or redeemed in such manner as the Government may, by general or special order, direct.

**10 Guarantee by Government of Loans.-** (1) The Government may guarantee, in such manner as they think fit, the payment of the principal and interest of any loan proposed to be raised by the Labour Authority under section 9

(2) The Government shall, so long as any such guarantee is in force, lay before the State Legislature in every year during the budget session, a statement of the guarantee, if any, given during the current financial year and up-to-date accounts of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantee or paid into the said Fund towards repayment of any moneys paid out

**11. Contribution to the Kerala Labour Authority Fund. -** (1) Every employer shall contribute one rupee for each employee engaged by him per mensem to the Labour Authority and it shall be paid before such date and in such manner as may be specified by the Government.

(2) The Fund shall be collected by the Labour Authority through Labour Welfare Fund Boards or other agencies as may be specified by the Government.

## CHAPTER VI

## MISCELLANEOUS

**12. The staff of the Kerala Labour Welfare Fund Board to assist the Labour Authority.-** The Kerala Labour Welfare Fund Board shall be the nodal agency of the Labour Authority and the staff of the Kerala Labour Welfare Fund Board shall assist the Labour Authority.

**13 Protection of action taken in good faith.-** No suit or other legal proceedings shall lie against the Government or any member of the Labour Authority or any other person in respect of anything which is in good faith done or intended to be done under this Act or under the rules or schemes made thereunder.

**14. Directions by the Government.-** The Government may after consultation with the Labour Authority give to the Labour Authority general directions, to be followed by the Labour Authority.

(2) In the exercise of the powers and the performance of its duties under this Act, the Labour Authority shall not depart from any general directions issued under subsection (1), except with the previous permission of the Government

**15 Audit of accounts of the Labour Authority.-** (1) The Government shall appoint auditors to audit the accounts of the Labour Authority.

(2) the accounts of the Labour Authority shall be examined and audited by such auditors, once in every year

**16. Annual report and audited statement of accounts.-** (1) The annual report of the Labour Authority shall be prepared under the direction of the Labour Authority and after approval by the Labour Authority, a copy of the report together with an audited statement of accounts, shall be submitted to the Government before the end of July every year.

(2) the Government shall as soon as the annual report is received , cause the same together with the audited statement of accounts to be laid on the table of the Legislative Assembly.

**17. Bar of jurisdiction of civil courts.-** No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act or the scheme required to be settled, decided or dealt with or to be determined by the Government, the Labour Authority, the Chief Executive Officer or any officer authorised by the Labour Authority.

**18 Special provisions for transfer of collection from the Welfare Fund established by any Scheme.-** (1) Notwithstanding anything contained in any law for the time being in force the Government may by order transfer all non- statutory welfare

schemes together with the funds administered by the Government or by any existing Welfare Fund Boards to the Labour Authority for its administration

(2) The Labour Authority shall administer the scheme transferred under subsection (1) in accordance with the provisions of this Act.

**19 Penalties.-** (1) Whoever, for the purpose of avoiding any payment to be made by him under this Act or under the Scheme or of enabling any other person to avoid such payment, knowingly makes or cause to be made any false statement or false representation, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees, or with both

(2) Whoever contravenes or makes default in complying with any of the provisions of this Act or the Scheme shall, if no other penalty is elsewhere provided by or under this Act for such contravention or non-compliance, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand five hundred rupees or with both

(3) No court shall take cognizance of any offence punishable under this Act except on a report in writing of the acts constituting such offence made with the previous sanction of the chief executive officer

**20. Enhanced punishment for second or subsequent offence.-**Whoever, having been convicted by a court of an offence punishable under this Act, again commits the same offence shall be punishable for every such subsequent offence with imprisonment for a term which may extend to two years, but which shall not be less than three months, or with fine which may extend to ten thousand rupees or with both.

Provided that the court may for any adequate and special reasons to be recorded in the judgement, impose a sentence of imprisonment for a term less than three months.

**21. Acts of Labour Authority not to be invalidated by infirmity, vacancy etc.** No act done or proceeding taken under this Act by the Labour Authority shall be invalidated merely on the ground -

- (a) of any vacancy or defect in the constitution of the Labour Authority;
- (b) of any defect or irregularity in the appointment of a person acting as a member thereof, or
- (c) of any defect or irregularity in such act or proceeding not affecting the merits of the case

**22. Mode of recovery of money due from any person.-** Any amount due from any person in pursuance of the provisions of this Act or the scheme may, if the amount is in arrears be recovered with interest at the rate of twelve percent per annum in the same manner as arrears of public revenue due on land as per the provisions contained in the Revenue Recovery Act for the time being in force.

**23. Members of the Labour Authority etc, to be public servants.-** Every member of the Labour Authority, the Chief Executive Officer and other officers and

members of the staff of the Labour Authority shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860(Central Act 45 of 1860)

**24. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act, Government may, by order, published in the Gazette, do anything not inconsistent with the provisions of this Act which appears to them necessary to remove the difficulty:

Provided that, no such order shall be passed after two years from the date of commencement of this Act.

(2) Every order under this section shall, as soon as, may be after it is made, be laid before the Legislative Assembly.

**25. Power to make rules.-** (1) The Government may, by notification in the Gazette, make rules, either prospectively or retrospectively for the purposes of carrying into effect the provisions of the Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session which it is so laid or the session immediately following, the Legislative Assembly makes any modification the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case maybe; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## SCHEDULE

(See sub-section (2) of section 7)

- 1 Name and beneficiaries of the Scheme
2. Constitution of any committee to assist the Labour Authority for the implementation of the Scheme.
3. The time and manner in which contribution shall be made to the Fund by the employees; self employed persons and employers mentioned in the Scheme.
4. The conditions under which Fund may be expended for payment of relief to the workers during distress
5. The amount and the conditions and procedures for payment of pensions, grant and advances from the Fund.
6. The purposes for which the Fund may be utilised for the welfare of employees or their dependants.
7. The registers and records to be maintained by the Labour Authority with respect to employees and the returns to be furnished by employers.
8. The form or design of any identity card, token or disc for the purpose of identifying any employee, and for issue, custody and replacement thereof.
9. The fee to be levied for any of the purposes specified in this schedule
- 10 The further powers, if any, which may, be exercised by the Labour Authority.

11. Any other matter which is to be provided for in the Schedule or which may be necessary or proper for the purpose of implementing the scheme.

### **STATEMENT OF OBJECTS AND REASONS**

A number of Welfare Funds have been created in the State for different categories of works and Welfare Fund Boards to administer the funds have been created by law. A number of Welfare Funds have improved the social security of workers but those relating to agriculture, handloom, Beedi etc, are not found to be viable. Therefore, it was considered necessary to create a Labour authority to administer all labour welfare schemes to be framed and also to administer the existing Non-Statutory Welfare Funds and Schemes.

The Authority will also to serve as an apex body to co-ordinate, regulate, stream line, monitor and advise the Government in matters relating to labour administration and labour welfare.

The Bill seeks to achieve the above objects.

### **FINANCIAL MEMORANDUM**

Clause 3 of the Bill provides for the constitution of labour authority. For the establishment of such an authority and cost incurred as salaries and allowances for the staff appointed for various welfare schemes administered under the Act shall incur some additional expenditure from the consolidated fund of the State which cannot with accuracy be estimated at this stage

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1 Clause 3 of the Bill seeks to empower the Government to constitute with effect from such date an authority called Kerala Labour Authority

2 Clause 5 of the Bill seeks to empower Government to remove any non-official member of the Labour Authority from office, by notifying in the gazette.

3. Sub-clause 1 of clause 7 of the Bill empowers the Government to frame separate schemes for each class of employment

4 Sub-clause (3) of clause 7 of the Bill seeks to empower the Government to add to or amend or vary the scheme framed under the Act either prospectively or retrospectively.

5. Sub-clause (1) of clause 9 of the Bill seeks to empower the Government to specify the condition under the Labour Authority can borrow among sum required for the purpose of the Act

6. Sub-clause (1) of clause 11 of the Bill seeks to empower the Government to specify the date and manner of payment of contribution by the workers.

7. Sub-clause 127 of clause 11 of the Bill seeks to empower the Government to specify the Boards and genuine through which fund shall be collected.

8 Sub-clause (1) of clause 15 of the Bill seeks to empower the Government to appoint auditors to audit the accounts of the Labour Authority.

9. Sub-clause (1) of clause 24 of the Bill seeks to empower the Government to do anything not inconsistent with the provision of this Act to remove any difficulty.

10. The above are matters of administrative or routine nature or matters of detail. Further, the rules, after they are made, are subject to the scrutiny of the Legislative Assembly. The delegation of Legislative powers is, therefore, of a normal character.

## **THE KERALA LABOUR LAWS (SIMPLIFICATION OF RETURNS AND REGISTERS OF SMALL ESTABLISHMENTS) BILL, 2002**

### **Background Note.**

Rules and regulations framed under various labour laws enacted by the State Legislature provide for maintenance of registers in the prescribed form and periodical submission of returns in the prescribed forms. Overtime, the number and frequency of these returns and applications for renewal have increased, casting a heavy burden on small businesses. There have been persistent demands from small business and industrial establishments for the simplification and reduction in the number of forms and registers required to be maintained or submitted by small establishments. In order to provide for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain central labour laws the Parliament has enacted Labour Laws (exemption from furnishing registers by certain establishments) Act, 1998

In order to facilitate the growth of small industries and business in the state and to reduce their administrative work it is proposed that a small establishment in which not more than fifty persons are employed will be required to maintain only three muster registers and will be required to submit only one core return in lieu of the existing returns prescribed under various State Labour laws. However, in view of the special requirements of social security legislation such as, recovery of contribution from employers and employees their accountability, reimbursement etc. no relaxation is proposed in such matters

The Committee has prepared and appended a draft of the Kerala Labour Laws (Simplification of Returns and Registers of Small Establishments) Bill, 2002 for the above purpose.





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## **THE KERALA LABOUR LAWS (SIMPLIFICATION OF RETURNS AND REGISTERS OF SMALL ESTABLISHMENTS) BILL, 2002**

### **A BILL**

to provide for the simplification of forms of returns to be furnished and registers to be maintained by certain employers under certain labour laws in relation to establishments employing up to fifty employees.

*Preamble.-* **WHEREAS**, it is expedient to promote and facilitate the growth of small industries and business in the State and in pursuance thereof to reduce their administrative work by simplifying the forms of returns to be furnished and the registers to be maintained under certain existing labour laws in relation to certain industrial and commercial establishment employing up to fifty employees.

Be it enacted in the Fifty-third Year of the Republic of India as follows:-

1. **Short title, extent and commencement.-** (1) This Act may be called the Kerala Labour Laws (Simplification of returns and registers of small establishments) Act, 2002

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date, as the Government may, by notification in the Gazette, appoint

2. **Definitions.-** In this Act, unless the context otherwise requires,-

(a) "employer" in relation to a Scheduled Act, which defines such expression, has the same meaning assigned to it in that Act, and in relation to any other Scheduled Act, which does not define such expression means the person who is required to furnish returns or maintain registers under that Act;

(b) "establishment" has the meaning assigned to it in a Scheduled Act, and includes, a "commercial or other establishment" as defined in section 2 of the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960);

(c) "Government" means Government of Kerala;

(d) "Scheduled Act" means an Act specified in the Schedule and includes the rules made thereunder;

(e) "small establishment" means an establishment in which not more than fifty persons are employed or were employed on any day of the preceding twelve months.

**3 Amendment of certain labour laws.-** On and from the commencement of this Act, the Scheduled Acts shall have effect subject to the provisions of this Act

**4 New form of returns and registers required to be maintained or furnished under certain labour laws.-** (1) On and from the commencement of this Act, it shall not be necessary for an employer in relation to any small establishment to which a Scheduled Act applies to furnish the returns or to maintain the registers required to be furnished or maintained under that Scheduled Act:

Provided that such employer shall, –

(a) furnishes, in lieu of such returns, a Core Return in such form as may be prescribed, and

(b) maintains, in lieu of such registers, registers in such form, as may be prescribed

(2) Save as provided in sub-section (1), all other provisions of a Scheduled Act, including in particular, the inspection of the registers by, and furnishing of their copies to, the authorities under that Act, shall apply to the returns and registers required to be furnished or maintained under this Act as they apply to the returns and registers under that Scheduled Act

(3) Where an employer, in relation to a small establishment to which a Scheduled Act applies, furnishes returns or maintains the registers as provided in the proviso to sub-section (1), nothing contained in that Scheduled Act shall render him liable to any penalty for his failure to furnish any return or to maintain any register under that Scheduled Act.

**5 Savings.-** The commencement of this Act shall not affect, –

(a) the previous operation of any provisions of any Scheduled Act or the validity, invalidity, effect or consequence of anything done or suffered under that provision, before the relevant period;

(b) any right, privilege, obligation or liability already acquired, accrued or incurred under any Scheduled Act, before the relevant period;

(c) any penalty, forfeiture or punishment incurred or inflicted in respect of any offence committed under any Scheduled Act, before the relevant period;

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment aforesaid; and

(e) any such investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment shall be instituted, continued or disposed of, as the case may be, in accordance with that Scheduled Act.

**Explanation.-** For the purpose of this section, the expression “relevant period” means the period during which an establishment is or was a small establishment under this Act

**6 Penalty.-** Any employer who fails to comply with the provisions of this Act shall, on conviction, be punished,-

(a) in the case of the first conviction, with fine which may extend to rupees five thousand; and

(b) in the case of any second or subsequent conviction, with imprisonment for a period which shall not be less than one month but which may extend to six months or with fine which shall not be less than rupees ten thousand but may extend to rupees twenty five thousand or with both

**7 Power to amend the Schedule.-** (1) The Government may, by notification in the Gazette, add to or delete any entry in the Schedule

(2) Every notification made under sub-section (1) shall be laid before the Legislative Assembly

**8. Power to make Rules.-** (1) The Government may, by notification in the Gazette make rules in order to, carry out the provisions of this Act and such rules may provide for the form of Core Return to be furnished and the form of registers to be maintained by the employers

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall there after have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**9. Power to remove difficulties.-** If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

#### THE SCHEDULE (see section 2 (d))

- (1) The Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960)
- (2) The Kerala Casual, Temporary, Badli Workers (Wages) Act, 1989 (1 of 1990)
- (3) The Kerala Payment of Subsistence Allowance Act, 1973 (27 of 1973).
- (4) The Kerala Industrial Establishments (National and Festival Holidays) Act, 1958 (47 of 1958)
- (5) The Kerala Industrial Employees Payment of Gratuity Act, 1970 (6 of 1970).
- (6) The Kerala Head load Workers Act, 1978. (20 of 1980).

## **STATEMENT OF OBJECTS AND REASONS**

Rules and Regulations framed under various State Labour Laws provide for maintenance of registers in the prescribed form and periodical submission of returns in the prescribed form. There have been persistent demands from all business and industrial establishments for simplification and reduction in the number of forms and registers required to be maintained or submitted by small establishments. In order to promote and facilitate the growth of small industries and business in the state and in pursuance thereof to reduce their administrative work it is proposed to simplify the form of returns to be furnished and the registers to be maintained under certain existing labour laws in relation to certain industrial and commercial establishment employing up to fifty employees without in any way effecting the social security measures such as recovery of contribution from employers and employees, their accountability, reimbursement etc

- 2 The Bill seeks to achieve the above objects.

## **FINANCIAL MEMORANDUM**

The Bill, if enacted, and brought into operation would not involve any additional expenditure from the Consolidated Fund of the state.

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. Clause 8 of the Bill seeks to empower the Government to add to or delete any entry in the schedule
2. Clause 8 of the Bill seeks to empower the Government to make rules to carry out the purpose of the Act. Such rules may provide for the form of Core Return to be furnished and form of registers to be maintained by the employers,
3. Clause 9 of the Bill seeks to empower the Government to issue orders, for removing difficulties in giving effect to the provision of the Act,
- 4 The matter to be prescribed or the orders or notifications to be issued are matters of procedure and details and are of routine and administrative in nature. Further the rules are subject to the scrutiny by the Legislative Assembly after issue. The delegation of legislative power is, therefore, of a normal character.

## THE KERALA LAND USE BILL, 2002

### Back ground Note

The integrated use and management of land, water and vegetation are essential for human life. During three to four decades after Independence, the fast growing population and the chronic scarcity of food led to extension of area under cultivation including denudation of forests bringing more areas under irrigation either through surface or ground water, application of chemical fertilizers and pesticides and insecticides on a large scale and introduction of new varieties which demanded more of them. While all this helped to get over the problem of food scarcity through increased production and the country became surplus in food, questions arose about the sustainability of development due to several negative features that started surfacing. Degradation of land was the most important of them. The situation has arisen in which land, water and vegetation are scarce.

In response to the acute food scarcity, a Land Utilization Order was promulgated in 1958 and later amended with enlarged powers in 1967, under the Essential Commodities Act, 1955. That order sought to protect areas under food crops especially paddy, through stringent measures of prohibition of alternate agricultural use or non-agricultural use. It even provided that laws left fallow could be taken over for cultivation by Government. It is widely acknowledged that this order has been observed more in breach and that the permission for conversion, where sought and granted, has been largely without any established and transparent criteria of land use.

As early as in the middle of 1970's, the need to reverse land degradation and soil loss through appropriate land use was stressed at the highest level in the Government of India and States were advised to promulgate land use policy and establish Land Use Boards. While a Land Use Board was formed in 1975 in Kerala and later reconstituted in 1984, there has been no enunciation of a Land Use Policy and the Board has been functioning in a minimal way doing surveys and preparing plans with little or no influence on the actual land use in the State.

All along, exercises to make the Land Use Board a statutory body with powers to lay down land use and enforce them have been going on. All the exercises have remained in the draft stage for a variety of reasons. Apart from the lack of a sense of urgency in the matter at decision-making levels, the 'drafts' sought to either widen the scope of the Board or Authority beyond land use *per se* or establish a bureaucracy parallel to the ones already existing. Most of the drafts could not go through even preliminary examination.

Meanwhile, on the one hand the problems have become acute and on the other the Land Utilisation Order has been increasingly breached. With the introduction of decentralization under the constitutional mandate, 'deciding on optimal land use' has become one of the functions of village panchayats and municipalities. It has been held by the High Court of Kerala (Manjapra Grama Panchayat Vs Deputy Director of Panchayats, Ernakulam & Others - 1995 (1) KLT 419) that the Kerala Land Utilisation order cannot

over ride this power specifically entrusted to the local governments. The latter on their part do not also have technical data or objective criteria to determine 'optimal land use'.

Modern methods of remote sensing, satellite imaging and soil testing are capable of indicating the exact nature of lands in an area to the micro-level. These have to be harnessed for deciding on land use in the State in the coming years in the interests of sustainable development, higher productivity, diversity of plants, and higher incomes to farmers while making land available for needed non-agricultural and industrial uses hassle-free, subject to transparent criteria.

Land traditionally used for the cultivation of food crops shows a decreasing trend overtime resulting in widening the gap between the requirement and internal production of food crops. Economic sustainability being the major issue, there is a dire need for the insulation of production technologies with cost effectiveness in combination with integrated farming in paddy fields. The expert committee on paddy cultivation had recommended concerted efforts for promoting paddy cultivation on a priority basis in high potential areas. Based on a composite score, 85 per cent of the total wetland as well as gross paddy area and rice production are the contribution of the 35 blocks with a score of 30 or more. The committee recommended to take these 35 blocks as the first priority area followed by the next group of 50 blocks with a score ranging from 10 to 30 or more. The committee also recommended a viable rice based integrated farming system combining paddy and fish culture in a cyclical manner or in combination in selected areas of Kuttanad, Pokkali lands and Kole lands for augmenting income. The conditions under which conversions of the highly potential paddy fields for irreversible land use may be permitted have to be clearly specified. At the same time, blanket restrictions on all areas including low potential area have no longer any relevance.

The Kerala Land Use Bill is proposed against this background for the creation of an apex professional and technical body, which will work through existing agencies and the local governments, by setting standards and issuing guidelines which will be binding on the former and advising Government on land use policies. An important lesson of the attempts of the last 25 years is that one has to work with the full participation and involvement of local communities in whatever is sought to be done.

Regarding water, a new Kerala Water Law is in final stages of approval in the Secretariat and provides for participatory management and local involvement.

Regarding vegetation, a new law on the promotion of tree growth in non-forest areas is being proposed by the Committee.

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## REPORT OF THE EXPERT COMMITTEE ON PADDY CULTIVATION. 1999

Government of Kerala on the G. O. Rt No 1490/AD dated September 5, 1997 and G.O.Rt No. 1566/AD dated September 18, 1997, appointed an expert committee on paddy cultivation with the following members.

1. Dr. K.N. Syamasundaran Nair, Member, State Planning Board, Chairman
2. Dr R. Gopalakrishnan, Director of Research (Rtd), Kerala Agricultural University
3. Dr. R.V. G. Menon, Director, IRTC
4. Dr K.P. Kannan, Fellow, CDS.
5. Dr. K G Padmakumar, Associate Professor, Kerala Agricultural University.

### RECOMMENDATIONS

The Committee recommends that the aim should be to reduce the gap between internal production and the requirements of the population to 50 per cent from the current level of more than 75% within a period of ten years. The broad strategy to achieve this objective should be to increase the total productivity and the cropping intensity on paddy lands. Productivity per hectare of land should be increased from the present State average of 2000 to 3500 kg of rice. Cropping intensity defined as the ratio of gross cropped area to net area, should be increased from the current level of 1.5 to 2.0. If a net sown area of 3.00 lakh hectares (which is less than the original wet land area of 5.74 lakh hectares as per the Basic Tax Register and 3.33 lakh ha utilised for paddy cultivation during 1992-93) can be retained for rice cultivation with the cropping intensity of 2.0, it will have the potential for a gross cropped area of 6 lakh hectares. With a yield rate of around 3500 kg of rice (5250 kg of paddy) per hectare, this will ensure a total production of 21 lakh tonnes of rice.

**This calls for an approach based on identifying areas with high potential for paddy cultivation on a priority basis. (p. 115, recommendation, 2,3,4). Accordingly blocks were ranked on the basis of their paddy production potential.**

In this study 151 blocks alone was included as Malampuzha block was created later. The extent of wet land alone will not be sufficient to classify the blocks according to production potential. A composite score for each block was derived by considering the (i) the proportion of wetland to the total area (ii) the proportion of wet land area to that of the state (iii) and the intensity of paddy cultivation in wet land (5.3, P. 56). Since all these values are ratios expressed as percentage the simple average of the first two and inverse of the third is taken as the total score.

In the case of 85 blocks, total score is over 10 and these blocks together account for nearly 85% of the total wet land area as well as gross paddy area and rice production



are the contribution of the 35 blocks with a score of 30 or more. These 35 blocks should therefore be taken up as the first priority area followed by the next group of 50 blocks with a score ranging from 10 and 30 covering nearly 40% of the area as well as production (5.3.2)

## CONVERSION

In view of the importance of the other items in the food baskets, and also the agronomical advantage of crop rotation, the cultivation of alternative food crops which are seasonal (eg. vegetables) or annual (eg. banana, tapioca, pineapple) or a combination/rotation of paddy and fish or for a rice based system of cultivation may be permitted on a reversible basis. However such reversible conversion should not exceed a continuous period of three years. This means that paddy should be cultivated at least once in four years on such lands. The existing Kerala Land Utilisation Order should be replaced with an appropriate legislation. ( recommendation 8,9,p. 116).

The conditions under which conversion of the paddy fields for irrectievable land use may be permitted, have to be clearly spelt out and the procedures prescribed. Such conversions should be permitted under conditions of adequate safeguards that environment is protected and that paddy cultivation in the adjoining areas is not endangered (10 3.2, p. 106)

Irreversible conversion of paddy land should be strictly under the supervision of the Grama panchayat and the issues should be decided only after thorough discussion at the panchayat meetings. The Land Utilisation Order (1967) needs suitable modification for this purpose (10.4)

TABLE. D1 CATEGORISATION OF BLOCKS IN KERALA BY PADDY POTENTIAL

Sl. No	BLOCK	Area (in ha)		Intens- ity (%)	Paddy during (1999-02)			Cumulative %		Cumulative %		Total Score
		Total (T)	Wet (W)		A (Ha)	P (T)	Y (Kg)	Total (T)	Wet (W)	Area	Prod'n	
1	2	3	4	5	6	7	8	9	10	11	12	13
1	Kanjirappally	26092	0	0	8	19	2375	0.99	0.00	0.00	0.00	0.00
2	Kodungalloor	3601	0	0	39	27	692	1.13	0.00	0.01	0.00	0.00
3	Matnilakom	7181	0	0	296	285	953	1.40	0.00	0.05	0.03	0.00
4	Thalikkulam	6568	0	0	58	45	776	1.65	0.00	0.07	0.04	0.00
5	Azhitha	41623	18	100	2	3	1500	3.24	0.00	0.07	0.04	0.06
6	Eeraattupetta	26827	37	200	18	36	2000	4.26	0.01	0.08	0.04	0.15
7	Ilukko	48421	96	159	369	823	2230	6.10	0.04	0.14	0.12	0.23
8	Raanni	14724	67	146	128	215	1680	6.66	0.06	0.17	0.14	0.48
9	Vazzhooor	14224	75	177	64	85	1484	7.21	0.08	0.18	0.15	0.55
10	Devikulam	46368	257	100	360	1124	3122	8.97	0.15	0.25	0.25	0.63
11	Thoonen	12418	141	183	483	432	894	9.44	0.19	0.33	0.29	1.18
12	Alumaall	41013	475	100	167	351	2102	11.01	0.31	0.36	0.33	1.30
13	Valakara	5096	72	189	329	366	1112	11.20	0.33	0.42	0.36	1.44
14	Attappalli	21061	316	100	283	619	2187	12.00	0.42	0.48	0.42	1.60
15	Anchaalummoodu	5362	87	189	288	504	1762	12.21	0.44	0.53	0.47	1.65
16	Kunnummel	15417	245	137	638	740	3160	12.79	0.51	0.65	0.54	1.66
17	Paambaali	11632	196	197	250	547	2188	13.23	0.56	0.69	0.59	1.74
18	Kanjangaatu	50880	1032	180	2466	4364	1770	15.17	0.84	1.14	1.00	2.31
19	Nedumkandam	19699	436	100	143	333	2235	15.92	0.96	1.17	1.03	2.34
20	Kattappana	19301	480	100	227	542	2388	16.66	1.08	1.21	1.09	2.63
21	Thodanoor	9677	250	124	410	421	1027	17.03	1.15	1.29	1.13	2.66
22	Kotuvally	33536	840	177	1859	2715	1460	18.30	1.38	1.63	1.38	2.74
23	Laalam	17346	477	180	945	1607	1798	18.98	1.61	1.80	1.54	2.88
24	Irittil	27717	601	178	2149	3186	1483	20.02	1.72	2.19	1.84	3.11
25	Peraavoer	21523	718	183	1217	1817	1493	20.84	1.92	2.41	2.02	3.53
26	Baalushery	21709	728	129	1676	1999	1193	21.66	2.11	2.72	2.21	3.56
27	Koanni	20751	760	199	1315	2894	2201	22.45	2.32	2.96	2.48	3.87
28	Chelanoor	13866	545	145	598	577	965	22.98	2.46	3.07	2.53	4.08
29	Perumkadavila	18897	757	193	1826	3341	1830	23.70	2.67	3.40	2.85	4.21
30	Kozhikkodu	7922	335	182	570	617	1082	24.00	2.76	3.51	2.91	4.32
31	Inkkoor	37321	1516	173	2766	4406	1593	25.42	3.16	4.01	3.33	4.48
32	Kaasarakodu	38743	1596	156	2771	5700	2057	26.90	3.59	4.52	3.87	4.56
33	Kannoor	4772	220	137	436	734	1683	27.08	3.65	4.60	3.94	4.68
34	Neeshwaram	40766	1759	163	3828	6048	1581	28.63	4.13	5.30	4.51	4.70
35	Kunnamangalam	27712	1286	159	2843	3338	1263	29.69	4.47	5.78	4.82	4.99
36	Veilnad	18848	920	194	1440	2620	1819	30.40	4.72	6.05	5.07	5.13
37	Koippuram	12367	632	123	695	1750	2518	30.88	4.89	6.17	5.24	5.29
38	Thiruvapuram (R)	4311	227	187	345	691	2003	31.04	4.95	6.24	5.30	5.33
39	Thodupuzha	13005	673	200	1286	2810	2185	31.53	5.13	6.47	5.57	5.36
40	Uzhavoer	22096	1125	193	2578	5170	2005	32.38	5.44	6.94	6.06	5.40
41	Vaamanapuram	22782	1166	200	2646	4778	1806	33.24	5.75	7.43	6.51	5.44
42	Mallappally	12624	691	138	744	1768	2376	33.72	5.94	7.50	6.68	5.67
43	Manjesharam	54466	2717	180	4186	7278	1738	35.80	6.67	8.33	7.37	5.72
44	Thalipparamu	53000	2765	142	4270	7326	1716	37.85	7.41	9.11	8.06	5.88
45	Payyanoor	47190	2691	189	5866	10210	1741	39.65	8.14	10.18	9.03	6.43
46	Areekode	27374	1675	199	2536	4250	1676	40.69	8.59	10.64	9.43	6.57
47	Thalashery	9903	647	157	990	1356	1370	41.07	8.76	10.63	9.56	6.71
48	Kondoli	21268	1358	192	3735	5226	1399	41.88	9.13	11.51	10.05	6.76
49	Kochihuparambu	13442	884	100	1197	1506	1257	42.39	9.36	11.73	10.19	6.82
50	Elakkatu	14243	961	187	1398	2162	1546	42.93	9.62	11.99	10.40	7.01
51	Perambra	18011	1364	126	1696	2327	1370	43.65	9.99	12.29	10.62	7.55

52	Elamdesham	18722	1357	200	2024	4408	2178	44.37	10.36	12.66	11.04	7.62
53	Anchal	21307	1577	200	3423	6999	2045	45.18	10.78	13.29	11.70	7.83
54	Kazhakkootom	13338	1031	196	2115	3698	1748	45.69	11.06	13.03	12.05	8.01
55	Kanjikkuzhi	11013	859	188	1458	835	573	46.11	11.29	13.94	12.13	8.13
56	Athiyannor	7373	591	169	782	1305	1669	46.39	11.45	14.09	12.25	8.18
57	Melattil	6066	489	115	997	1121	1124	46.62	11.58	14.27	12.36	8.20
58	Nedumangad	12360	994	198	868	1634	1882	47.09	11.85	14.43	12.51	8.32
59	Panthalaayan	9111	741	150	352	296	841	47.43	12.05	14.49	12.54	8.34
60	Varkkala	8667	724	182	1722	2640	1533	47.76	12.24	14.81	12.79	8.55
61	Chalaya mangalam	24903	2003	200	3774	7771	2059	48.71	12.78	15.50	13.53	8.59
62	Chittumala	7701	671	184	898	1385	1542	49.01	12.96	15.66	13.66	8.90
63	Chaavakkatu	8604	758	143	863	1488	1724	49.33	13.17	15.82	13.80	9.02
64	Nemom	13459	1202	178	994	1698	1708	49.85	13.49	16.00	13.96	9.26
65	Elantoor	10622	978	185	1476	3122	2115	50.25	13.75	16.27	14.25	9.48
66	Iththikkara	13480	1275	197	2623	5229	1994	50.76	14.10	16.75	14.75	9.81
67	Chirayinkeezhu	8464	840	200	1428	2695	1887	51.09	14.32	17.01	15.00	10.16
68	Wandoor	25021	2386	199	6016	9675	1608	52.04	14.97	18.11	15.92	10.18
69	Kilimaanoor	17345	1689	200	3780	6975	1845	52.70	15.42	18.80	16.58	10.20
70	Vengara	12372	1251	163	2276	3434	1509	53.17	15.76	19.22	16.91	10.45
71	Muthukuliam	9077	929	200	2340	3255	1391	53.51	16.01	19.65	17.21	10.49
72	Kerunagappally	8992	1009	161	1434	1641	1144	53.86	16.28	19.81	17.37	11.50
73	Shasthamkotta	11841	1323	200	3669	5569	1518	54.31	16.64	20.58	17.90	11.53
74	Mankata	23971	2624	184	5204	8868	1704	55.22	17.34	21.53	18.74	11.66
75	Parakkode	19009	2167	197	3210	6033	1879	55.94	17.92	22.12	19.31	11.99
76	Penthalmanna	23179	2770	149	5090	7970	1566	56.83	18.67	23.05	20.05	12.70
77	Kottarakara	13310	1663	199	3078	6046	1954	57.33	19.12	23.61	20.63	12.95
78	Mulamihuruthi	11838	1504	186	2870	4776	1664	57.78	19.52	24.13	21.09	13.12
79	Vetlikevala	16947	2127	200	3761	7590	2018	58.43	20.10	24.82	21.80	13.13
80	Moovaattupuzha	20291	2567	175	3778	7718	2043	59.20	20.79	25.51	22.54	13.35
81	Kothamangalam	24859	3126	192	5123	9109	1778	60.15	21.63	26.45	23.40	13.42
82	Vellangalloor	10508	1371	166	3753	5293	1410	60.56	22.00	27.14	23.90	13.42
83	Mukhathala	8011	1077	195	1658	2347	1416	60.85	22.29	27.44	24.12	13.74
84	Kulianala	6085	845	127	1515	3847	2539	61.09	22.51	27.72	24.48	14.12
85	Paarashala	8221	1143	194	1735	2779	1602	61.40	22.82	28.03	24.75	14.22
86	Chavara	7490	1063	176	791	1117	1412	61.68	23.11	28.18	24.85	14.48
87	Thaanor	11678	1640	173	2450	2712	1107	62.13	23.56	28.63	25.11	14.49
88	Pathanapuram	17163	2391	200	2691	5832	2167	62.78	24.19	29.12	25.66	14.58
89	Thykrattushery	8538	1251	166	750	591	768	63.11	24.53	29.25	25.72	14.83
90	Kuttippuram	16243	2342	182	3567	5390	1511	63.73	25.16	29.91	26.23	15.05
91	Vaippin	8735	1297	100	1192	1866	1565	64.05	25.51	30.13	26.41	15.21
92	Matappuram	17430	2746	155	2553	4210	1649	64.72	26.25	30.59	26.80	15.50
93	Thirurengaali	14210	2282	128	2606	4180	1804	65.27	26.86	31.07	27.20	15.69
94	Pampakuda	16106	2619	164	4612	9221	1999	65.88	27.57	31.91	28.07	15.97
95	Katuththuruthi	18775	3043	188	5121	10289	2009	66.59	28.39	32.65	29.05	17.09
96	Varttila	3314	567	100	116	150	1293	66.72	28.54	32.87	29.06	17.27
97	Shreekrishnapuram	21941	3629	196	8168	12468	1526	67.56	29.52	34.36	30.24	17.52
98	Sulthiham Bathiham	50345	7868	100	9992	17657	1767	69.47	31.63	35.19	31.91	17.76
99	Paravoor	6763	1185	149	728	1031	1416	69.73	31.95	35.32	32.01	17.85
100	Oachira	4710	846	156	1603	1845	1147	69.91	32.18	35.62	32.19	18.20
101	Maananthavaati	46306	7858	100	10067	16878	1673	71.67	34.30	38.46	33.76	19.10
102	Kalpetta	33714	6044	100	5863	8020	1369	72.95	35.92	39.53	34.54	19.56
103	Thiriththala	17216	3253	192	6629	9198	1388	73.51	36.80	40.74	35.41	19.78
104	Pattannakkaadu	10775	2072	126	1010	1094	1083	74.02	37.26	40.93	35.50	19.80
105	Vaikkom	12282	2354	195	3057	6146	2010	74.43	37.99	41.49	36.10	19.81
106	Mannaarkkatu	25927	4849	186	9664	15151	1568	75.43	39.30	43.26	37.53	20.01

107	Paalakkatu	46156	8360	195	18331	40914	2232	77 23	41.55	45 61	41 40	20 37
108	Nilamboor	114485	2896	195	4392	7496	1707	77 73	42 23	47 41	42 11	20 78
109	Bharanikkeavu	12594	2612	174	3401	5002	1471	78 28	43 03	43 03	42 59	20 01
110	Thiroor	10269	2190	185	3700	5340	1443	78 67	43 62	48 71	43 09	21 92
111	Pattambi	22421	4850	180	8825	14476	1640	79 52	44 92	50 32	44 46	22 94
112	Aridalithotu	9059	2084	121	2258	4265	1889	79 87	45 48	50 73	44 87	23 57
113	Vatakkancherry	25233	5576	184	10000	15491	1549	80 83	46 98	52 56	45 33	23 60
114	Oilookkara	15254	3516	180	5378	9111	1694	81 41	47 93	53 55	47 20	24 00
115	Changannoor	12810	3295	148	3691	8288	2245	81 50	48 82	54 22	47 98	26 62
116	Aalaththoor	39669	9812	193	20752	54880	2645	83 41	51 46	58 02	53 18	27 38
117	Kotakara	9963	2984	162	4178	6388	1529	83 79	52 26	58 78	53 78	30 68
118	Chaalakkuli	13735	4208	159	4110	6657	1620	84 31	53 40	59 53	54 41	31 77
119	Madappally	14504	4491	121	3428	9088	2651	84 86	54 60	60 16	55 27	32 18
120	Palluruthi	3337	1065	100	414	549	1326	84 99	54 89	60 23	55 32	32 21
121	Ortappaalam	16507	5175	177	9286	16801	1809	85 62	56 28	61 93	56 91	32 75
122	Mullashery	6364	2055	125	2103	3473	1651	85 86	56 84	62 32	57 24	32 85
123	Aryaad	6046	1979	127	731	707	967	86 09	57 37	62 45	57 31	33 27
124	Pazhayannoor	14333	4790	194	8512	17118	2011	86 64	58 66	64 01	58 93	34 71
125	Koovappali	31145	9991	153	7914	13233	1672	87 82	61 25	65 45	60 18	34 78
126	Chowannoor	12213	4138	172	6744	11355	1684	88 29	62 46	66 69	61 26	35 00
127	Puzhakkal	14596	4965	129	6734	12428	1846	88 84	63 80	67 92	62 43	35 36
128	Innjalakkuta	9549	3294	122	2684	4947	1843	89 21	64 69	68 41	62 90	35 39
129	Maala	12671	4430	153	6573	10429	1587	89 69	65 88	69 61	63 89	36 16
130	Pailam	21669	7417	104	5868	16770	2859	90 51	67 87	70 68	65 48	36 25
131	Pandalam	2723	983	148	2319	4090	1764	90 62	69 14	71 11	65 85	36 37
132	Vatavukotu	18596	6540	149	8196	13101	1598	91 33	69 90	72 60	67 10	36 94
133	Kozhalmannom	33545	11850	196	19535	50369	2578	92 60	73 09	76 18	71 87	38 52
134	Itappali	5097	1942	129	2370	2966	1264	92 80	73 61	76 61	72 16	38 63
135	Ponnaani	9949	4033	179	4566	7296	1598	93 18	74 70	77 44	72 85	41 63
136	Ambalappuzha	6863	2809	161	2960	6327	2145	93 44	75 45	77 98	73 44	41 69
137	Nenmaara	15804	6340	199	5098	14719	2887	94 04	77 16	78 92	74 84	41 83
138	Angamaali	18586	7404	155	7156	12210	1706	94 75	79 15	80 22	75 99	41 84
139	Cherppu	8711	3592	114	4520	9288	2055	95 08	80 12	81 05	76 87	42 21
140	Mavelikkara	8779	3795	155	3921	7652	1952	95 41	81 14	81 77	77 60	44 26
141	Hanppaadu	11204	4911	137	4661	8910	1912	95 84	82 46	82 62	78 44	45 16
142	Pulikkeezhu	6866	3082	101	2626	8790	3347	96 10	83 29	83 10	79 27	45 73
143	Elumjaanoor	14172	6593	101	4968	11752	2066	96 64	85 07	84 01	80 39	48 31
144	Anthikkotu	7428	3545	103	3217	6511	2055	96 92	86 02	84 60	81 01	48 69
145	Aalangaatu	6520	3171	157	3565	5732	1608	97 17	86 88	85 25	81 55	49 49
146	Vaazhakkulam	13164	6399	146	8272	13238	1600	97 67	88 80	86 76	82 81	50 34
147	Paarakkalavu	10162	5033	152	6732	11265	1673	98 06	89 95	87 99	83 87	50 89
148	Chittoor	14218	6591	196	9612	26512	2758	98 60	91 83	89 75	86 28	51 06
149	Chambakkulam	15165	11336	169	18896	48118	2546	99 18	94 89	93 20	90 94	77 81
150	Kollankotu	9890	8652	200	24321	61782	2540	99 55	97 21	97 65	95 79	89 82
151	Velivanaadu	11724	10348	121	12850	33950	2642	100 00	100 00	100 00	100 00	91 03
	KERALA	2626603	371506	161	546937	1056393	1931					
Note 1 Total area excludes forest area within the boundary												
2 Malampuzha block not included as it was formed after 1991												
	A(Ha)	Area (in hectares)	P(T)	Production (in tons)	Y	Yield (in kg)						

- Note - 85 Blocks above 10 Points  
- 46 Blocks above 20 Points  
- 35 Blocks above 30 Points  
- 17 Blocks above 40 Points  
- 66 Blocks below 10 Points

75|00

76|00

77|00

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# Map 2

## KERALAM Rice Agro-ecosystem Zones



Kasarg

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Ma

Thrissur

Ern

Alappuzha Distric

Thiruvanantha

-  KUTTANAD ZONE
-  ONATTUKARA ZONE
-  POKKALI ZONE
-  LATERITE MIDLANDS
-  MALAYORAM ZONE
-  PALAKKATU PLAINS
-  BLACK SOIL ZONE
-  HIGH RANGES

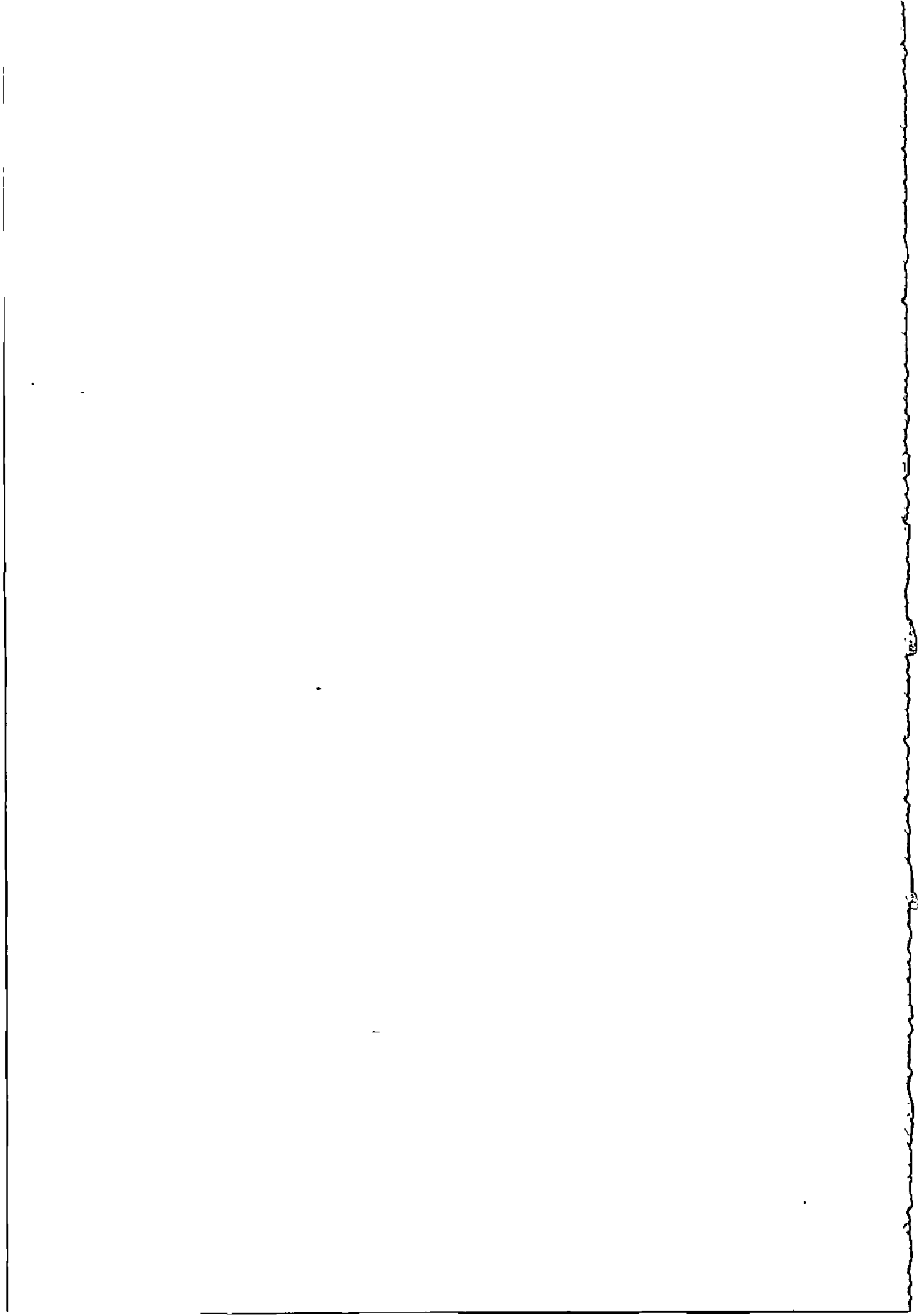


CARTOGRAPHED AND PRODUCED BY  
LAND RE SOURCES RESEARCH UNIT KERALA AGRICULTURAL UNIVERSITY, KAU P O -680 656 THRISSUR KERALA

75|00

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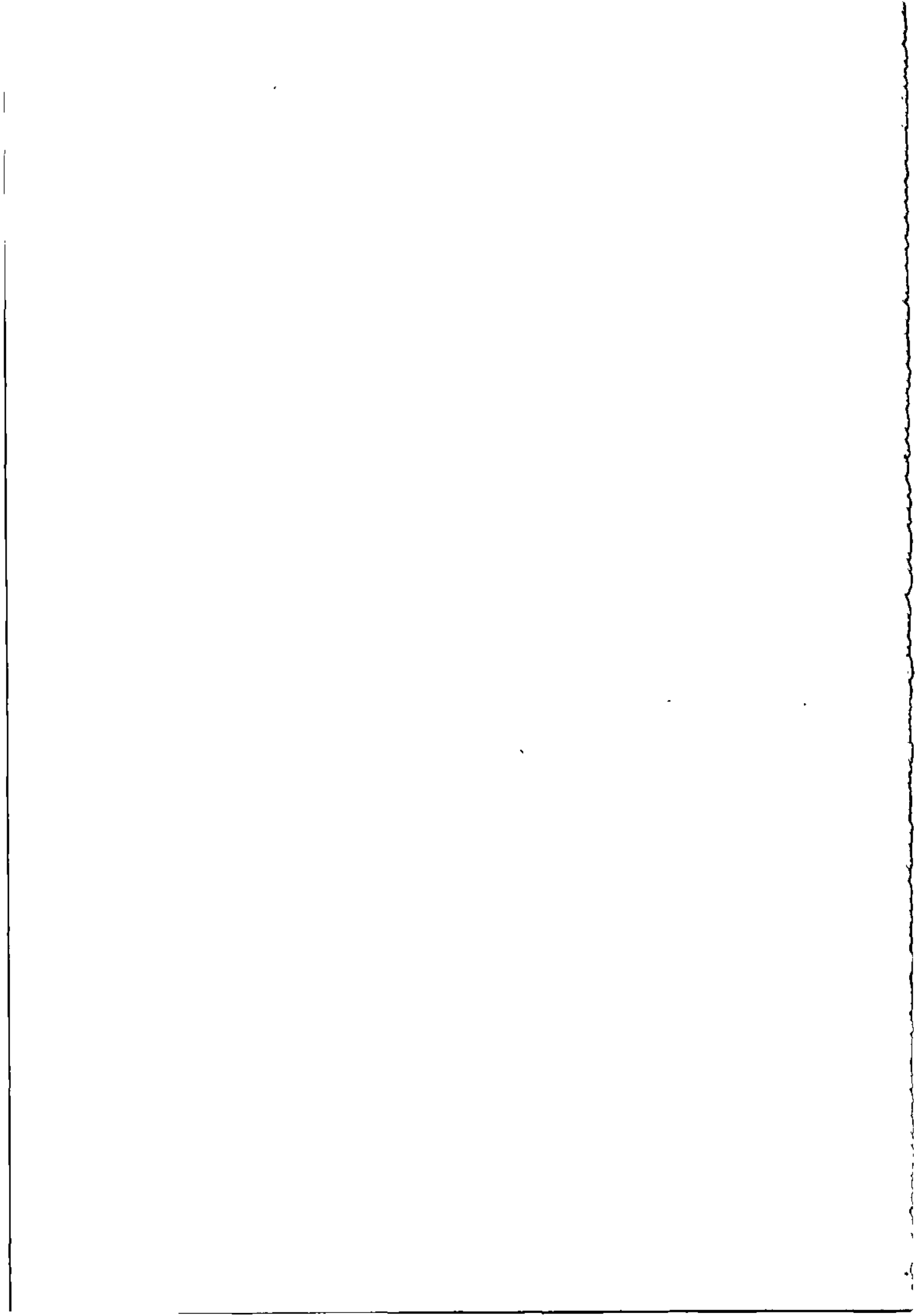


LIST OF COMMUNITY DEVELOPMENT BLOCKS IN KERALA

No.	BLOCK
1	Parassala
2	Perumkadavla
3	Attiyannur
4	Nemom
5	Tvm - Rural
6	Vellanad
7	Nedumangad
8	Kazhakuttam
9	Vamanapuram
10	Chirayinkil
11	Kilimanoor
12	Varakala
13	Chadayamangalam
14	Ittikara
15	Mukthathala
16	Anchalumood
17	Kottarakkara
18	Chittumala
19	Chavara
20	Anchal
21	Pathanapuram
22	Vetikavala
23	Sasthamkotta
24	Karunagappally
25	Ochira
26	Parakode
27	Panthalam
28	Konni
29	Elanthoor
30	Kulanada
31	Ranni
32	Koipuram
33	Mallapally
34	Pulikeezh
35	Bharanikkavu
36	Muthukulam
37	Chengannur
38	Mavelikkara
39	Harippad
40	Velthyanad
41	Champakulam
42	Ambalapuzha
43	Aryad
44	Kanjikuzhi
45	Pattanakad
46	Thycattussery
47	Azhutha
48	Kattappana
49	Nedumkandam
50	Idukki
51	Elamdesam

No.	BLOCK
52	Thodupuzha
53	Devikulam
54	Adimali
55	Madappally
56	Vazhoor
57	Kanjirapally
58	Pampadi
59	Pallam
60	Ettumanoor
61	Erattupetta
62	Lalam
63	Uzhavoor
64	Kaduthuruthy
65	Vaikom
66	Pallathuruthy
67	Vynila
68	Mulamthuruthy
69	Pampakuda
70	Muvattupuzha
71	Kothamangalam
72	Vadavukodu
73	Vazhakkulam
74	Edappally
75	Koovapady
76	Angamali
77	Parakkadavu
78	Alangad
79	Parur
80	Vypcen
81	Kodungaloor
82	Chalakkudi
83	Mala
84	Vellangallur
85	Kodakara
86	Irinjalakuda
87	Mathilakara
88	Cherpu
89	Anthikad
90	Thalikulam
91	Ollurkkara
92	Puzhakkal
93	Mullassery
94	Pazhayannur
95	Wadakkanchery
96	Chowannur
97	Chavakad
98	Nenmara
99	Alathur
100	Kollengod
101	Chittur
102	Malampuzha

No.	BLOCK
103	Kuzhalmannam
104	Palakkad
105	Ottappalam
106	Thrithala
107	Pattambi
108	Sreekrishnapuram
109	Manmarkad
110	Attapady
111	Andathode
112	Ponnam
113	Thiroor
114	Kuttippuram
115	Perinthalmanna
116	Mankada
117	Thanoor
118	Malappuram
119	Vengara
120	Thirurangadi
121	Vandoor
122	Areekkode
123	Kondottu
124	Nilamboor
125	Kozhikkode
126	Kunnamangalam
127	Koduvally
128	Chelannur
129	Pandalayani
130	Balussen
131	Perambra
132	Meladi
133	Thodannoor
134	Kunnummel
135	Vadakara
136	Tbuneri
137	Kalpetta
138	Sulthanbatheri
139	Mananthavady
140	Koothuparamba
141	Thalassery
142	Peravoor
143	Iritti
144	Edakkad
145	Kannur
146	Irikkur
147	Thaliparamba
148	Payyannur
149	Nileswaram
150	Kanhangad
151	Kasargod
152	Manjcswar





# Map 3

## KERALAM PRODUCTION POTENTIAL FOR PADDY BY DEVELOPMENT BLOCKS



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SCORE (1-100)

BELOW 10



ABOVE 10 UPTO 20



ABOVE 20 UPTO 30



ABOVE 30 UPTO 40



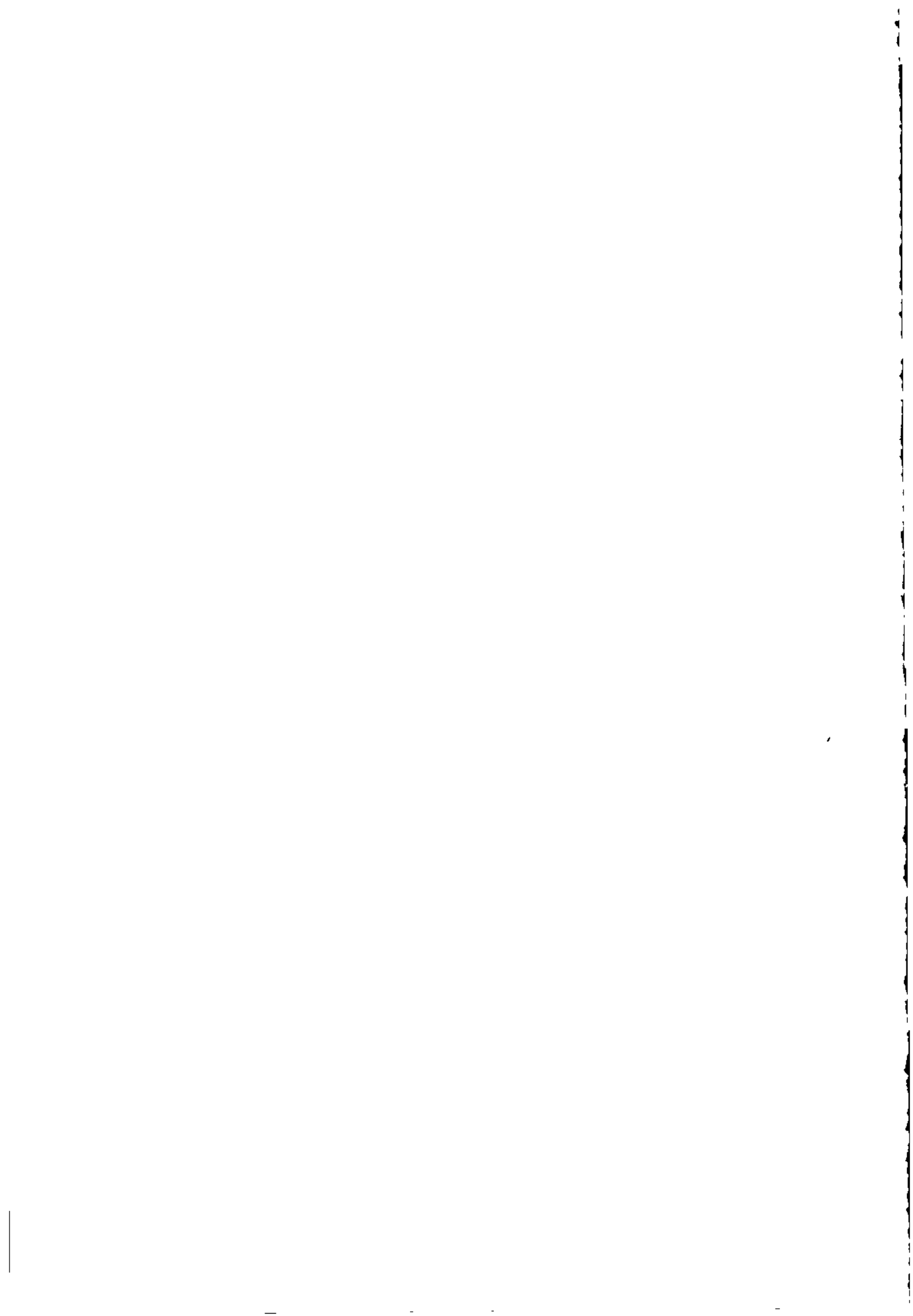
ABOVE 40 UPTO 50



ABOVE 50



FOREST AREA



DRAFT**THE KERALA LAND USE BILL, 2002****A  
BILL**

to make provision for the promotion of agriculture growth in the State and for the constitution of a State Land Use Commission for the purposes of advising the Government on land use policies and planning and for laying down the parameters and guidelines for land use planning both at the macro and micro level in the State and for matters connected therewith or incidental there to.

*Preamble.* - WHEREAS, it is expedient to make provision for the promotion of agriculture growth in the State and for the constitution of a State Land Use Commission for the purposes of advising the Government on land use policies and planning and for laying down the parameters and guidelines for land use planning both at the macro and micro level in the State and for matters connected therewith or incidental thereto;

BE it enacted in the Fifty-third Year of the Republic of India as follows:-

1. **Short title, extent and commencement.** - (1) This Act may be called the Kerala Land Use Act, 2002.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. **Definitions.** - (1) In this Act unless the context otherwise requires, -

(a) "agriculture" includes horticulture, farming, growing of crops, fruits, vegetables, flowers, grass, fodder and trees or any kind of cultivation of soil, breeding and keeping of livestock including cattle, mules, pigs, fish, poultry and bees and use of land which is ancillary to the farming of land or any other agricultural purposes, but shall not include the use of any land attached to a building for the purposes of a garden to be used along with such building and "agricultural" shall be construed accordingly;

(b) "agricultural year" means the year commencing with the 1<sup>st</sup> April in any year and ending with 31<sup>st</sup> March of the year next succeeding, except in the case of kole nilams in which case it shall be the year commencing with 15<sup>th</sup> June in any year and ending with 14<sup>th</sup> June of the year next succeeding:

Provided that the collector may, with respect to any crop, area or category of land within his district, by notification in the Gazette, specify the year between such other dates as he may deem fit as an agricultural year;

(c) "command area" means the command area as defined in the Kerala Command Area Development Authority Act, 1986 (37 of 1986);

- (d) "Command area development authority" means command area development authority constituted under section 3 of the Kerala Command Area Development Authority Act, 1986 (37 of 1986);
- (e) "Commission" means the Kerala State Land Use Commission constituted under section 3 of this Act;
- (f) "Collector" means Collector of the District;
- (g) "double-croponilam" means nilam on which more than one crop of paddy is ordinarily raised in an agricultural year;
- (h) "District planning committee" means the committee for district planning constituted for a district under Article 243 XD of the Constitution of India;
- (i) "Government" means Government of Kerala;
- (j) "grama panchayat" means grama panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994);
- (k) "grama sabha" means the grama sabha constituted at village level as per the provisions of the Kerala Panchayat Raj Act, 1994 (13 of 1994)
- (l) "guide lines" means guidelines prepared by the Commission under section 12 of the Act;
- (m) "Inter Expert Committee" means inter expert committee constituted under section 6 of the Act;
- (n) "Local Self Government Institution" means a grama panchayat or a municipality;
- (o) "municipality" means a municipality, corporation or a municipal council or a town panchayat constituted under the Kerala Municipality Act, 1994 (20 of 1994).
- (p) "ward committee" means the ward committees constituted in each ward of a Municipality under the Kerala Municipality Act, 1994 (20 of 1994);
- (q) "Ward Sabha" means the ward sabha constituted at ward level as per the Kerala Municipality Act, 1994 (20 of 1994).

(2) Words and expressions used but not defined in this Act but defined in the Kerala Land Reforms Act, 1963 (1 of 1964) shall have the same meaning as assigned to them in that Act.

**3. Constitution of Land Use Commission.** - (1) As soon as may be after the commencement of this Act, the Government may, by notification in the Gazette, constitute a Commission called the Kerala Land Use Commission (hereinafter called the Commission).

(2) The Commission shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The head quarters of the Commission shall be at Thiruvananthapuram.

**4. Composition of the Commission.** - The Commission shall consist of a Chairman who shall be an eminent person having knowledge in the field of land use appointed by the Government and of the following other members, that is to say,-

- (a) Agricultural Production Commissioner to the Government of Kerala – ex-officio, who shall be the Vice-Chairman of the Commission;
- (b) Five eminent experts in the fields of remote sensing, earth sciences, land use and soil science, agriculture and water resources nominated by the Government;
- (c) Five public men with experience in the field of agriculture including progressive farmers nominated by the Government, of whom two shall represent persons experienced in Local Self Government Institutions.
- (d) The Land Use Commissioner of the Government who shall be the Member Secretary of the Commission.

**5. Functions and powers of the Commission.** - (1) Subject to the provisions of this Act and the rules made thereunder, the functions of the Commission shall be to advise the Government in matters relating to policy formulations of land use and frame guide lines for the preparation of land use map and plan both at district and at the level of grama panchayat or municipality and to assist the District Planning Committee and Local Self Government Institutions in preparing and implementing land use plan

(2) In particular and without generality of the forgoing functions the Commission shall have the following powers, namely -

- (i) to prepare and update data on land use in the State and monitor the same from time to time for development purposes;
- (ii) to play a major role as disseminating and awareness creating agency on the management and sustainable development of land resources;
- (iii) to provide a forum for sharing information and experience on land use;
- (iv) to lay down the parameters and guidelines for land use at state, district level and at the level of village panchayat or municipality,
- (v) to co-ordinate and provide direction to bring about the scientific and integrated approach to the use of land resources,
- (vi) to advise Government on land use policies and on institutional co-ordination and changes that are necessary for healthy and scientific management of land resources,
- (vii) to co-ordinate the activities of different departments of the Government involved in the preparation and implementation of the land use programme of the Commission.
- (viii) carrying soil survey and prepare geographical information system,
- (ix) perform any other function, as may be directed by the Government from time to time;

**6. Constitution of Inter Expert Committee.** - (1) The Government shall, by notification in the Gazette, for the purposes of assisting the functions of the Commission under this Act or rules made thereunder constitute an Inter Expert Committee consisting of not more than fifteen members from heads of concerned departments of Government,

representatives of Science and Technology Institutions, Universities and Local Self Government Institutions in the State

(2) The Agricultural Production Commissioner shall be the Chairman of the Inter-Expert Committee

**7. Functions of the Inter-Expert Committee** - (1) Subject to the provisions of this Act and the rules made thereunder, the Inter Expert Committee shall assist the Commission in the discharge of its functions under this Act

(2) The Committee shall exercise such powers and perform such functions as may be directed by the Commission, from time to time

(3) The Committee shall meet at such intervals as may be decided by its Chairman and observe such rules of procedure in regard to the transaction of business at its meeting as may be provided by regulations

**8 Disqualification for the membership of the Commission and Committee** - No person shall be qualified for being nominated as, and for being, a member of the Commission or in the Inter-Expert Committee, if he,-

(a) had been convicted and sentenced to imprisonment of an offence which, in the opinion of the Government involves moral turpitude, or

(b) is of unsound mind and is so declared by a competent court, or

(c) is an undischarged insolvent, or

(d) has been removed or dismissed from the service of the Central Government or the State Government or from the membership of the Commission, or

(e) has directly or indirectly, by himself or by his partner any share or interest in any work done by the order of the Commission or in any contract or employment with or under or by or on behalf of the Commission

(f) is employed as a legal practitioner on behalf of the Commission or accepts employment as legal practitioner against the Commission.

**9 Term of Office** - (1) The Chairman and other nominated members of the Commission shall hold office during the pleasure of the Government

Provided that the Chairman and nominated members shall hold office for a term of five years from the date on which they enter upon their office

(2) The term of nominated members of the Inter Expert Committee shall be co-extensive with the Commission

(3) The Chairman and members of the Commission and members of Inter Expert Committee shall be entitled to such allowances as may be prescribed

**10 Casual Vacancies.**- Any casual vacancy caused by the resignation of a nominated member of the Commission or the Inter Expert Committee or by any other reason may be filled by the Government or as the case may be, by the Commission by nomination, and such person shall hold the office of the remaining period for which the member in whose place he is nominated would have held office.

**11. Meeting of the Commission.** - (1) The Commission shall meet at least once in three months generally in its office or at such other place as decided by the Chairman

and observe such rules of procedure in regard to the transaction of business at its meeting as may be provided by regulations.

(2) The Chairman or in his absence the vice-chairman and in the absence of both any member chosen by the members present from among themselves shall preside at the meeting of the Commission.

(3) All questions at a meeting of the Commission shall be decided by the majority of votes of the members present and in the event of equality of votes, the Chairman shall have a casting vote.

(4) Quorum for a meeting of the Commission shall be six.

**12 Preparation of guidelines by the Commission.-** (1) The Commission shall within two years from the date of its constitution prepare detailed guide lines to be followed by the Local Self Government Institutions for the preparation of their land use map and plan.

(2) The guidelines may contain the procedure to be followed by the Local Self Government Institution -

- (a) for the preparation of land use map and plan for their respective area;
- (b) for the preservation of double crop nilams in the area;
- (c) for the conversion of agricultural lands for non-agricultural purposes;
- (d) for the use of agricultural lands for tourism related activities;
- (e) for the co-ordination of the activities of command area development authority and any other development authority if any prevailing in the area;
- (f) such other matters as may be laid down in the regulations ;

**13 The functions of Local Self Government Institutions.-** Subject to the provisions of this Act and the rules and regulations made thereunder, the Local Self Government Institutions shall have the following functions, namely: -

- (a) prepare a framework for land use planning within their area of jurisdiction based on guidelines issued by the Commission.
- (b) conduct participatory social audit of land use plan implementation in accordance with the social audit policy of Government.
- (c) to refuse licences and permits under the provisions of the Kerala Panchayat Raj Act, 1994 (13 of 1994) or as the case may be, the Kerala Municipality Act, 1994 (20 of 1994) to those who have violated the conditions in the land use plan of the Local Self Government Institutions.
- (d) to grant exemption for conversion of land in accordance with the land use plan and approved guidelines.
- (e) to exercise such other functions as may be prescribed by rules or regulations.

**14. The procedure to be followed by the Local Self Government Institutions for the preparation of Land use map and plan. -** (1) The Local Self Government Institution shall, within six months after the publication of the guide lines by the Commission or within such further time as the Commission may extend from time to

time but not later than one year after the publication of the guide lines, prepare an existing land use map and plan for the area within their jurisdiction in accordance with the guide lines indicating the present use of every piece of land in the area.

(2) The Local Self Government Institutions may constitute functional committee for each ward consisting of the ward member of the Local Self Government Institutions and such number of experts and stake holders for the purpose of preparing and implementing land use plan.

(3) The land use map and plan prepared by the functional committees may be placed before the concerned grama sabha, ward sabha or the ward committee, as the case may be, for obtaining their suggestions on detailed land use planning. The Land use map and plan together with the suggestions of the grama sabha, ward sabha or ward committee may be forwarded to the concerned Secretary, Local Self Government Institution.

(4) The Secretary to the Local Self Government Institution shall consolidate all plans received under sub-section (3) and got vetted through authorized experts recognized by the Land Use Commissioner and place before the meeting of the Local Self Government Institution for their approval.

(5) The Land use map and the plan as approved by the Local Self Government Institution may be forwarded to the District Planning Committee.

(6) The District Planning Committee shall approve the land use map and plan of each Local Self Government Institution and consolidate all the land use map and plan received from the Local Self Government Institutions in the district and frame a land use map and plan for the entire district also.

(7) In preparing the land use map and plan for the entire district, the District Planning Committee shall be guided by such parameters and guide lines as may be laid down by the Commission

(8) The land use map and plan approved or prepared by the District Planning Committee shall be forwarded to the concerned Local Self Government Institutions and the Commission.

(9) The land use map and plan approved by the District Planning Committee shall be final and binding on all Local Self Government Institutions and also on all landowners of such land

**15. Publication of land use map and plan.** - (1) Local Self Government Institution shall, as soon as may after the approval of the land use map and plan by the District Planning Committee publish the same in such manner as may be prescribed.

(2) One copy of the land use map and plan may be got registered under the provisions of the Registration Act, 1908 (Central Act 16 of 1908) in the manner prescribed.



(3) Copies of land use map and plan may be made available for sale by the Local Self Government Institution to the public.

**16 Functions of District Planning Committee.** - The District Planning Committee, in addition to functions entrusted to it under the Kerala Municipality Act, 1994(20 of 1994) shall exercise the following powers and functions, namely -

(1) to assist the Local Self Government Institutions in preparing the land use plan within the time schedule

(2) to arrange technical help for Local Self Government Institutions to prepare and implement land use plan

(3) to settle the disputes between Local Self Government Institutions and owners of land, if any that may arise in preparing and implementing the land use plan

(4) to unify the punitive provisions contained in the land use plans of Local Self Government Institutions

(5) to hear appeals from the decisions of Local Self Government Institutions.

(6) to exercise such other powers and functions as are laid down in the rules or in the regulations

**17 Penalty for use of land otherwise than in conformity with the land use plan** - Any person who, whether at his own instance or at the instance of any other person or anybody, undertakes or changes use of any land, -

(a) in contravention of any land use plan; or

(b) in contravention of any land use plan, without obtaining exemption from the concerned Local Self Government Institution; or

(c) in contravention of any condition subject to which such exemption has been granted,

shall, on conviction be punishable with simple imprisonment for a term which may extend to one year or with a fine which may extend ten thousand rupees or with both.

**18. Power to stop unauthorized use of land** - (1) Where any unauthorized use of land as described in section 17 is being carried out but has not been completed, the Secretary to the Local Self Government Institution concerned may serve on the owner and the person carrying out the unauthorized use, a notice requiring the unauthorized use of land to be discontinued from the time of the service of such notice.

(2) Any person, who continues to carry out unauthorised use of land, whether for himself or on behalf of the owner or any other person after such notice has been served, shall be punishable with simple imprisonment for a term which may extend to one year or with fine, which may extend to ten thousand rupees or with both.

**19. Power of Secretary to District Planning Committee in case of failure on the part of Local Self Government Institutions to take timely action.** - Notwithstanding any thing contained in this Act, the Secretary, District Planning Committee, shall be competent to take all steps to stop unauthorized land use or to stop the use of land otherwise than in conformity with the provisions of land use plan.

**20. Merger of Kerala Land Use Board and transfer of its assets and liabilities.**- (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, with effect on and from the date on which this Act comes into force, the Kerala Land Use Board shall, by virtue of this section, be deemed to have been merged in the Commission

(2) All properties and all sites of whatever kind used, enjoyed or possessed by and all interests of whatever kind owned or vested or held by the Kerala Land Use Board, shall, with effect on and from the commencement of this Act and subject to such directions as may be issued by Government in this behalf, vest in the commission

(3) Every officer or other employee employed immediately before the commencement of this Act in connection with the affairs of the Kerala Land Use Board shall, as from such commencement become an officer or other employee of the Commission and shall hold his office by the same tenure, remuneration and terms and conditions of employment and other matters as he would have held under the Land Use Board, if this Act had not been enacted and shall continue to do so unless and until his employment under the Commission is terminated or until his remuneration, terms and conditions are duly altered by the Commission.

**21 Government grant to the Commission.** - (1) The Government may make every year a grant to the Commission of a sum, which is necessary for the functioning of the Commission in accordance with the provisions of this Act.

(2) The Commission shall keep complete accounts of their financial transactions in such form as may be prescribed.

**22. Audit of Accounts** - The account of the Commission shall be audited by such auditors as may be appointed by the Government

**23. Annual report and audited account.** - (1) The Member Secretary of the Commission shall in respect of each year, prepare a report of the working of the Commission during that year along with such information and particulars as may be prescribed and submit such report together with the audited account of the Commission to the Government

(2) The Government shall on receipt of the annual reports cause the same to be laid on the table of the Legislative Assembly.

**24 Power to make rules** - (1) The Government, may by notification in the Gazette make rules to carry out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a period of fourteen days which maybe comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should

not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**25. Power of the Commission to make regulations.** - The Commission may, subject to the provisions of this Act and the rules made there under and with the previous approval of the Government, by notification make regulations generally to carry out the purposes of this Act.

**26. Validity of acts and proceedings.** - No act done, or proceedings taken under this Act, shall be questioned merely on the ground, -

- (a) of any vacancy or defect in the constitution of the Commission; or
- (b) of any defect or irregularity in such act or proceedings not affecting the merits of the case.

**27. Repeal** - The Kerala Land Utilisation Order, 1967 is hereby repealed.

**28. Transitional provision.** - Notwithstanding the repeal of the Kerala Land Utilisation Order, 1967 until the guidelines are issued by the Commission within the period specified in section 12,-

- (a) no owner of a double crop nilam shall utilize the nilam for cultivation other than paddy cultivation.
- (b) other kinds of paddy fields can be utilized for seasonal cultivation including fish farming during an agricultural year
- (c) the owners are entitled to use the land for all kinds of agricultural purposes
- (d) exemption to convert nilam or other lands for non-agricultural purposes including tourism or other agricultural purposes will be granted by the Secretary, District Planning Committee

### STATEMENT OF OBJECTS AND REASONS

The integrated use and management of land, water and vegetation are essential for human life. During three to four decades after independence, the fast growing population and chronic scarcity of food led to extension of area under cultivation including denudation of forests bringing more areas under irrigation either through surface or ground water, application of chemical fertilizers and pesticides on a large scale and introduction of new varieties which demanded more of them. Mean while, in response to the acute food scarcity, Land Utilization Order was promulgated in 1958 and later amended with enlarged powers in 1967, under the Essential Commodities Act, 1955. The order sought to protect areas under food crops especially paddy, through stringent measures of prohibition of alternate agricultural use or non-agricultural use. It even provided that lands left fallow could be taken over for cultivation by Government. It is widely acknowledged that this order has been observed more in breach and that the permission for conversion, where sought and granted, has been largely without any established and transparent criteria of land use. In the middle of 1970's the need to reverse land degradation and soil loss before appropriate land use was stressed at the

highest level in the Government of India and States were advised to promulgate land use policy and establish Land Use Board. While a Land Use Board was formed in 1974 in Kerala and later reconstituted in 1984 there has been no enunciation of a land use policy and the Board has been functioning in a minimal way doing surveys and preparing plans with little or no influence on the actual land use in the State. With the introduction of decentralization under the constitutional mandate, "deciding on optional land use" has become one of the functions of Grama panchayats and municipalities. It has been held by the High Court (Manjapra Grama Panchayat Vs Deputy Director of Panchayats Ernakulam and others 1995 (1) KLT 419) that the Kerala Land Utilisation order cannot override this power specifically entrusted to the Local Self Government Institutions. The latter on their part do not also have technical data or objective criteria to determine "optional land use".

2 In this background it is necessary to enact a legislation for the creation of an apex professional and technical body after winding up the existing land use Board, which will work through existing agencies and the Local Self Government Institutions, by setting standards and issuing guidelines which will be binding on the former and advising Government on land use policies

3 The Bill seeks to achieve the above objects

### **FINANCIAL MEMORANDUM**

Clause 3 of the Bill provides for the constitution of Kerala Land Use Commission with official and non-official members. The Commission shall be a body corporate having perpetual succession and a common seal which requires the traveling allowance and sitting allowances to the Chairman and members for attending the meeting of the Commission. There may be variation in the amounts to be spent under these items depending on the number of meetings convened and the venue of the meeting. These amounts will have to be paid from the funds of the Commission, which is allotted by the State Government every year from the budgetary provision. However, exact amount that may be paid to the Commission from the Consolidated Fund cannot be calculated at any degree of accuracy.

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1 Clause 3 of the Bill seeks to empower the Government to constitute a Commission by notification in the Gazette.

2. Clause 6 of the Bill seeks to empower Government to constitute an expert Committee by notification in the Gazette for the purpose of assisting the function of the Committee.

3. Clause 24 of the Bill seeks to empower the Government to make rules by notification in the Gazette to carry out the purposes of this Act.

4. The above are matters of an administrative or of routine nature or matters of detail. Further the rules after they are made are subject to scrutiny by the Legislative Assembly. The delegation of legislative power is therefore of a normal character.

## **THE KERALA NON-BIODEGRADABLE GARBAGE (CONTROL) BILL, 2002**

### **Background Note.**

The removal of garbage has become a major problem especially in Cities and Towns. Removal of solid waste is the duty of Local Self Government Institutions. A good percentage of garbage in the State is biodegradable that is, it can be destroyed by action of living being and can be converted into compost or used as a source of energy, but in recent years polythene and plastic bags have become ubiquitous and even biodegradable garbage is dumped on road sides everywhere in such bags. The polythene and plastic bags made of Polyvinyl Chloride (PVC), Polypropylene and Polystyrene are not capable of being easily degraded. Attempts have been made in several States in India to ban the use of such bags. Bags made of material below a certain thickness are sought to be banned in our state also. But since they are easy to handle and are convenient in every way, they are in ordinary use by people for a variety of purposes. Banning the use of such bags has therefore been found to be ineffective.

The Committee has considered this question in the light of experience elsewhere. The only way adopted elsewhere in the World is to collect them separately and recycle them. The Committee therefore recommends the enactment of a Law for recycling. The law would make it the duty of Local Self Government Institutions to provide receptacles and places for the deposit of non-biodegradable materials and the duty of citizens to deposit such garbage only in the stipulated receptacles. The law will apply in the first instance in all Municipal areas in the State and could also be extended by notification to areas of heritage, pilgrimage and tourist importance and other areas as may be appropriate. The draft of the Kerala Non-Biodegradable Garbage (Control) Bill, 2002 is appended.



DRAFT

**THE KERALA NON-BIODEGRADABLE GARBAGE (CONTROL)  
BILL, 2002**

**A  
BILL**

to prevent throwing or depositing non-biodegradable garbage in public drains, roads and places open to public view in the State and for matters connected therewith or incidental thereto.

*Preamble.-* **WHEREAS**, it is expedient to prevent throwing or depositing non-bio degradable garbage in public drains, roads and places open to public view in the State;

**BE** it enacted in the Fifty third Year of the Republic of India, as follows. -

**1. Short title commencement and application.-** (1) This Act may be called the Kerala Non-biodegradable Garbage (Control) Act, 2002.

(2) It shall come into force at once

(3) It applies in the first instance in all municipal areas in the State and the Government may, by notification in the Gazette, apply the provisions of the Act to such areas of heritage, pilgrimage and tourist centres and other areas with effect from such date as may be specified in the notification

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

(a) "bio-degradable garbage" means the garbage or waste material capable of being destroyed by the action of living beings;

(b) "Government" means the Government of Kerala;

(c) "house gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving or carrying a drain or affording access to the latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by persons employed in the clearing thereof or in the removal of such matters there from;

(d) "Local Self Government Institution" means a Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994) or a Cantonment Board constituted under the Cantonments Act, 1924 (central Act 2 of 1924).

(e) "market" includes any place where persons assemble for exposing for sale, meat, fish, fruits, vegetables, food, or any other articles for human use or consumption with or without the consent of the owner of such place, notwithstanding that there may be no common regulation for the concourse of the

buyers and the sellers and whether or not any control is exercised over the business of, or the person frequenting, the market by the owner of the place or by any other persons,

(f)“non-biodegradable garbage” means the waste garbage or material which is not bio-degradable garbage and includes polythene, nylon and other plastic goods such as Polyvinyl Chloride (PVC), Polypropylene and Polystyrene, which are not capable of being destroyed by an action of living beings and are more specifically included in the Schedule to this Act;

(g)“municipal area” means territorial area of a municipality;

(h)“occupier” includes,-

(i)any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable,

(ii) an owner in occupation of or otherwise using his land or building,

(iii) a rent free tenant of any land or building; and

(iv)any person who is liable to pay to the owner damages for the use and occupation of any land or building,

(i)“owner” includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building, whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant,

(j)“place” means any land or building or part of a building and includes garden, ground and out houses, if any, pertaining to a building or part of a building,

(k)“place open to public view” includes any private place or building, monument, fence or balcony visible to a person being in, or passing along, any public place,

(l)“prescribed” means prescribed by rules made under this Act,

(m)“Public Analyst” means the person appointed or recognized to be the Government Analyst in relation to any environmental laboratory established or recognized, under the provisions of the Environment (Protection) Act, 1986 (Central Act 29 of 1986); and

(n) “public place” means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, market, house-gully or way, whether a thoroughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass;



**3 Prohibition to throw non-degradable garbage in public drains and sewage.-** (1) No person, by himself or through another, shall knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works, any non-biodegradable garbage or any biodegradable garbage in a non-bio degradable bag or container likely to –

- (a) injure the drainage and sewage system;
- (b) interfere with the free flow or affect the treatment and disposal of drain and sewage contents; and
- (c) be dangerous or cause a nuisance or be prejudicial to public health

(2) No person shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed, any bio-degradable or non-biodegradable garbage in any public place or in a place open to public view, unless, –

- (a) the garbage is placed in a garbage receptacle, or
- (b) the garbage is deposited in a location designated by a Local Self Government Institution having jurisdiction on an area for the disposal of the garbage

**4 Provision for placement of receptacles and places for deposit of non-biodegradable garbage.-** It shall be the duty of the Local Self Government Institution, or any officer authorised by it, to –

- (a) place or provide in proper and convenient place public receptacles, depots or places for temporary deposit or collection of non-biodegradable garbage;
- (b) provide separate dustbins for temporary deposit of non-biodegradable garbage other than those kept and maintained for deposit of bio-degradable garbage,
- (c) provide for the removal of contents of receptacles, depots and the accumulation at all places provided or appointed by it under clause (a) of this section, and
- (d) arrange for recycling of the non-biodegradable garbage collected under this Act

**5 Duty of owners and occupiers to collect and deposit non-biodegradable garbage etc.-** It shall be the duty of the owners and occupiers of all lands and buildings-

- (a) to collect or to cause to be collected from their respective land and buildings the non-biodegradable garbage and to deposit, or cause to be deposited, in public receptacles, depots or places provided for temporary deposit or collection of the non-biodegradable garbage by the Local Self Government Institution in the area;
- (b) to provide separate receptacles or dustbins, other than those kept and maintained for deposit of bio-degradable garbage of the type and in the manner prescribed by the Local Self Government Institution or its officers for collection therein of all the non-biodegradable waste from such land and buildings and to keep such receptacles dustbins in good condition and repair.

**6. Power of Local Self Government Institution for removal of non-biodegradable garbage.-** The Local Self Government Institution may, by notice in writing,

require the owner or occupier or part-owner, or person claiming to be the owner or occupier of any land or building, which has become a place of unauthorized stacking or deposit of non-biodegradable garbage and is likely to cause a nuisance, remove or cause to be removed the said garbage so stacked or collected; and if, in its opinion, such stacking or collection of non-biodegradable waste is likely to injure the drainage and sewage system or is likely to be dangerous to life and health it shall forthwith take such steps at the cost of such person as it may think necessary.

- 7 Studies, research and support programmes.-** The State Government may –
- (a) undertake studies to determine the composition of bio-degradable or non-biodegradable garbage;
  - (b) establish measures to conduct or support research or programmes to encourage source reduction, re-use and recycling of waste;
  - (c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes including studies of the type and amount of recyclable materials in solid wastes;
  - (d) encourage, Local Self Government Institutions in the State to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick-up;
  - (e) undertake and encourage, Local Self Government Institutions and other persons to implement policies to recycle waste materials, to promote energy conservation and to purchase products made from recyclable materials;
  - (f) conduct and support research on recycling including information on operating recycling business and market information on recyclables;
  - (g) conduct or support research on waste management and recycling, for use in educating the public, Local Self Government Institutions, other institutions and industries, and
  - (h) impose requirements on manufacturers, distributors and other persons who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packaging that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

**8. Penalties.-** (1) Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act any rules, notifications or orders made, issued or given under the Act, shall be punishable with fine which may extend to rupees five thousand

(2) Whoever having been convicted of an offence under this Act is again convicted of any offence under this Act shall be punishable with fine which may extend to double the fine provided for the offence under sub-section (1).

(3) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act shall on conviction be punished with fine prescribed for the offence.

(4) An Offence punishable under this Act shall be cognizable and bailable.

**9 Offences by Companies.-**(1) If the person committing an offence punishable under this Act is a Company, every person who, at the time of the commission of the offence, was in charge of, and responsible to the company for the conduct of the business of the company, as well as the Company shall be deemed to have guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section that render any person liable to any punishment provided in the Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent commission of the offence

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any Director, Manager, Secretary or other officer of the Company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.** – For the purposes of this section –

- (a) "Company" means any body corporate and includes a firm or other association of individuals; and
- (b) "Director" in relation to a firm means a partner in the firm

**10 Offences to be tried summarily.-** All offences under this Act shall be tried in a summary way by a Judicial Magistrate of the First Class and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) shall, as far as may be, apply to such trials

(1) **Compounding of offences,-** (1)Any offence punishable under this Act may, before the institution of the prosecution, be compounded by the Local Self Government Institution concerned or by such officer as may be authorised by the State Government in this behalf, on payment, for credit to the Local Self Government Institution concerned, of such sums not exceeding fine amount fixed for the offence

(2) Where any offence has been compounded under sub-section (1) no proceedings shall be taken against the offenders, in respect of the offences as compounded, and the offender, if in custody, shall be discharged.

**12. Directions by the State Government.-** The Local Self Government Institutions shall carry out such directions may be issued from time to time, by the State Government for the effective administration of this Act.

**13. Power to amend Schedule.-** (1) Where it is expedient to do so, the State Government may, in public interest and in consultation with the Public Analyst, by notification in the Official Gazette, add to, or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to be amended accordingly.

(2) Every notification under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

**14. Power to delegate.-** The State Government may, by order published in the Official Gazette, direct that any power exercisable by it under this Act (not including the power to make rules under section 17) may also be exercised, in such cases, as may be specified in the order, by the Local Self Government Institution concerned

**15. Protection of action taken in good faith.-** No suit, prosecution or other legal proceedings shall lie against the State Government or the Local Self Government Institution concerned or any officer or the employees of the State Government or the employees of the Local Self Government Institution concerned for any thing which is in good faith done or intended to be done under this Act or the rules made thereunder

**16. Other laws not affected.-** The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force

**17. Power to make rules.-** (1) The Government may by notification in the Gazette, make rules for the purpose of carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid as soon as may be, after it is made before the State Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprise in one session or in two successive session, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### **SCHEDULE**

(See section 2 (e))

#### **NON-BIODEGRADABLE GARBAGE**

- |                             |                                |
|-----------------------------|--------------------------------|
| 1. Polyethylene             | 9. Cellulose Acetate           |
| 2. Polycarbonate            | 10. Cellulose Acetate Butyrate |
| 3. Polypropylene            | 11. Nylon                      |
| 4. Polystyrene              |                                |
| 5. Polyvinyl Chloride (PVC) |                                |
| 6. ABS                      |                                |
| 7. Acetal                   |                                |
| 8. Cellulose Acetate        |                                |

## **STATEMENT OF OBJECTS AND REASONS.**

The removal of garbage has become a major problem especially in Cities and Towns. Removal of solid waste is the duty of local government institutions. A good percentage of garbage in the State is biodegradable that is, it can be destroyed by action of living being and can be converted into compost or used as a source of energy, but in recent years polythene and plastic bags have become ubiquitous and even bio-degradable garbage is dumped on road sides everywhere in such bags. The polythene and plastic bags made of Polyvinyl Chloride (PVC), Polypropylene and Polystyrene are not capable of being easily degraded. Attempts have been made in several States in India to ban the use of such bags. Bags made of material below a certain thickness are sought to be bounded in our state also. But since they are easy to handle and are convenient in every way, they are in ordinary use by people for a variety of purposes. Banning the use of such bags has therefore been found to be ineffective.

2. The Bill seeks to achieve the above objects

### **FINANCIAL MEMORANDUM**

As per clause 4 and 5 of the Bill the local authority is duty bound for the placement of receptacles and places for deposit of non-biodegradable garbage and also for the removal of non-biodegradable garbage. The expenditure for the purpose will have to be met from the local self-governments concerned.

Clause 7 of the Bill *mier alia* provides that the Government may undertake studies research and conduct support programmes. This may be done through Government organizations or Non-Government organization. Some expenditure from the Consolidated Fund of the State will be incurred for implementing the programme. A sum of Rs 25 lakhs is expected to be incurred during the financial year.

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. Sub-clause (3) of clause 1 of the Bill seeks to empower the Government to extend the provisions of the Act to such areas of heritage, pilgrimage and tourist centres etc.

2. Clause 13 of the Bill seeks to empower the Government to add to or omit from the schedule any item of non-biodegradable waste by notifying in the Gazette.

3. Clause 14 of the Bill seeks to empower the Government to delegate, by order, any power exercisable by it to any such officers or authority.

3. The matters in respect of which rules may be made or orders may be issued are matters of procedure or of details and are of routine and administrative nature. Further every rule made under this Act are subject to scrutiny any the Legislative Assembly. The delegation of legislative power is, thus of a normal character.



## **THE KERALA PARA MEDICAL COUNCIL BILL, 2002.**

### **Background Note.-**

Modern medical care cannot be provided without the help of allied health professionals like Laboratory Technicians, ECG, EEC and EMG technicians, X-ray technicians and Ophthalmic Assistants etc Para medical personnel have a very vital role to play in the health care system In recent years there has been rapid growth of private medical institutions in the State While there are laws for laying down standards and creating bodies for enforcement in the case of medical personnel there is no law or machinery to lay down standards and enforce them in the case of Para medical personnel There is no regulation by any professional body over Laboratory and diagnostic services in the State The quality of the Laboratory and Diagnostic Centres that have come up varies widely from the very best to those in which unqualified persons are alleged to be working resulting in lack of reliability of the test reports In order to evolve adequate standards for para medical professions it is considered essential to lay down that only persons who have a certain minimum standard of professional training and education can practise his professions in the State

A proposal to bring forth a legislation in this matter has been pending in the Health Department for a long time The Committee has considered this proposal in all its aspects and has suggested a draft Bill for the same

The proposed Bill seeks to empower the Government to establish a Para Medical Council and to entrust the Council with the powers of recognition of Para Medical Educational and Training Institutions, Registration and Training and other purposes It also enjoins the Council to work towards constant improvement and up-dating of standards by encouraging institutions to get accredited by National Institutions like the National Accreditation Board of Laboratories of the Department of Science & Technology of the Government of India. The draft Bill prepared by the Committee is appended





DRAFT**THE KERALA PARA MEDICAL COUNCIL BILL, 2002****A  
BILL**

to provide for the constitution of a Para Medical Council for registration of Para Medical Technicians and for the registration of Institutions imparting training to such Technicians in the State and for regulating their qualifications and for matters connected therewith or incidental thereto

*Preamble.* - **WHEREAS**, it is expedient to provide for the constitution of a Para Medical Council for registration of Para Medical Technicians, and for the registration of Institutions imparting training to such technicians in the State and for regulating their qualifications and for matters connected therewith or incidental thereto,

**BE** it enacted in the Fifty-third Year of the Republic of India as follows -

**CHAPTER I****PRELIMINARY**

**1 Short title and commencement.**- (1) This Act may be called the Kerala Para Medical Council Act, 2002

(2) It extends to the whole of the State of Kerala

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint

**2 Definitions.**- In this Act, unless the context otherwise requires,-

(a)“council” means the Kerala Para Medical Council constituted under section 3 of this Act,

(b)“ECG technician” or “EEG Technician” or EMG Technician” means a person who has passed the ECG Technician Test, or EEG Technician Test or EMG Technician Test as the case may be, conducted by a recognized Institution or having the qualification recognized as equivalent qualification,

(c)“equivalent qualification” means a qualification recognized as equivalent by any law for the time being in force in the State or any qualification declared as such and notified by the Government as equivalent qualification,

(d)“executive committee” means the Executive Committee of the Council,

(e)“Government” means the Government of Kerala;

(f)“hospital” means any premises used for the care of the sick;

(g)“medical council” means the Council of Modern Medicine constituted under the Travancore Cochin Medical Practitioners Act, 1953 (Act No IX of 1953);

- (h) "medical laboratory" means, an establishment where,-
- (i) Microbiological, Pathological or Biochemical investigations, examinations, analysis, or
  - (ii) the preparation of cultures, vaccines, sera or other biological products are usually carried on in connection with the diagnosis or treatment of any disease,
- (i) "medical laboratory technician" means a person who has acquired a degree or a diploma in Medical Laboratory Science from a recognized institution or having the qualification recognized as equivalent qualification,
- (j) "ophthalmic assistant" means a person who has acquired a diploma in Ophthalmic Science such as vision testing, diagnosing and treating minor ocular ailments from a recognized institution or having the qualification recognized as equivalent qualification,
- (k) "para medical course" means any degree, diploma or certificate course awarded for practicing as Para Medical Technicians,
- (l) "Para Medical Technician" means an ECG Technician, EEG Technician, EMC Technician, X-ray Technician, Medical Laboratory Technician or Ophthalmic Assistant and includes such other technicians as may be specified and notified by the Government as Para Medical Technicians from time to time,
- (m) "President" means the President of the Council,
- (n) "prescribed" means prescribed by rules made under this Act,
- (o) "recognized institution" means an institution recognized under this Act,
- (p) "recognized qualification" means-
- (i) in relation to medical laboratory Technicians, the Bachelors degree or Masters degree in Laboratory Technology awarded by any University in Kerala or an equivalent qualification or diploma in Laboratory Technology / or an equivalent qualification
  - (ii) in relation to Ophthalmic Assistant, a Diploma in ophthalmic science granted by a recognized institution or an equivalent qualification,
  - (iii) in relation to ECG Technicians, EEG Technicians and EMG Technicians pass in concerned Technicians test conducted by a recognized institution or an equivalent qualification,
  - (iv) in relation to X-ray Technicians, a pass in X-ray technicians course conducted by a recognized institution or an equivalent qualification,
  - (v) in relation to any other paramedical technician, the concerned technicians course conducted by a recognized institution or an equivalent qualification,
- (q) "register" means,-
- (i) in relation to Medical Laboratory Technicians, the register of Medical Laboratory Technicians maintained under this Act,
  - (ii) in relation to Ophthalmic Assistant, the register of Ophthalmic Assistants maintained under this Act,
  - (iii) in relation to ECG Technicians, and EEG Technicians and EMG Technicians, the register of ECG Technicians, EEG Technicians and EMG Technicians maintained under this Act,

(iv) in relation to X-ray Technicians, the register of X-ray technicians maintained under this Act, and

(v) in relation to any other Para Medical Technician, the register maintained under the Act in respect of that category of Paramedical Technician,

(r) "regulations" means regulations made by the Council with the approval of Government under this Act,

(s) "Secretary" means the Secretary of the Council appointed under this Act,

(t) "State" means the State of Kerala,

(u) "X-ray Technicians" means a person qualified for taking X-ray films from any recognized institution or having the qualification recognized as equivalent qualification

## CHAPTER II

### PARA MEDICAL COUNCIL

**1 Establishment, incorporation and constitution of the Council** - (1) The Government may, by notification in the Gazette, establish with effect from such date as may be specified in such notifications, a Council to be called the Kerala Para Medical Council

(2) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued

(3) The headquarters of the Council shall be at Thiruvananthapuram

**4 Powers and duties of the Council** - (1) Subject to the provisions of the Act and such conditions as may be prescribed, the council shall exercise the following powers and perform the following duties, namely -

(a) to fix the criteria for the establishment of para medical institutions,

(b) to recognize para medical institutions,

(c) to grant temporary recognition to any institution established before the commencement of this Act,

(d) withdrawal of recognition granted to Para Medical Institutions under this Act,

(e) maintenance of register under this Act,

(f) remove the names of persons under section 23,

(g) restoration of the names removed from the register under section 24,

(h) recognition of qualification for the purpose of this Act,

(i) framing of regulation,

(j) delegation of its powers to the Executive Committee,

(k) conduct inspection of para medical institutions,

(l) fixing of fees to be levied under this Act;

(m) maintenance of the fund,

(n) do such other acts and thing, whether incidental to the powers aforesaid or not as may be required in order to further the objects of this Act

(2) It shall be duty of the council to uphold the highest technical professional and ethical standards both in its working and institutions of para medical education training and practice,

(3) The council shall work towards constant improvement and updating of standards by encouraging institutions to get accredited by National Institutions like the National Accreditation Board of Laboratories of the Department of Science and Technology of the Government of India

**5 Composition of the Council.** -(1) The Council shall consist of the following members, namely -

### **I. Ex-officio Members**

- (a) The Secretary to Government, Health and Family Welfare Department
- (b) The Director of medical Education.
- (c) The Director of Health Services
- (d) The Director of Public Health Laboratory, Thiruvananthapuram
- (e) The Secretary to the Council

### **II Professional Members.**

(a) Four members from among the registered Medical Laboratory Technicians of the State, at least one of whom shall possess a degree of Medical Laboratory Technicians, chosen by the Government in such manner as may be prescribed,

(b) One member from among the registered Ophthalmic Assistants Chosen by the Government in such manner as may be prescribed,

(c) One member from among the registered ECG Technicians, EEC Technicians and EMG Technicians chosen by the Government in such manner as may be prescribed,

(d) One member from among the registered X-ray Technicians chosen by the Government in such manner as may be prescribed,

(e) Three members from among the qualified Medical Practitioners' Association, Kerala chosen by the Government, in such manner as may be prescribed,

- (a) One member from each University chosen by the Government from among the heads of departments of Institutions of the State imparting training for the recognized courses of the Councils,

### **III Other Members**

(1) Three members nominated by Government from among the Non-Governmental Organisations in the field of public health

**6 Qualifications of Members.-** Every member of the Council except the ex-officio members and other members shall possess the qualifications for registration as a paramedical technician under this Act

**7 Disqualifications for members:-** A person shall not be qualified for being chosen or nominated as, and for being, a member of the Council, if,-

- (a) he has not attained the age of majority, or
- (b) he is an un-discharged insolvent, or
- (c) he is of unsound mind and stands so declared by a competent Court, or
- (d) he has been punished by the Council in any manner for infamous conduct in the profession, or
- (e) he has been dismissed from service under any Government or any institution, or
- (f) his name has been removed from the register maintained under this Act and has not been reinstated or
- (g) he has been convicted of any offence involving moral turpitude

**8 Term of office of members.-** (1) The term of office of the members of the Council, other than the ex-officio members shall be three years from the date on which the first meeting of such Council is held,

Provided that an outgoing member of the Council shall continue in office until his successor assumes office

(2) An outgoing member shall be eligible for re-nomination, if otherwise qualified

**9 President and Vice-President.-** (1) The Government shall appoint any of the members of the Council to be its President and also another member to be its Vice-President

(2) The President or the Vice-President, as the case may be, shall be deemed to have vacated his office on his resignation being accepted by the Government or on the expiry of his term of office as a member or on his otherwise ceasing to be a member

(3) When the office of the President is vacant, the Vice-President shall exercise the powers and functions of the President until a new President assumes office

(4) When the office of the President is vacant or the President is incapacitated and there is a vacancy in the office of the Vice-President or the Vice-President is incapacitated, the Secretary to Government in charge of Health and Family Welfare Department shall exercise the powers and perform the functions of the President until a new President or Vice-President is appointed and assumes office or the President or Vice-President recovers from their incapacity.

(5) An outgoing President or Vice-President shall be eligible for reappointment for another term if, otherwise qualified

**10 Casual Vacancies.-** Any casual vacancy arising in the office of a member of the Council by his death, resignation, removal or disability or otherwise, before the expiry of his term of office, shall be filled up in the manner provided in the Act and the rules made thereunder, within a period not exceeding six months

(2) Any person chosen or nominated under sub-section (1) shall hold office only for the remaining period of the term of the member in whose vacancy he has been chosen or nominated.

**11 Cessation of membership,-** A member other than an ex-officio member of the Council shall be deemed to have vacated his office,-

(a) on his resignation,

(b) on his absence, from three consecutive meetings of the council without excuse, sufficient in the opinion of the Council

(c) on his becoming subject to any of the disqualifications mentioned in section 7,

(d) on his ceasing to be a member of the Association or category from which he has been chosen or nominated, as the case may be

**12 Resignation of membership ,-** A member other than Ex-officio member may at any time resign his office by giving notice in writing to the President and such resignation shall take effect from the date on which it is accepted by the President

(2) The President or Vice-President may resign his office by giving notice in writing to the Government and such resignation shall take effect from the date on which the Government accept it

**13 Validity of proceedings.-** (1) No act done or proceedings taken by the Council shall be invalidated merely on the ground,

a) of any vacancy or defect in the constitution of the Council, or

b) of any defect or irregularity in such act or proceeding not affecting the merits of the case

**14 Meetings of the Council.-** The meetings of the Council, the proceedings for the conduct of business, and such other matters shall be as provided by regulations made by the Council in this behalf

**15 Executive Committee.-** (1) The Council may constitute an Executive Committee and such other Committees from among its members as may be necessary for performing such purposes in the manner as may be provided by regulations

(2) The Executive Committee shall consist of the President and Vice-President, who shall be members ex-officio, and five members chosen by the Council from among themselves

(3) The Executive Committee shall exercise and discharge such powers and duties of the Council as may confer or impose upon it by any regulations, which may be made in this behalf

**16 Payment of fees and allowances,-** The President, the Vice-President and other members of the Council shall be paid such sitting fees and allowances or traveling allowance for their attendance in connection with the meetings of the Council or of any Committee thereof, as may be prescribed

**17 Secretary, other officers and servants of the council,-**(1) The Government may, by notification in the Gazette, appoint a Secretary who shall act as Secretary to the Council and to the Committees appointed under this Act

(2) Subject to the general superintendence and control by the Council, the Secretary shall be responsible for the performance of the day-to-day affairs of the Council and such other functions as may be assigned to him by the Council, from time to time

(3) The Secretary shall receive such salary and allowances, as may be fixed by Government from time to time, from the funds of the Council

(4) The method of appointment and other terms and conditions of service of the Secretary shall be such, as may be prescribed

Provided that Government may appoint an officer not below the rank of Joint Secretary to Government as first Secretary of the Council

(5) The council may, with the previous approval of the Government, appoint such other officers and employees, as it may deem necessary, for assisting it in the administration

(6) The method of appointment, salary and allowances, discipline and other terms and conditions of service of officers and other employees appointed by the Council shall be provided in the regulations

**18 Maintenance of registers.-** (1) There shall be maintained separate registers for Medical Laboratory Technicians Ophthalmic Assistants, ECG Technicians, EEG Technicians / EMG Technicians and X-ray Technicians and such other Para Medical Technicians declared as such by the Government

(2) The register shall be maintained in such manner (manual and electronic) and in such form and shall contain such particulars as may be prescribed.

(3) The Secretary shall keep the registers in accordance with the provisions of this Act and the rules and regulations framed there under

(4) The registers shall be deemed to be public document within the meaning of section 74 of the Indian Evidence Act, 1972 (Central Act 1 of 1972)

**19 Dissolution of the Council.-** (1) If at any time it appears to the Government that the Council has failed to exercise or has exceeded or abused any or the powers conferred on it by or under this Act or has failed to perform any of the duties imposed on it by or under this Act, the Government may, if they consider that such failure, excessive exercise or abuse of power is of a serious character, notify the particulars thereof to the Council and if the Council fails to remedy such defects, excessive exercise or abuse of powers within such time limit as the Government may fix in this behalf, the Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such persons and for such period as they may think fit and thereupon the funds and property of the Council shall vest in the Government for the purposes of this Act, until a new Council is constituted as provided under section 3

(2) Where the Government have dissolved a Council under sub-section (1) they shall take steps for the constitution of a new Council under section 3 within six months from the date of such dissolution and on the constitution of such Council the property and funds referred to in sub-section (1) shall revert in that Council

**20 Eligibility for registration.-** (1) Every para Medical Technician holding appointment under the Government on the date of commencement of this Act, shall be eligible for registration under this Act

(2) Every person who, within the period of one year from the date of commencement of this Act, or within such other longer period, as may be fixed by the Government, proves that he had been in regular practice as a Para Medical Technician, for a period of not less than two years preceding the date of coming into force of this Act and passes the examination conducted for the purpose by the Council shall be eligible for registration under this Act

(3) No person shall be eligible for registration under sub-section (1) or sub-section (2), if he is subject to any of the disqualifications under clauses (a) to (f) of section 7.

**21 Registration.-** (1) Every person qualified for registration under sub-section (1) of section 20 shall apply for registration within three months from the date of commencement of this Act or within such extended time as may be fixed by the Government, by notification in the Gazette

(2) Every person eligible for registration under sub-section (2) of section 20 shall apply for registration within thirty days from the date on which he became eligible for registration as provided for in the said sub-section.

(3) An application for registration under this Act shall be in the prescribed form and shall be accompanied by such fee as may be prescribed



(4) Every Para Medical Technician who applies to the Secretary for registration in respect of any additional recognized qualification shall pay a fee, as may be prescribed

(5) An application for registration shall be addressed to the Secretary and if the Secretary is satisfied that the applicant is entitled to have his name entered on the register, he shall enter thereon the name of the applicant and issue to him a certificate in such form as may be prescribed

(6) Any person whose application for registration is rejected by the Secretary, may, within three months from the date of such rejection, file an appeal to the Council and the decision of the Council thereon shall be final

**22 Renewal of Registration.-** (1) Every registration made under section 20 shall be renewed before 31<sup>st</sup> March of every year on payment of such fees as may be prescribed

(2) Where the renewal is not made before the due date, the Secretary shall remove the name of the defaulter from the register

Provided that a name so removed may be restored to the register on payment of the renewal fee, together with such fine, as may be prescribed

(3) On payment of the renewal fee and the fine, if any the Secretary shall, in the manner prescribed, issue a Certificate of Registration to the person concerned and where the name of the person has been removed from the register under sub-section (2) he shall re-enter his name in the register

**23 Removal from the Register.-** (1) Subject to the provisions of this section, where the Council is satisfied after giving the person concerned a reasonable opportunity of being heard and after making such further enquiry as it may think fit to make, it may order that the name of that person shall be removed from the register if,-

(i) his name has been entered in the register by error, or on account of misrepresentation or suppression of any material fact, or

(ii) he has been convicted of any offence under this Act or has been guilty of the infamous conduct in the profession which, in the opinion of the Council, render him unfit to be on the rolls of the register

(2) An order under sub-section (1) may direct that any person whose name is ordered to be removed from a register shall be ineligible for registration under this Act either permanently or for such period as may be specified.

(3) A person aggrieved by an order under sub-section (1) may, within thirty days from the date of order appeal to the Principal District Court, Thiruvananthapuram and the decision of the District Court on such appeal shall be final

(4) A person whose name has been removed from the register under this section shall forthwith surrender his Certificate of Registration to the Secretary

**24 Restoration to the Register.-** Notwithstanding anything contained in this Act the Council may at any time, for reasons to be recorded in writing, order that the

name of a person removed from the register under sub-section (1) of section 23 shall be restored on payment of such fee, as may be prescribed

### **CHAPTER III**

#### **RECOGNITION OF PARAMEDICAL EDUCATIONAL AND TRAINING INSTITUTIONS**

**25 Recognition of Institutions.-** (1) Subject to the provisions contained in section 26, no person shall establish a para medical institution or conduct any para medical course for preparing students to obtain any recognized qualification, without the recognition by the Council

(2) An application for recognition of a para medical institution shall be made to the Secretary of the Council in such form and shall be accompanied by such fee, as may be prescribed

(3) For the purpose of ascertaining whether recognition may be given or not, the Council shall conduct such enquiry as may be prescribed and shall, by order grant recognition or reject the application for recognition

(4) The educational and training institutions conforming to the standards fixed by the Council by regulations made under this Act, alone shall be given recognition under this Act

(5) Notwithstanding anything contained in sub-section (1), all institutions conducting para medical courses as on the date of commencement of this Act shall apply for recognition to the Council within three months from the date of commencement of this Act. If the institution applying for recognition does not conform to the standards fixed by the Council in this regard, temporary recognition may be granted to the institution subject to the condition that the facilities in accordance with the standards fixed by the Council shall be provided within a period of one year from the date of grant of temporary recognition

(6) If the institution does not provide the facilities in accordance with the standards fixed by the Council, within the period specified therein the temporary recognition granted under sub-section (5) shall be withdrawn forthwith

**26 Withdrawal of recognition.-** Where, on the basis of a report of a Committee appointed by the Council in this behalf, it is satisfied that an institution recognized under this Act,-

(a) has failed to comply with conditions of recognition, or

(b) there exists any of the grounds which would have entitled to refuse the application for recognition the Council may by order withdraw such recognition, provided that, before such withdrawal of recognition, the Council shall give an opportunity to the person managing that institution for making his representation

**27 Recognition of qualification.-** (1) The Council on representation or otherwise may recognize any Degree, Diploma or Certificate awarded by any University, Board or Institution established under any law for the time being in force to be recognized qualification for the purposes of this Act

(2) Where a qualification is recognized under sub-section (1), the Government shall, by notification in the gazette, declare the same as equivalent qualification for the purposes of this Act

**28 Inspection of Institutions.-** (1) The Council may appoint either on a regular or ad-hoc basis such number of officers as it may deem necessary, to inspect any institution for the purposes of granting recognition under this Act

(2) The officers referred to in sub-section (1) shall also be empowered to conduct periodical inspections of the recognized institutions to ensure that the required standards are being maintained by them

(3) The Secretary or any officer authorised by the Council may enter into the premises of any recognized institutions to make any inquiry or inspection which is authorised by the provisions of this Act or of any rule or regulation or order made thereunder

(4) The Manager and employees of a recognized institution and its employees shall be bound to offer to the officers of the Council such access at all reasonable times, to the premises of such institution and to all documents and materials as may, in the opinion of such officers, be necessary to enable them to discharge their duties under this section

## CHAPTER IV

### FINANCE

**29 Fund of the Council.-** (1) All fees received, all income such as rent and profits derived from properties and funds vested in the Council, all grants and loans received from the Government, all endowments and donations received from any source whatsoever, all other miscellaneous receipts of the Council and all remittances received in connection with the affairs of the Council, shall form the fund of the Council, which shall be utilized for the purposes, laid down in this Act and in the rules, regulations and orders made thereunder.

(2) The Fund of the Council shall be deposited in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934) or in the Government Treasury as may be decided by the Council

(3) The custody of the Fund, the payment of moneys therein, the withdrawal of moneys therefrom and all other ancillary matters shall be regulated by such rules as may be prescribed in that behalf

**30 Annual Accounts and Audits.-** (1) The annual report and accounts of the Council shall be approved by it and shall be got audited before the end of September of the next year

(2) The Audit may be done by any Chartered Auditor appointed by the Council from a panel approved by Government and the Council shall bear the cost of the audit

(3) The accounts of the Council as certified by the auditor together with the audit report there on shall be forwarded annually to the Government

(4) The Government shall cause the accounts of council together with the audit report thereon forwarded to them under sub-section (3) to be laid annually before the Legislative Assembly

## CHAPTER V

### GENERAL PROVISIONS

**31 Persons not registered under this Act not to practise.-** (1) No person other than a person registered under this Act shall practise as a Medical Laboratory Technician, Ophthalmic Assistant, ECG Technician, EEG Technician, EMG Technician, X-ray Technician or such other Technicians declared by the Government as Para Medical Technicians from time to time

(2) Any person who acts in contravention of this section shall on conviction be punishable,-

(a) in the case of a first offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees, and

(b) in the case of a second or subsequent offence, with imprisonment for a term which may extend to one year, but which shall not be less than three months and with fine which shall not be less than two thousand rupees, but which may extend to five thousand rupees.

**32 Offences by Hospitals, Institutions etc.-** (1) No dispensary, hospital, infirmary, lying-in-Hospital, sanatorium, operation theatre, nursing home, blood bank, medical laboratory or other similar institution shall employ any person as a Para Medical Technician unless such person is a Para Medical Technician registered under this Act

(2) Whoever contravenes the provisions of sub-section (1) shall on conviction, be punishable with fine which may extend to five thousand rupees

**33. Prohibition against unauthorized conferment of degree etc.-** (1) Save as provided by this Act or the rules made thereunder, no person shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any diploma, certificate or other document stating or implying that the holder, grantee or recipient thereof is qualified to practice as a Para Medical Technicians

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to five thousand rupees and if the person so contravenes is an Association, every member of such Association who knowingly or willfully authorizes or permits the contravention shall, on conviction, be punishable with fine which may extend to three thousand rupees

**34 Penalty for unauthorized use of titles.-** (1) No person shall add to his name any title, letters or abbreviations, which imply that he holds a degree or diploma license or certificate as his qualification to practice as a Para Medical Technician, unless,-

- (a) he has actually received such degree or diploma or license or certificate, and,
- (b) such degree or diploma, license or certificate is recognized by any law for the time being in force in the State, or has been conferred or granted or issued by an authority appointed under this Act

(2) whoever contravenes the provisions of sub-section (1) shall on conviction be punishable, in the case of first offence, with fine which may extend to one thousand rupees and in the case of a second or subsequent offences, with fine which may extend to two thousand rupees

**35. Power to enter, search and prosecution for offences.-** A police officer not below the rank of a Deputy Superintendent of Police having jurisdiction may, on the request of the Secretary or any person authorised by the Council in this behalf, enter and search at any time between sun rise and sun set, any place in which he has reason to believe that an offence under this Act has been or is being committed and may, if he deems proper, arrest any person found in such place whom he has reason to believe to be guilty of the offences under this Act,-

Provided that every person arrested shall be released on bail by the Deputy Superintendent of Police if sufficient security is tendered for his appearance before the Court

**36 Trial of offences.-** (1) All offences under this Act shall be cognizable and triable by a Judicial Magistrate of First Class

(2) Notwithstanding anything contained in sub-section (i) no court shall take cognizance of an offence punishable under this Act except with the previous sanction of the Council or of an officer authorised by the Council in this behalf.

**37 Members of Council, Secretary, Officers, etc. to be public Servants.-** Every member of the Council, the Secretary, all officers and servants appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1960 (Central Act 45 of 1860)

**38 Bar of Jurisdiction of Civil Courts.-** No act done or action taken, in exercise of any of the powers conferred by or under this Act, by the Government or the Council or the Executive Committee or the Secretary shall be called in question in any Civil Court

**39 Protection of actions taken in good faith.-** No suit, prosecution or other legal proceedings shall lie against the Government or the Council or its member or officer or other person in respect of anything which is in good faith done or intended to be done under this Act or the rules issued thereunder

**40 Nomination of the first Council.-** (1) Notwithstanding anything contained in this Act, the first Council shall be nominated by the Government for a period of three years from the date of nomination or till the constitution of the Council in accordance with the provisions of this Act, whichever is earlier

(2) The first Council shall take all steps for the preparation of the register, recognition of the institutions

**41 Composition of offences.-** The Council or the Secretary may, compound any offence punishable under this Act before their cognizance by the Court, on payment of a sum which may not be less than the minimum of the fine stipulated for such offence but may extend to the maximum of the fine stipulated for such offence by way of composition of the offence

Provided that no such compounding shall be permitted in the case of a second or subsequent offence

**42 Power to take evidence on oath etc.-** The Council or the Secretary or any officer exercising powers under this Act shall for the purposes of such functioning have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit, in respect of the following matters, namely -

- (a) Enforcing the attendance of any person and examining him on oath,
- (b) requiring the discovery and production of documents
- (c) Receiving evidence on affidavit;
- (d) Issuing commissions for the examination of witnesses,
- (e) Such other matters as may be prescribed

**43 Directions by Government.-** (1) The Government may, after consultation with the Council, give to the Council general directions to be followed by the Council

(2) In the exercise of its powers and performance of its duties under this Act, the Council shall not depart from any general directions issued under sub-section (1), except with the previous permission of the Government

**44. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions, which appear to them to be necessary or expedient for the purpose of removing the difficulty

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act

**45. Power to make rules.-** (1) The Government may by notification in the Gazette, make rules either prospectively or retrospectively to carry out all or any of the purposes of this Act, not inconsistent with any of the provisions contained therein

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

- (a) the fees and other allowances payable to the President, Vice-President and other members of the Council under Section 16,
- (b) the method of appointment, qualifications, salary allowances and other conditions of service of the Secretary.
- (c) the form of the registers and the particulars to be entered therein under section 18
- (d) the forms of applications and the fees to be paid under section 21
- (e) the form of the certificate to be issued under sub-section (5) of section 21 and the particulars which it shall contain,
- (f) the payment of renewal fee and fine under section 22,
- (g) the fee to be levied under section 24;
- (h) the custody of the fund of the Council and of the ancillary matters under section 29,
- (i) prescribe any other matter under clause (e) of section 42,
- (j) any other matter which has to be or may be prescribed by rules made under this Act;

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule, or decides that the rule shall not be made, the rule shall there after have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or amendment shall be without prejudice to the validity of anything previously done under this Act.

**46. Power to make regulations.-** (1) The Council may, with the previous approval of the Government, make regulations, not inconsistent with this Act or the rules made thereunder, for all or any of the following matters namely:-

- (a) the time and place at which the Council and the executive committee shall hold its meeting and the manner in which such meeting shall be convened and held;
- (b) the courses and period of study and of practical training to be undertaken, the subjects of examination and standards of recognized qualifications;
- (c) the recognition of any Institution for the purpose of such training and the granting of Degree, Diploma etc. to candidates passing the examinations;
- (d) minimum criteria to be fulfilled for admission to these courses and the procedure to be followed in the selection of candidates;
- (e) the standards of staff, equipment, accommodation, training and other facilities for education in the Institution;
- (f) the conduct of professional examinations, qualifications of examiners and the conditions of admission to such examinations;
- (g) the standards of professional conduct and etiquette and code of ethics to be observed by Para Medical Technicians;
- (h) the procedure and conditions for recognition of qualifications.

(2) All regulations made under this section shall be published in the Gazette

(3) The Council may, with the previous approval of the Government by notification in the Gazette, at any time, modify, amend or cancel any such Regulations

### **STATEMENT OF OBJECTS AND REASONS**

Modern Medical care cannot be undertaken without the help of the allied health professionals like the Medical Laboratory Technicians, ECG Technicians, EEC Technicians, EMG Technicians, Ophthalmic Assistants, X-ray Technicians etc. Paramedical Technicians Services thus have a vital role in the health care system. Though they form a vital link in the hospital service there is no law or machinery to lay down standards and enforce them and also there is no control by any professional body over the Laboratory and diagnostic services in the state. In order to evolve uniform standards in the practice of these paramedical Technicians' professions it is absolutely essential that only persons who have attained a minimum standard of professional education are permitted to practice such professions. Therefore, Government have decided to establish a Paramedical Technicians Course and to enable the Council to recognize the minimum standards of education and approve courses of study and examination for paramedical technicians, to recognize the institutions for the conduct of such courses and also, for the maintenance of a Registry of qualified paramedical technicians in the State.

2. Bill seeks to achieve the above objects.

### **FINANCIAL MEMORANDUM.**



The intention of this legislation is mainly to constitute a Para Medical Technicians' Council in the State. Clause 17 of the Bill provides that the Council has a Secretary and other officers and servants of the Council for the administration of the Council. The expenditure for the proper functioning of the Council and the payment of salaries to its staff will have to be met from the income of the Council such as fees, rent etc. received by the Council. However, for its formation and initial functioning provision will have to be made for hiring office accommodation, stationery, other office expenses etc. An expenditure of Rs 25 lakhs is estimated for this matter. This amount will have to be given by the Government by way of grant or loan to be reimbursed to the Government in future.

### MEMORANDUM REGARDING DELEGATED LEGISLATION.

1. Sub-Clause (3) of clause 1 of the Bill seeks to empower the Government to bring the Act into force on such date as the Government may by notification in the Gazette appoint

2. Sub-clause (1) of clause 3 of the Bill seeks to empower the Government to establish by notification in the Gazette a Council to be called the Kerala Para Medical Council,

3. Clause 5 of the Bill seeks to empower the Government to prescribe the manner of choosing professional members

4. Sub-clause (1) of clause 14 of the Bill envisages the making of regulations by the Council for fixing the time and place of the meetings of the Council

5. Clause 16 of the Bill seeks to empower the Government to make rules to prescribe the sitting fees and allowances payable to the members of the Council in connection with the meeting of Council

6. Sub-clause (1) of clause 17 seeks to empower the Government, to appoint, by notification in the Gazette, a Secretary to the Council

7. Sub-clause (4) of clause 17 seeks to empower the Government frame rules fixing the condition of service of the secretary

8. Sub-clause (6) of clause 16 seeks to empower the Government to make rules to prescribe the method of appointment, salary, allowances and other terms and conditions of service of the officers and employees of the Council.

9. Sub-clause (2) of clause 18 seeks to empower the Government to make rules to prescribe the form of registers and the particulars, which may be entered in the Register.

10. Clause 19 of the Bill seeks to empower the Government to dissolve the Council

11 Clause 21 of the Bill seeks to empower the Government to prescribe the form of certificate, application and the fees payable

12 Clause 22 of the Bill seeks to empower the Government to prescribe the renewal fee and fine

13 Clause 24 of the Bill seeks to empower the Government to make rules to prescribe the fee for restoration of registration

14 Clause 26 of the Bill seeks to empower the Government to prescribe the procedure for filing an appeal

15 Clause 30 of the Bill seeks to empower the Government to prescribe the custody of the fund of the Council and other ancillary matters

16 Clause 41 of the Bill seeks to empower the Government by notification to nominate the first Council

17 Clause 45 of the Bill seeks to empower the Government to issue order for removing difficulty in giving effect the provisional of this Act

18 Clause 46 of the Bill seeks to empower the Government to make rules either prospectively or retrospectively to carry out the purposes of the Act

19 Clause 47 of the Bill seeks to empower the Council to make regulations with the previous approval of the Government and to modify, amend or cancel such regulations -

The matter to be prescribed or the orders or notifications to be issued are matters of procedure and details and are of routine and administrative in nature. Further the rules are subject to the scrutiny of the Legislative Assembly after issue. The delegation of legislative power is, therefore, of a normal character.

## THE KERALA PREVENTION OF DEFAACEMENT OF PROPERTY BILL, 2002.

### **Background Note**

Defacement of public places by private commercial advertisements and notices and posters by various bodies has become widespread in the State. There have been repeated complaints from the public, the motorist, travellers and tourists about billboards coming in the way of clear view on the roads and distracting attention of drivers of motor vehicles. The defacement of milestones and signages makes it difficult for travellers to know the correct route to their destination. The pasting of advertisements and posters has gone to such an extent that even heritage sites and structures and monuments are not spared. Tourism is a fast growing industry in the State and the widespread defacement of public places acts as an eyesore to tourists in an otherwise pleasing and green environment.

It has become necessary to take urgent and strict measures to put an end to the practice of defacing public places, and places open to public view by pasting of pamphlets and posters, erection of boards and banners or writing or marking with ink, paint etc.

The Department of Tourism had requested the Committee to do some thing to deal with this menace. The Committee has considered the matter and has drafted the Kerala Prevention of Defacement of Property Bill 2002. The Bill empowers Local Self Government Institutions and the District Collector to take action against defacement of places open to public view. In fact the Bill casts a duty on the Local Self Government Institutions and the District Collector to see that the provisions of the Act are strictly enforced within the area of their jurisdiction in accordance with such general instructions as may be issued by Government from time to time. The draft Kerala Prevention of Defacement of Property Bill, 2002 is appended.



DRAFT

## **THE KERALA PREVENTION OF DEFAACEMENT OF PROPERTY BILL, 2002**

### **A Bill**

to provide for the prevention of defacement of Property or place open to public view and for matters connected therewith or incidental thereto

**Preamble.** – WHEREAS, the defacement of heritage sites, structures, signages, compound walls, public places all over Kerala is destroying the natural beauty, cleanliness and environment of the State;

AND WHEREAS, defacement of signage often results in inconvenience to tourists and travellers,

NOW, THEREFORE, it is expedient to provide for the prevention of defacement of such property,

BE it enacted in the Fifty-third Year of the Republic of India as follows -

1. **Short title, extent and commencement.** - (1) This Act may be called the Kerala Prevention of Defacement of Property Act, 2002

(2) It shall extend to the whole of the State of Kerala

(3) It shall come into force at once.

2 **Definitions.**- In this Act, unless the context otherwise requires, -

(a)“**advertisement**” means any printed, cyclostyled, typed or written notice, document, paper or any other thing containing any letter, word, picture, sign or visible representation;

(b)“**Collector**” means the Collector of the District or Revenue Divisional Officer;

(c)“**defacement**” includes impairing or interfering with the appearance or beauty, damaging, disfiguring, spoiling or injuring in any way whatsoever and the word ‘deface’ shall be construed accordingly;

(d) “**Government**” means the Government of Kerala;

(e) ‘**Local Self Government Institutions**’ means, a Grama Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);

(f)“**place open to public view**” includes any private place or building, public offices, hut, monument, statue, water pipe line, structure, wall including

compound wall, retaining wall, tree, fence post, pole or any other erection or contrivance visible to a person being in, or passing along, any public place;

(g) "public place" means, any place including a road, street or way whether a thoroughfare or not and a landing place to which the public are granted access or have a right to resort or over which they have a right to pass,

(h) "writing" includes decoration, lettering, ornamentations, drawing caricature and other modes for representing or reproducing words or figures in a visible form.

**3 Penalty for defacement of property** - (1) Whoever by himself or through any other person defaces any place open to public view by defacing or pasting pamphlets, posters, banners or writing or marking with inks, chalk, paint or any other material or method shall be punishable with a fine which shall not be less than rupees one thousand and not more than rupees five thousand.

Provided that nothing in this section shall apply to any advertisement which, -

(i) is exhibited with the written permission of the Local Self Government Institution having jurisdiction over such area in this behalf;

(ii) is exhibited within the premises of any building, if the advertisement relates to the trade, profession or business carried on in that building; or

(iii) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same, or

(iv) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building,

(v) relates to the business of Central Government and is exhibited upon any wall or other property of Central Government

(2) Where any offence committed under sub - section (1) is for the benefit of some other person or a company or other body corporate or an association of persons whether incorporated or not then such other person or any other officer or person concerned with the management thereof, as the case may be, shall unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

**4 Punishment for attempt to commit offences.** - Whoever attempts to commit any offence punishable under this Act or to cause such offence to be committed and in such attempt does any act towards the commission of the offence, shall be punishable with the punishment provided for the offence.

**5. Punishment of abettors.** - Any person who by supply of or solicitation for money, by providing or permitting, supply of materials, aids, abets or is accessory to the commission of any offence under this Act shall be punishable with the punishment provided for the offence.

**6 Offence to be cognizable** - An offence punishable under this Act shall be cognizable and bailable

**7 Power to erase writing, etc** - Without prejudice to the provisions of section 3, it shall be competent for the Government, Collector or the Local Self Government Institutions concerned to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any place open to public view and to realise the costs from the person responsible for such defacement as arrears of public revenue due on land

**8 Offence to be tried summarily** - Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) all offences under this Act shall be tried in a summary way by any Magistrate of the first class specially empowered in this behalf by the High Court under the provisions of section 262, 263, 264 and 265 of the said Code

**9 Powers of Local Self Government Institutions and Collector.** - It shall be the duty of the Local Self Government Institution and the Collector to see that the provisions of this Act are strictly enforced within the area of their jurisdiction and in the exercise of its duties and performance of its powers under this Act, the Local Self Government Institution or the Collector, as the case may be, shall be guided by such general instructions, as may be, issued by the Government from time to time.

**10 Protection of action taken in good faith** - No suit, prosecution or other legal proceedings shall lie against the Government or any local authority or any person for anything which is in good faith or in public interest done or intended to be done under this Act

**11 Act to override other laws** - The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force

## **STATEMENT OF OBJECTS AND REASONS**

A common complaint often heard from the public and also from the tourists is about the defacement of heritage sites and signage all over Kerala. The defacement of heritage sites, structures, signage, compound walls, public places all over Kerala is destroying the natural beauty, cleanliness and environment of the State. From tourism point of view this creates a very bad impression about destination. Signage often covered with posters and publicity material results in inconvenience to tourists and travellers. Therefore, it is necessary to take stringent measures to put an end to the practice of defacing places open to public view by pasting pamphlets, posters, banners or writing or making with inks, chalk, point etc. It is proposed to empower the District Collector and the Local Self Government Institutions concerned to take appropriate stringent actions in this matter.

2. The bill seeks to achieve the above objects.

## **FINANCIAL MEMORANDUM**

Clause 7 of the Bill seeks to empower the Government, the Collector or the Local Self Government Institutions to take such steps as may be necessary for erasing any writing, freeing any defacement or removing any mark from any place open to public view. For erasing any defacement under the said clause some expenditure will have to be met from the consolidated fund of the State. However, the said section further empowers the Government or the Collector or the Local Self Government Institutions to realize the amount so spent from the person responsible for the defacement. Therefore the Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State. However the actual amount that may initially require for erasing each defacement by the Government or the Collector cannot be calculated at any degree of accuracy.

## **MEMORANDUM REGARDING DELEGATED LEGISLATION.**

Clause 9 of the bill inter alia provides that it shall be the responsibility of the Collector and the Local Self Government Institution concerned to see that the provisions of the Act are strictly enforced within the area of their jurisdiction. However, the Collector or the Local Self Government Institutions while exercising their powers under the Act will be guided by such general instructions as may be issued by the Government from time to time. The general instructions that may be issued by the Government under the said clause are only of administrative in character. Therefore, delegation of power is only of administrative in character. Therefore, delegation of power is only of administrative in nature.



## **THE KERALA PROHIBITION OF SMOKING AND PROTECTION OF NON-SMOKERS HEALTH BILL, 2002**

### **Background Note.**

Smoking of cigarettes is a harmful habit and, in course of time, can lead to grave health hazards. Researches carried out in various parts of the world have confirmed that there is a relationship between smoking of cigarettes and lung cancer. Chronic bronchitis, certain diseases of the heart and arteries, cancer of bladder, prostate, mouth, Pharynx and oesophagus, hepatic ulcer etc are also reported to be among the ill effects of cigarette smoking. Tobacco smoking also adds to air pollution.

2 The Fundamental right guaranteed under Art 21 of the constitution of India, inter alia provides that no one shall be deprived of his life without due process of law. There is no reason why a non-smoker should be afflicted by various diseases, including liver cancer or of heart, only because he is required to go to public places. It is indirectly depriving him of his life without any process of law. Undisputedly smoking is injurious to health and may affect the health of smokers but there is no reason that health of passive smokers should also be injuriously affected. In any case, there is no reason to compel non-smokers to be helpless victims of air pollution.

3 In Ramakrishnan Vs State of Kerala reported in 1999 (2) KLT 725 a Division bench of the Kerala High Court inter alia prohibited smoking in public places and also stressed the need for a suitable legislation in this matter.

4 Realizing the gravity of the situation and considering the adverse effect of smoking as smokers and passive smoker the Hon Supreme Court of India in Murli S Deora VS Union of India and others reported in (2001) 8 Supreme Court Cases 765 has directed the Union of India, State Governments as well as the Union Territories to take effective steps to ensure prohibition of smoking in public places.

5 Tobacco is universally regarded as one of the major public health hazards and is responsible directly or indirectly for an estimated eight-lakh deaths annually in India. It has also been found that treatment of tobacco - related diseases and the loss of productivity caused therein cost the country almost Rs 13,500 crores annually, which more than offsets all the benefits accruing in the form of revenue and employment generated by tobacco industry. It is therefore necessary to save the young generations from the perils of tobacco.

6 The prevention of Juvenile smoking Act, 1096 enacted for Cochin area is shown in the statute book. The said Act provides for the prevention of Juvenile smoking in public places and for seizure of tobacco from youthful persons. The punishment provided for the said offence is to receive six stripes in the way of school discipline. The Act has not been enforced for many years now. The Committee has considered the question in the light of the requirements of public health, health of young persons and the directions of the High Court of Kerala and Supreme Court of India. The Committee has

proposed the a draft of legislation for prohibition of smoking in public places and also to protect the health of non-smokers It is also suggested to prohibit all kinds of advertisement to promote smoking, sale of cigarettes etc and also prohibit the sale of cigarettes and other tobacco substances to children below the age of fourteen The draft Bill is appended

**THE KERALA PROHIBITION OF SMOKING AND PROTECTION  
OF NON-SMOKERS HEALTH BILL, 2002**

**A  
BILL**

to provide for prohibition of smoking in public places and in public service vehicles in the State of Kerala and to make provision for other matters connected therewith.

*Preamble.* – **WHEREAS**, smoking of cigarettes is a harmful habit and, in course of time, can lead to grave health hazards,

**AND WHEREAS**, researches carried out in various parts of the world have confirmed that there is a relationship between smoking of cigarettes and lung cancer;

**AND WHEREAS**, the persons not indulging in smoking cannot be compelled to or subjected to passive smoking on account of the acts of smokers;

**NOW, THEREFORE**, it is expedient to prohibit smoking in public places or in public service vehicles in the State

**BE** it enacted in the Fifty-third Year of the Republic of India as follows.

**1. Short title extent and commencement.** - (1) This Act may be called the Kerala Prohibition of Smoking and Protection of Non-Smokers Health Act, 2002

(2) It extends to the whole of the State of Kerala

(3) It shall come into force at once.

**2. Definitions.**- (1) In this Act, unless the context otherwise requires,

(a) "advertisement" means and includes any notice, circular, wall paper, pamphlet, display on hoarding, any visible representation made by means of any light, sound, smoke, gas, writing instruments, stickers, symbol, colours, logo, trade mark, display on articles like T-shirts, shoes, sport wear, sport gears, caps, carry bags, telephone booths or any other means which has the effect of promoting smoking and the expression advertise shall be construed accordingly,

(b) "authorised officer," means a person authorised under section 4,

(c) "Local Self Government Institutions" means a panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);

(d) "Government" means the Government of Kerala;

(e) "public place" includes auditoria, hospital buildings, cinema theatre, health institutions, amusement centers, restaurants, public offices, court buildings, educational institutions, libraries, Public conveyances and the like which are

visited by general public and such other places as may be notified by Government from time to time as public places but does not include any open place

(f) "public service vehicle" means a vehicle as defined under clause (35) of section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988);

(g) "rule" means any rule made under this Act.

**3 Duties of persons in charge of public places.-** (1) It shall be the duty of the owner or manager or officer in charge of the in charge of the affairs of every public place to take all necessary steps to prevent the commission of the offences under this Act and to report any violation of this Act to the officer in charge of the nearest police station

(2) The person referred to in sub-section (1) shall display or exhibit a board at a conspicuous place or places in and outside the premises visited or used by the general public, prominently stating that the place is a "No Smoking Zone" and that "Smoking is an Offence"

(3) Every owner, manager or officer referred to in sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

**4 Power to the Government or Local Self Government Institutions to authorise officers to act under the Act.-** (1) The Government or the Local Self Government Institution may, by notification in the Official Gazette, authorise one or more persons who shall be competent to report any violation of this Act to the officer in charge of the nearest Police station

(2) Every person authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860)

**5 Prohibition of Smoking in Public places. -** No person shall smoke in any public place

**6 Prohibition of smoking in Public Vehicles. -** Without prejudice to the provisions of the Motor Vehicles Act 1988 (Central Act 59 of 1988), no person shall smoke in the public service vehicle

**7 Prohibition on advertisement or sale of cigarettes.-** Notwithstanding anything contained in any other law for the time being in force, no person shall advertise in any place and any public service vehicle, which may promote smoking, or the sale of cigarettes or beedis or any other such smoking substances

**8. Prohibition of sale of cigarettes, etc. to children. -** No person shall sell cigarettes, beedis chewing tobacco, tobacco paste, including tobacco based tooth paste, supari with tobacco, panmasala, zarda, snuff, ghutka or any other smoking or chewing

substance containing nicotine or tobacco to any person who is below the age of fourteen years

**9. Penalties.-** Any person who contravenes the provisions of –

- (a) section 5, or section 6 shall be punishable with fine which may extend to one hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two hundred rupees, but which may extend to five hundred rupees.
- (b) Section 7 or section 8 shall be punishable with fine which may extend to five hundred rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of five hundred rupees, but which may extend to one thousand rupees.

**10 Ejection of violator of this Act from public place. -** Any authorised officer or any owner or manager or officer in charge of the affairs of a public place, may eject any person from the public place who contravenes the provisions of this Act and any driver or conductor of a public service vehicle may eject any person who contravenes any provisions of this Act in public service vehicles, from public service vehicle

**11 Court competent to try offences under this Act and take cognizance of offence.-** (1) No court other than the court of a Judicial Magistrate of First Class shall take cognizance of, try an offence under this Act

(2) No court shall take cognizance of any offence under this Act except on a report in writing of a police officer, not below the rank of Sub-Inspector of police

**12 Certain offences to be cognizable and bailable. -** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) offences under this Act shall be cognizable and bailable

**13 Offence under the Act to be tried summarily. -** All offences under this Act shall be tried summarily in the manner provided for summary trial under the Code of Criminal Procedure, 1973 (2 of 1974).

**14 Power to delegate.-** The Government may, by notification in the Official Gazette, direct that any power exercisable by it, under this Act, may also be exercised by the Local Self Government Institutions within their respective jurisdiction, subject to such conditions, if any, as may be specified therein

**15 Composition of offences.-** The Government or any person authorised by it by general or special order in this behalf may either before or after the institution of the proceedings compound any offences made punishable by or under this Act

**16 Power to make rules.-** (1) The Government may, by notification in the Gazette, make rules for purpose of carrying into effect the provisions of this Act

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or two or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### **STATEMENT OF OBJECTS AND REASONS**

Smoking of cigarettes is a harmful habit and in course of time, can lead to grave health hazards. Researches carried out in various parts of the world have confirmed that there is a relationship between smoking of cigarettes and lung cancer. Tobacco smoking also adds to the air pollution. Fundamental right guaranteed under Article 21 of the Constitution of India inter alia provides that no one shall be deprived of his life without due process of law. There is no reason why a non-smoker should be afflicted by various diseases including lung cancer only because he is required to go to public places. It is directly depriving him of his life without any process of law. Realising the gravity of the situation and considering the adverse effect of smoking as smokers and passive smokers the Honourable Supreme Court of India in *Murali S Deora Vs. Union of India* has directed Union of India and State Governments to take effective steps to ensure prohibiting smoking in public places.

2 The Bill seeks to prohibit smoking in public places, prohibit all kinds of advertisement which may promote smoking and prohibit the sale of cigarettes to minors.

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the consolidated fund of the State.

### **MEMORANDUM REGARDING DELEGATED LEGISLATION.**

1 Sub clause (e) of clause 2 of the Bill seeks to empower the Government from time to time to declare any place as public place for the purpose of the Act.

2 Sub-clause (1) of clause 4 of the Bill seeks to empower the Government or Local Self Government Institutions to authorise one or more persons who shall be competent to report all violations of the Act to the Police.

3. Clause 14 of the Bill seeks to empower the Government by notification delegate any power exercisable by the Government to Local Self Government Institutions and also specify the conditions under which such delegated powers be exercised by the Local Self Government Institutions.

4. Clause 16 of the Bill seeks to empower the Government to make rules for the purpose of carrying in to effect the provisions of the Act

5. The matters in respect of which rules may be made or orders may be issued are matters of procedure or of details and are of routine and administrative nature. Further, every rule made under this Act are subject to scrutiny by the Legislative Assembly. The delegation of Legislative power is, thus, of a normal character.





## **THE KERALA PROMOTION OF TREE GROWTH IN NON FOREST AREAS BILL, 2002**

### **Background Note**

The rapid increase of population during the last century created enormous pressure on land. This led on the one hand to widespread encroachment on forests and denudation and consequent reduction in the area of natural forest and tree cover. Due to acute scarcity of food grains in the country and in the State for a good part of last century, both in the de-forested areas and in the other agricultural areas, the emphasis was on growing food crops. In a region originally covered by diverse vegetation, monoculture became the dominant mode of land use. All these have resulted both in the loss of tree cover and bio-diversity and also in soil erosion, loss of natural nutrients and general agriculture productivity.

The need for arresting the loss of tree cover and forest area was felt since environmental issues attracted international and national attention in the 1970s. The Constitutional amendment transferring 'forest' from the State list to the Concurrent list and the enactment by Parliament of Forest Conservation Act, 1980, were major steps taken at the national level. Also, because of increasing concern over global warming, the dire consequences of loss of bio-diversity and soil cover progressively wider definition of the word "forest" has been given in recent years by Courts. At the State level, attempts were made to supplement the provisions of the Kerala Forest Act, 1961 and the Central Forest Conservation Act, 1980 by enacting laws on private forest, the preservation of trees and the transit of timber. While the preservation and growth of tree cover in the former private forest areas are riddled with legal complications, the Kerala Preservation of Trees Act, 1986 and the Kerala Forest Produce Transit Rules, 1975 have in practice proved to be counter productive because of the hassles involved in growing trees, cutting them when appropriate and in transit of timber. Instead of resulting in more tree cover, they have acted as disincentives to growing trees. This has resulted in non-availability of timber for industry and of bamboo for the once flourishing cottage industries and handicrafts.

In the interest of (1) increasing tree cover in non-forest areas, bio-diversity and prevention of soil erosion, (2) for increasing the availability of raw materials for timber and bamboo based industries, and (3) for increasing income and employment, it is urgently necessary to change the existing laws on trees and transit of timber and encourage farmers to grow trees in their lands and allow free movement and use.

The Kerala Promotion of Tree Growth in Non-forest Areas Bill is proposed with this objective. The draft of the Bill is appended.

There are certain rules and notifications restricting transit of timber of different kinds. Not all will be extinguished by the proposed law. In this context, the committee's

attention was drawn to the restriction on inter-state movement of timber wood vide Notification No G O (MS) No 30/92/Forest dated 23rd July, 1992 under the Essential Articles Control Act, 1986 (13 of 1986)

The Committee recommends appropriate amendment to the above said notification to withdraw the restriction. The draft of the amendment is also appended

DRAFT

**THE KERALA PROMOTION OF TREE GROWTH IN  
NON-FOREST AREAS BILL, 2002**

**A  
BILL**

to promote cultivation of trees in non-forest areas of the State in order to increase green cover, preserve bio-diversity and arrest soil erosion and to increase availability of timber and bamboo for industry.

*Preamble.* – **WHEREAS**, it is necessary to maintain environmental stability by cultivation of trees in non-forest areas,

**AND WHEREAS**, cultivation of new trees are necessary for checking soil erosion and denudation in the enactment areas of rivers, lakes, tanks and canals, and for mitigating floods and droughts,

**AND WHEREAS**, in order to increase the green cover in the country it is necessary to cultivate trees in all non forest lands also,

**AND WHEREAS**, in order to meet the requirements of fuel, wood, fodder and small timber to the rural populations it is necessary to promote cultivation of trees in all non forest areas in the State;

**AND WHEREAS**, it is necessary to establish tree lands wherever possible, for the amelioration of the people and climatic conditions promoting the general well being of the people;

**AND WHEREAS**, for the constant supply of wood for industrial growth and realization of maximum annual revenue in perpetuity, it is necessary to promote cultivation of trees in all non-forest areas;

**NOW, THEREFORE**, it is expedient to promote cultivation of trees in non-forest areas in order to fulfill the needs enumerated above,

**BE** it enacted in the Fifty-third Year of the Republic of India as follows –

**1 Short title, commencement, extent and application.** – (1) This Act may be called the Kerala Promotion of Tree Growth in Non-Forest Areas Act, 2002.

(2) It extends to the whole of the State of Kerala

(3) It shall come into force at once.

(4) It shall apply to all non-forest areas in the State.

**2 Definitions.** – In this Act, unless the context otherwise requires, -

- (a) "**Collector**" means Collector of the District and includes a Revenue Divisional Officer;
- (b) "**Deputy Conservator of Forests**" means a forest officer in charge of a forest division and exercising jurisdiction over the area;
- (c) "**Government**" means the Government of Kerala;
- (d) "**holder of land**" means a person holding any land whether as owner, mortgagee, assignee or otherwise;
- (e) "**forest development agency**" means a society constituted at block level as per the direction of Government to promote forest development and registered as society under the Societies Registration Act, 1860 (Central Act XI of 1860) or under the Travancore Cochin Literary Scientific and Charitable Societies Registration Act, 1955, ( 12 of 1955)
- (f) "**grama panchayat**" means a grama panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994).
- (g) "**grama panchayat area**" means the territorial jurisdiction of a grama panchayat;
- (h) "**Local Self Government Institution**" means a Panchayat at any level constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);
- (i) "**municipality**" means a municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994),
- (j) "**municipal area**" means the territorial jurisdiction of a municipality;
- (k) "**non forest area**" includes all private lands, village common lands, Government lands, porampoke lands, lands vested, transferred or purchased by the Local Self Government Institutions or lands within the ownership or possession of Government or non Government organization but does not include lands declared or deemed to have been declared as reserve forest under any law for the time being in force and paddy fields,
- (l) "**prescribed,**" prescribed by rules made under this Act,
- (m) "**to fell a tree**" with its cognate expression, means severing the trunk from the roots, uprooting the tree and includes bulldozing, cutting, girdling, lopping, pollarding, applying arboricides, burning or damaging a tree in any other manner;
- (n) "**tree**" means any woody plant whether fruit bearing or not and includes bamboos.

**3 Rights of holder of private lands.** - Every holder of private land shall be free to plant trees in his land as may be appropriate and generally contribute to the increase of tree cover in his land, in addition, to any crop he may have grown over such land

**4 Duties of Local Self Government Institutions.** – Notwithstanding anything contained in any other law for the time being in force, the Local Self Government Institution shall promote tree growth in non-forest area and be responsible for, –

- a) the cultivation of trees in the lands owned or transferred or vested in them;
- b) carrying out census of the existing trees and obtaining whenever considered necessary declarations from all owners or occupants about the number of trees in their lands;
- c) development and maintenance of nurseries, supply of seeds, saplings and trees to persons at reasonable price who are required to plant new trees or to replace trees which have been felled;
- d) getting planting and transplanting of trees necessitated by construction of buildings, new roads or widening of existing roads or for safe guarding danger of life and property;
- e) organisation of demonstrations and extension services for the purposes of this Act and assisting private and public institution in connection with planting and preservation of trees;
- f) undertaking or executing such schemes or measures as may be directed from time to time by the Government for achieving the objects of this Act.

**5. Duties of forest development agencies.** – The forest development agencies shall in addition to their duties and responsibilities enshrined in their constitution shall have the following duties, namely –

- (a) creating a massive people's movement for cultivation of trees on all non forest lands,
- (b) make available seeds, saplings and trees at reasonable price,
- (c) inform the authorities concerned about the unauthorized felling of trees and unauthorized transit of timber in restricted areas,
- (d) such other duties, as may be specified by the forest department or the Collector, as the case may be

**6 Duties of forest department.** – Notwithstanding anything contained in any other law for the time being in force, the forest department shall, have the following duties, namely -

- (a) to supply seeds, saplings and trees to all persons who are required to plant new trees or replace trees which have been felled at reasonable price;
- (b) to execute all their schemes for tree cultivation through Local Self Government Institutions;
- (c) to undertake critical study of the proposals of various Government departments and private bodies for construction of buildings, roads, factories, irrigation works, laying out of electric, telephone, telegraph and other transmission lines with regard to protection of existing trees and planting more trees, wherever possible;
- (d) to exercise such other powers and duties as are laid down in this Act or the rules made there under.

**7. Duties of Agricultural Department.** – The Agricultural Department shall have the following duties, namely: -

- (a) development, maintenance and approval of private nurseries, supply of seeds, saplings and trees to persons at reasonable price;
- (b) to execute all schemes pertaining to Agriculture department for tree cultivation through Local Self Government Institutions;
- (c) to give all technical and other assistance in planting trees,
- (d) to exercise such duties as may be prescribed.

**8 Power of the holder of land to cut and remove trees standing in their lands.** - Subject to the provisions of sections 9 and 10 of this Act there shall be no restriction for the holder of land to cut and remove the trees standing in their lands and to use or transit such timber.

**9 Prohibition of cutting of tree in notified areas.** - (1) Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, tribunal or other authority, or in any agreement or other arrangement, the Government may, with a view to preserving the tree growth in private forests or in the Cardamom Hills Reserve or in any other area cultivated with cardamom, by notification in the Gazette, direct not to fell a tree standing in any such area specified in the notification except on the ground that if the tree, -

- (a) is dead, diseased or wind fallen, or
- (b) is silvi culturally mature, provided it does not occur on a steep slope, or
- (c) constitutes a danger to life or property, or
- (d) constitutes obstruction to traffic, or
- (e) is substantially damaged or destroyed by fire, lightening, rain or other natural causes

**Explanation.** - For the purposes of sub-section (1) the expression "private forest" means any land, which immediately before the 10<sup>th</sup> day of May, 1971 was a private forest as defined in the Kerala Private Forests (Vesting and Assignment) Act, 1971

(2) No person shall, without the previous permission in writing of the Deputy Conservator of Forest fell any tree in any area specified in the notification under sub-section (1) on any of the grounds specified therein

(3) Every application for permission under sub-section (2) shall be in such form and shall contain such particulars as may be prescribed and shall be made to the Deputy Conservator of Forest

(4) The procedure to be followed by the Deputy Conservator of Forest in granting or refusing permission shall be such as may be prescribed.

(5) Any person aggrieved by an order refusing to grant permission may, within ninety days of the receipt of such order, prefer an appeal to the District Collector

(6) An appeal under sub-section (5) shall be in such form and shall contain such particulars, as may be prescribed

(7) On receipt of an appeal under sub-section (5) the District Collector shall, after giving the appellant and the Deputy Commissioner of Forest an opportunity of being heard, pass such order thereon as it thinks fit.

(8) The decision of the District Collector under sub-section (7) shall be final.

**10. Restriction on transit of timber.** – (1) The Government shall, by notification in the Gazette, restrict the transit of timber in and out of a Grama Panchayat area or a Municipal area which is adjoining any reserve forest except by way of a transit permit issued by the Forest Department.

(2) Every application for transit permit under sub-section (1) shall be in such form and shall contain such particulars, as may be prescribed and shall be made to the Deputy Conservator of Forest.

(3) The procedure to be followed by the Deputy Conservator of Forest in granting or refusing permission shall be such as may be prescribed.

(4) Any person aggrieved by an order refusing to grant permission may, within ninety days of the receipt of such order, prefer an appeal to the District Collector and the decision of the District Collector there on shall be final

**11 Penalties.** –(1) Whoever contravenes any of the provisions of section 10 or sub-section (2) of section 9 or a direction contained in a notification under sub-section (1) of section 9 or any of the terms and conditions subject to which a permission has been granted under this Act shall be punishable, -

(a) in the case of first offence, with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees; and

(b) in the case of a second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees

(2) All offences under the section shall be cognizable.

**12 Offences by companies.** – (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of its business, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing in this sub section shall render any person liable to punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.** – For the purposes of this section, –

(a) "company" means any body corporate and includes a firm, society or other association of individuals; and

(b) "director", -

(i) in relation to a firm, means a partner in the firm;

(ii) in relation to a society or other association of individuals means the person who is entrusted, under the rules of the society or other association with the management of the affairs of the society or other association, as the case may be

**13. Powers of Divisional Forest Officer and Collector.** - Every Divisional Forest Officer and Collector shall, for the purpose of performing their functions under this Act, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely: -

a) summoning and enforcing the attendance of any person and examining him on oath,

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit, and

(d) such other matters, as may be prescribed

**14. Powers of entry and inspection.** - The Deputy Conservator of Forest or any other officer generally or specially authorised by the Government in this behalf may, with such assistants, if any, being persons in the service of the Government, as he thinks fit at all reasonable times enter upon any land for the purpose of ascertaining whether any of the provisions of this Act or any of the terms and conditions subject to which any permission has been granted under this Act has been contravened

**15. Power to seize timber and other articles involved in the commission of offence.** - (1) Where any officer of the Forest Department not below the rank of Forester or any police officer not below the rank of Sub-Inspector has reason to believe that any tree has been cut or transited in contravention of section 10 or sub-section (2) of section 9 or a direction contained in a notification under sub section (1) of section 9, he may seize the timber of such trees together with all tools, ropes, chains and other articles used in the commission of such offence and all boats, vehicles and animals used for carrying such timber

**Explanation.** - The terms "boat" and "vehicle" in this section, section 16 and section 17 shall include all the articles and machinery kept in the boat or vehicle, as the case may be, whether fixed to the same or not.

(2) Every officer seizing any timber under sub-section (1) shall place on such timber a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure to the Divisional Forest Officer.

(3) On receipt of a report under sub-section (2), the Divisional Forest Officer shall, -



(a) if he is satisfied that the timber mentioned in such report is of any tree cut or transited in contravention of section 10 or sub-section (2) of section 9 or a direction contained in a notification under sub-section (1) of section 9, make a report of such seizure to the Judicial Magistrate of the First Class having jurisdiction over the area in which such seizure has been made;

(b) if he is not so satisfied, make a report of such seizure to the Collector.

(4) The Collector to whom a report is made under clause (b) of sub-section (3) shall, -

(a) if he is satisfied that the timber mentioned in such report is of any tree cut or transited in contravention of section 10, or sub-section (2) of section 9 or a direction contained in a notification under sub-section (1) of section 9, make a report of the seizure of such timber to the Judicial Magistrate of the First Class having jurisdiction over the area in which such seizure has been made,

(b) if he is not so satisfied, order that such timber and any tool, rope, chain or other article or any boat, vehicle or animal seized along with it shall be returned to the person from whom they were seized

**16. Power to release property seized under section 15.** – The Deputy Conservator of Forest or the Collector, as the case may be, may release any tool, rope, chain or other article or any boat, vehicle or animal seized under section 15 and in respect of which a report has been made to the Judicial Magistrate of the First Class under clause (a) of sub-section (3) or under clause (a) of sub-section (4) of that section on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before such Magistrate

**17. Procedure by Magistrate.** – Upon the receipt of a report under clause (a) of sub-section (3) or clause (a) of sub-section (4) of section 15 the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the timber and any tool, rope, chain or other article or any boat, vehicle or animal seized along with it, according to law

**18. Procedure as to perishable property seized under section 15.** – (1) Notwithstanding anything hereinbefore contained, -

(a) the Magistrate to whom a report is made under section 15 may direct the sale of any property seized under that section, which is subject to speedy and natural decay, and

(b) if, in the opinion of the Deputy Conservator of Forest or the Collector it is necessary to dispose of the property, which is subject to speedy and natural decay, such officer shall immediately after, and in any case not later than one month from, the date of report under section 15 make an application to the Magistrate referred to in clause (a) for permission to sell the property by such officer himself and on getting such permission may sell the property himself, remit the sale proceeds into the nearest government treasury and make a report of such sale and remittance to that Magistrate and thereupon such Magistrate shall take such measures as may be necessary for the trial of the accused

(2) The Magistrate may deal with the proceeds of the sale of any property sold under clause (a) or clause (b) of sub-section (1) in the same manner as he might have dealt with the property if it had not been sold.

**19. Saving of power to release property seized.** – Nothing hereinbefore contained shall be deemed to prevent the Deputy Conservator of Forest or the Collector from directing at any time the immediate release of any property seized under section 15 and the withdrawal of any charge made in respect of such property after recording the reasons for the same;

Provided that the powers under this section shall be exercised by the Deputy Conservator of Forest or the Collector only for good and sufficient reasons to be recorded in writing.

**20. Institution of prosecution.** – No prosecution shall be instituted against any person without the sanction of the Deputy Conservator of Forest or the District Collector

**21. Cognizance of offences.** – An offence punishable under this Act shall be tried before a Court of the Judicial Magistrate of First Class having jurisdiction and such Magistrate may take cognizance of the offence on a police report.

**22. Bar of jurisdiction of civil courts.** – No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter, which is by or under this Act required to be settled, decided or dealt with or to be determined by any officer or authority or the Government

**23. Indemnity.** – No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority or any other person for anything which is in good faith done or purporting to have been done under this Act or any rule or order made there under.

**24 Power to make rules.** – (1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for –

- (a) the girth of trees which may be permitted to be cut,
  - (b) the terms and conditions subject to which permission may be granted;
  - (c) the procedure to be followed by the Deputy Conservator of Forest before granting or refusing permission;
- the procedure to be followed by the Collector in the disposal of an appeal under section 9 and 10;
- any other matter which has to be or maybe prescribed.

(3) Every notification issued under sub-section (1) of section 9 and every rule made under this section shall be laid as soon as may be after it is issued or made, before the Legislative Assembly while it is in session for a total period of fourteen days which

may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the notification or rule or decides that the notification or rule should not be issued or made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

**25. Power to remove difficulties.** – (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette make such provisions not inconsistent with the provisions of this Act, which appear to them necessary for the purpose of removing the difficulty.

(2) Every such order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.

**26 Repeal and savings.** – (1) The Kerala Preservation of Trees Act, 1986 (35 of 1986) is hereby repealed.

(2) Notwithstanding the repeal of the Kerala Preservation of Trees Act, 1986 (35 of 1986) the provisions of section 4 to 23 of the Interpretation and General clauses Act, 1125 (7 of 1125) shall apply upon the repeal of the said Act.

(3) All investigation pending before any offices or proceedings pending before the Magistrate under the repealed Act may be continued in accordance with the provisions of this Act.

Provided that no person convicted of an offence with respect to anything so deemed to have been done under this Act, shall be subjected to a penalty greater than that which might have been inflicted under the law applicable to such offence, in force at the time of the commission of such offence.

### STATEMENT OF OBJECTS AND REASONS

The need for arresting the loss of tree cover and forest area was felt since environmental issues attracted international and national attention in the 1970s. The Constitutional amendment transferring forest from the state list to the Concurrent list and the enactment by Parliament of Forest Conservation Act, 1980 were major steps taken at the national level. Also, because of increasing concern over global warming the dire consequences of loss of biodiversity and soil cover; progressively wider definition of the word "forest" has been given in recent years by Courts. At the State level, attempts were made to supplement the provisions of the Kerala Forest Act, 1961 and the Central Forest Conservation Act, 1980 by enacting laws on private forest, the preservation of trees and the transit of timber. While the preservation and growth tree cover in the former private forest areas are riddled with legal complications, the Kerala Preservation of Trees Act, 1986 and the Kerala Forest Produce Transit Rules, 1975 have in practice proved to be counter productive because of the hassles involved in growing trees, cutting them when

appropriate and in transit of timbers. Instead of resulting in more tree cover, they have acted as disincentives to growing trees. This has resulted in non-availability of timber for industry and of bamboo for the once-flourishing bamboo-based cottage industries and handicrafts

In the interest of (1) increasing tree cover in non-forest areas, biodiversity and prevention of soil erosion, (2) for increasing the availability of raw materials for timber and bamboo based industries, and (3) for increasing income and employment, it is urgently necessary to change the existing laws on trees and transit of timber and encourage farmers to grow trees in their lands, allow free movement and use.

The Bill seeks to achieve the above objects.

### **FINANCIAL MEMORANDUM**

As per the provisions of the Bill the Local Self Government Institutions are duty bound to promote tree growth in non-forest areas in the State. For this all schemes of the Forest and Agriculture Department regarding the promotion of tree growth will have to be implemented through Local Self Government Institutions. Therefore the Bill if enacted and brought into operation could not involve any additional expenditure from the consolidated fund of the State

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. Clause 6 of the Bill seeks to empower the Government, to specify by rules the duties to be exercised by the Forest Department
2. Sub Clause 1 of clause 9 of the Bill seeks to empower the Government, not to fell tree standing in private forests, cardamom hill reserve etc
3. Sub Clause 3 of clause 9 of the Bill seeks to empower the Government to specify the form and particulars of application for permission to cut trees in prohibited areas
4. Sub Clause 4 of clause 9 of the Bill seeks to empower the Government to prescribe the procedure to be followed in granting or refusing permission
5. Sub-clause (6) of clause 9 of the Bill seeks to empower the Government to prescribe the particulars, which shall contain in the form of appeal
6. Sub-clause (1) of clause 10 of the Bill seeks to empower the Government to restrict the transit of timber in and out of any Grama Panchayat or Muncipal area adjoining any reserve forest
7. Sub-clause (2) of clause 10 of the Bill seeks to empower the Government to prescribe the particulars of application for transit permit.

(8) Sub-clause (3) of clause 10 of the Bill seeks to empower the Government to prescribe the procedure to be followed in granting and refusing transit permission

(9) Sub-clause 3(b) of clause 15 of the Bill seeks to empower the Government to prescribe the authority to whom the report of seizure to be made.

(10) Clause 27 of the Bill seeks to empower the Government to make provision for removing difficulties arising while giving effect to the provisions of the Act

(11) The matters in respect of which rules may be made or orders may be issued are matters of procedure or of details and are of routine and administrative nature. Further every rule, made under this Act is subject to scrutiny by the Legislative Assembly. The delegation of legislative power, is thus of a normal character.



**കേരള സർക്കാർ**

**വനം, വന്യജീവി (ബി) വകുപ്പ്  
വിജ്ഞാപനം**

ബി.ഒ.(എം.എസ്.) നം. /02/വനം.

തിരുവനന്തപുരം, /02

എസ്.ആർ.ഒ.നം /02 .-1986 -ലെ കേരള ആവശ്യസാധന നിയന്ത്രണ ആക്ട് ( 1986 -ലെ 13) 2 -ാം വകുപ്പ് (എ) ഖണ്ഡം മൂലം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് 1993 ഫെബ്രുവരി 9-ാം തീയതിയിലെ 6-ാം നമ്പർ ഗസറ്റിൽ എസ്. ആർ.ഒ.നം: 243/93 ആയി പ്രസിദ്ധീകരിച്ച 1992 ജൂലൈ 23-ാം തീയതിയിലെ സർക്കാർ ഉത്തരവ് (എം.എസ്.) നം. 30/92 -വനം എന്ന ഉത്തരവു പ്രകാരം പ്രഖ്യാപിച്ച ആവശ്യസാധനങ്ങളുടെ പട്ടികയിൽനിന്നും റബറിനെ (ഹീവിയ ബ്രസീലിയസിസ്) ഒഴിവാക്കുന്നതായി പ്രഖ്യാപിക്കുന്നു.

ഗവർണ്ണറുടെ ഉത്തരവിൻ പ്രകാരം,

സെക്രട്ടറി  
വനം, വന്യജീവി വകുപ്പ്

**വിശദീകരണക്കുറിപ്പ്**

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമല്ല എന്നാൽ പ്രധാന ഉദ്ദേശം വെളിപ്പെടുത്തുന്നതിനുദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

ഭാഷ്യചെയ്യുന്ന റബ്ബർമരങ്ങൾ നിർദ്ദിഷ്ടകാലം കഴിഞ്ഞാൽ കടുംവെട്ടു നഷ്ടങ്ങളും പിന്നീടു മുറിച്ചുമാറ്റി റീപ്ലാന്റിംഗ് ചെയ്യുകയുമാണ് അനുവർത്തിച്ചു വരുന്ന സംപ്രദായം. തൽഫലമായി ഓരോവർഷവും മരം മുറിയ്ക്കലും റീപ്ലാന്റിംഗും നടന്നുവരുന്നു. ഇപ്രകാരം മുറിച്ചുമാറ്റുന്ന മരങ്ങൾ അന്യ സംസ്ഥാനങ്ങളിലേയ്ക്കു കൊണ്ടുപോകുന്നതിന് അത്തരം സംസ്ഥാന രംഗത്തു നിലവിലുള്ള നിയന്ത്രണങ്ങൾ കർഷകർക്കും വ്യാപാരികൾക്കും ബുദ്ധിമുട്ടു ജനിപ്പിക്കുന്നതിനാൽ കർഷക-വ്യാപാര - താല്പര്യങ്ങൾ സംരക്ഷിക്കുന്നതിനായി ഈ നിയന്ത്രണം നീക്കം ചെയ്യേണ്ടതാണെന്ന് സർക്കാരിന് ബോധ്യപ്പെട്ടിട്ടുള്ളതിനാൽ അത് നിറവേറ്റുന്നതിന് ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ് ഈ വിജ്ഞാപനം.





**THE KERALA RIGHT TO INFORMATION BILL, 2002**  
**&**  
**THE KERALA TRANSPARENCY IN PUBLIC PURCHASE**  
**BILL, 2002**

**Background Note**

There is a lot of information regarding Government and its working which the people are entitled to get as a matter of course. These relate to Statutes and Rules, Government orders, Circulars, Public Reports etc. But the fact is that they are hardly available for reference to the ordinary people. Modern technology makes dissemination of such information easy. With the establishment of computerised systems in most departments under the programme for E-governance, it is hoped that general information of the kind mentioned above would be freely available to the public.

In recent years, there has been increasing concern about transparency in the working of Government in the context of responsive administration and accountability. Transparency implies that a decision is taken on announced norms and criteria, based on principles of fairness and equity and such decision making is made visible to those concerned. It has been pointed out that while even routine information is not available as freely as it was some years ago and enquiry reports and study reports in the preparation of which large sums of money have been spent are seldom published in time for public information, the citizen has absolutely no means of knowing how a Government decision is arrived at.

It is in this context that the concept of openness in Government has been widely discussed. It has been pointed out that the constitutional provisions on fundamental rights – right of free speech and expression under Article 19 (1) (a) imply that the right to information or the right to know is a fundamental right.

In accordance with the growing concept of increasing openness in Government a Bill on Right to Information has been introduced in Parliament. Some States have also passed Right to Information Laws. There are reports that the working has not been all that satisfactory.

'Public purchases' is an important area in which question of transparency arises frequently. Public purchases are carried out by government departments, local government institutions, public Boards and other Corporations by following certain procedures laid down in the rules. The said rules do not contain any provision to disclose to those concerned the procedures followed, criteria adopted in arriving at the decisions and the detailed results of the decisions. In the case of many purchases there are ill-informed and mis-informed reports in the media, leading to allegations and counter-allegations and delays in decision making.

The Committee has considered the question in all aspects. While a change in mindset is essential for ensuring transparency in Government, legislation could give citizens the right to seek and get information in terms of provisions of the law.

The Committee proposes two draft Bills one on the right to information to citizens in relation to all government matters and the other for ensuring transparency in public purchases. The two draft Bills are appended.

DRAFT**THE KERALA RIGHT TO INFORMATION BILL, 2002****A  
BILL**

to provide for right of access to information to the citizens and in relation to the matters connected therewith or incidental thereto

*Preamble.* - **WHEREAS**, right to Government held information is accepted by the Supreme Court as a part of right to speech and expression guaranteed to citizens in the Constitution;

**AND WHEREAS**, providing right of access to information to the citizens of the State promotes openness, transparency and accountability in administration and ensures effective participation of people in the administration and thus makes democracy meaningful,

**AND WHEREAS**, it is necessary that every Governmental action should be transparent to the public,

**AND WHEREAS** to achieve this object, every citizen should be able to get information from the Government,

**BE** it enacted in the Fifty-third Year of the Republic of India as follows: -

**1 Short title and commencement** – (1) This Act may be called the Kerala Right to Information Act, 2002.

(2) It shall come into force from such date, as the Government may by notification, appoint and different dates may be appointed for different provisions of this Act.

**2 Definition.** – In this Act, unless the context otherwise requires, -

(a) "competent authority" means any authority, officer or person as may be notified by the Government for the purposes of this Act;

(b) "information" means information relating of any matter in respect of the affairs of the administration or decisions of a public authority;

(c) "Local Self Government Institutions" means a Panchayat constitute under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under the Kerala Municipality Act, 1994, (20 of 1994);

(d) "public authority" means, -

- (i) all offices of the State Government;
- (ii) all authorities constituted by or under any Act of the State Legislature for the time being in force, a company, Corporation, trust, society, any statutory or other authority, co-operative society or any organisation or body funded, owned or controlled by the State Government, but does not include,-
  - (i) offices of the Central Government;
  - (ii) any establishment of the Armed Forces or Central Para Military Forces;
  - (iii) any body or corporation owned or controlled by the Central Government;
  - (iv) the High Court of Kerala and other courts of law including Tribunals, and other organisations which have the status of Courts and whose proceedings are deemed to be judicial proceedings;
  - (v) the Secretariat of the Governor of Kerala;
  - (vi) all Local Self Government Institutions.

(e) 'right to information' means right of access to information from any public authority,-

- (i) by obtaining certified copies of any records;
- (ii) by obtaining diskettes, floppies or any other electronic mode or through print-outs where such information is stored in a computer or in any other device,
- (iii) in such other manner as may be prescribed.

(f) 'record' includes,-

- (i) any document, manuscript and file,
- (ii) any microfilm, microfiche and facsimile copy of a document;
- (iii) any reproduction of image or images embodied in such micro file (whether enlarged or not); and
- (iv) any other material produced by a computer or by any other device

(g) 'trade secret' means information contained in a formula, pattern, compilation, programme, device, product, method, technique or process which is not generally known and which may have economic value.

**3. Obligation of public authorities.** - Every public authority shall,-

(a) maintain all records in such manner and form as is consistent with its operational requirements duly catalogued and indexed;

(b) publish at such intervals as may be prescribed,-

- (i) the particulars of its organisation, functions and duties;
- (ii) the powers and duties of officers and employees and the procedure followed by them in the decision making process;
- (iii) the norms setup by the public authority for the discharge of its functions,

(iv) the details of facilities available to citizens for obtaining information;  
 (c) publish all relevant facts concerning such of the important decisions and policies that affect the public, as maybe prescribed, while announcing such decisions and policies,

(d) before sanctioning or initiating or causing to sanction or initiate any project scheme or activity, as may be specified by the State Government, publish or communicate to the public generally or to the persons affected or likely to be affected by the project, scheme or activity in particular in such manner, as may be prescribed, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interests of maintenance of democratic principles;

(e) publish such other information as may be prescribed.

**4. Right to Information.-** (1) Subject to the provisions of this Act every citizen shall have the right to information.

(2) Notwithstanding anything contained in sub-section (1), no person shall be given, -

(a) information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, strategic scientific or economic interest of India, or conduct of international relations;

(b) information, the disclosure of which would prejudicially affect public safety and order or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case;

(c) information relating to cabinet papers including records of the deliberations of the Council of ministers, Secretaries and other officers;

(d) information, the disclosure of which would harm, frankness and candor of internal discussions including inter departmental or intra departmental notes, correspondence and papers containing advice or opinion of projections and assumptions relating to internal policy analysis,

(e) information, the disclosure of which would prejudice the assessment or collection of any tax, cess, duty or fee or assist in avoidance or evasion of the tax, cess duty or fee;

(f) information, the disclosure of which would constitute a breach of privilege of the Parliament or the State Legislature;

(g) information regarding trade or commercial secrets protected by law or information, the disclosure of which would prejudicially affect the legitimate economic and commercial interest or the competitive position of a public authority or would cause unfair gain or loss to any person;

- (h) information regarding any matter which is likely to,-
- (i) help or facilitate escape from legal custody or affect prison security, or
  - (ii) impede the process of investigation or apprehension or prosecution of offenders.

**5. Procedure for supply of information.** - (1) A person desirous to obtain information shall make an application to the competent authority in the prescribed manner, along with such fee, in such form and with such particulars, as may be prescribed:

Provided that the fee payable shall not exceed the actual cost of supplying information

(2) On receipt of an application requesting for information, the competent authority shall consider it and except for justifiable reasons, pass orders thereon either granting or refusing it, as soon as practicable and in any case within thirty working days from the date of receipt of the application.

Provided that where the competent authority does not have the information he shall within fifteen days from date of receipt of application transfer the application to its next higher authority with whom such information is available and inform the applicant accordingly and thereafter such next higher authority to whom such application is transferred shall furnish information within thirty working days from the date of receipt of the application from the competent authority

(3) Where a request is rejected under sub-section (2), the competent authority shall communicate, in writing, to the person making the request, -

- (i) the reasons for such rejection;
- (ii) the period within which the appeal against such rejection may be preferred;
- (iii) the particulars of the appellate authority

**6 Grounds for refusal to supply information in certain cases.**- Without prejudice to the provisions of section 4, the competent authority may also reject a request for supply of information where such request, -

(a) is too general in nature and the information sought is of such nature that, it is not required to be ordinarily collected by the public authority

Provided that where such request is rejected on the aforesaid ground, it shall be the duty of the competent authority to render help as far as possible to the person seeking information to reframe the request in such manner as may facilitate the supply of information;

(b) relates to information that is required by law, rules, regulations or orders to be published at a particular time, or

(c) relates to information that is contained in published material available to public:

(d) relates to personal information the disclosure of which has no relationship to any public activity or which would cause unwarranted invasion of the privacy of an individual except where larger public interest is served by disclosure:

Provided that the information relating to returns of assets and liabilities filed by any Government servant shall be made available to the public under such circumstances as may be prescribed.

**7. Appeals.** – (1) Subject to such rules as may be prescribed, any person,-  
 (i) aggrieved by an order of the competent authority may, within thirty days from the date of receipt of such order, or  
 (ii) who has not received any communication within a period of thirty working days from the date of making application under section 5, may within next thirty days after such period,

appeal to such authority as may be prescribed.

Provided that no appeal shall lie against an order of withholding of information under clause (f) of sub-section (2) of section 4.

(2)The appellate authority may, after giving the person affected a reasonable opportunity of being heard, pass such order as it deems fit.

(3) The decision of the appellate authority shall be final

(4)Appeals referred to in sub-sections (1) shall be disposed of within thirty days from the date of receipt of such appeals

**8 Power to remove difficulties.** - If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order, make such provisions not inconsistent with the provisions of this Act and appear to them to be necessary or expedient for removing the difficulty

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

**9. Protection of action taken in good faith.** - No suit, prosecution or other legal proceedings, shall lie against the Government or any public authority or any person for anything which is done in good faith or intended to be done, under or in pursuance of this Act or rules made there under.

**10 Penalties.** - Where any competent authority, without any reasonable cause, fails to supply information sought for within the period specified under section 5 or furnishes information which is false with regard to any material particulars and which he knows or has reasonable cause to believe it to be false, -

(i) the authority superior to the competent authority may impose a penalty not exceeding two thousand rupees on such competent authority as it thinks appropriate after giving him a reasonable opportunity of being heard and such a

penalty shall be recoverable from his salary or if no salary is drawn, as arrears of public revenue due on land; and

(ii) he shall also be liable to disciplinary action under the service rules applicable to him

**11 State Council for Right to Information.** - (1) The Government shall, by notification in the Gazette, establish with effect from such date as may be specified in the notification, a council to be known as State Council for Right to Information

(2) The State Council shall consist of the following members namely: -

(a) the Minister-in-charge of the Department of Administrative Reforms in the Government who shall be its chairman; and

(b)(i) such other official members not exceeding four ,

(ii) non-official members not exceeding four representing journalists, non Government organisations;

(3) the time and place of the meeting of the State Council shall be decided by the Chairman and shall observe such procedure, as may be laid down by the council to transact its business.

(4) The function of the State Council shall be to promote right to information in the state and to deal with all matters relating to right to information, such as, -

(a) review the operation of the Act and the rules made there under

(b) review of the administrative arrangements and procedures to secure for citizens the fullest possible access to information;

(c) research and documentation as regards management of information with a view to improve the extent and accuracy of information being made available under the Act; and

(d) to advise the Government on all matters relating to right to information, including training, development and orientation of employees to bring in a culture of openness and transparency

**12 Overriding effect of Act.** - The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or may instrument having effect by virtue of any law other than this Act.

**13 Power to make rules.** - (1) The Government may, after previous publication, by notification, make rules to carrying out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a) the fee payable under section 5;

(b) any other matter which is to be, or may be, prescribed.



(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

### **STATEMENT OF OBJECTS AND REASONS**

Right of access to information to the citizens of the State promotes openness, transparency and accountability in the administration and ensures effective participation of people in the administration and makes democracy meaningful. Therefore, it is proposed to direct all public authorities inter alia to publish periodically the details of facilities available to citizens and announce the details of schemes, projects etc. before its implementation and also supply of information as and when a request to that effect is made by a citizen

2 The Bill seeks to achieve the above objects

### **FINANCIAL MEMORANDUM**

The Bill, if enacted, and brought into operation, would not involve any additional expenditure from the consolidated fund of the State

### **MEMORANDUM REGARDING DELEGATION LEGISLATION**

1 Sub-clause (2) of clause 1 of the Bill seeks to empower the Government to notify the date of commencement of the Act

2 Sub-clause (a) of clause 2 of the Bill seeks to empower the Government to appoint any authority or officer or person to be competent authority for the purposes of the Act.

3 Sub-clause (e) of clause 2 of the Bill seeks to empower the Government to prescribe the manner of obtaining certified copies, floppies etc.

4 Sub-clause (d) and (c) of clause 3 of the Bill seeks to empower the Government to specify the scheme or activity and such other information that may be published

5 Sub-clause (1) of clause 5 of the Bill seeks to empower the Government to prescribe the manner of making application, fee, form and other particulars.

6 Clause 8 of the Bill seeks to empower the Government by order to make provisions for removing any difficulty when it arises in giving effect to the provisions of the Act

7. The matter in respect of which rules may be made or orders may be issued are matters of procedure or details and are of routine and administrative nature. Further, every rule made under this Act are subject to scrutiny by the legislative assembly. The delegation of legislative power, is their of a normal character.

DRAFT

**THE KERALA TRANSPARENCY IN PUBLIC PURCHASE  
BILL, 2002**

**A  
BILL**

to provide for ensuring transparency in public purchase of goods and services in selecting tenderers or inviting, processing and acceptance of tenders by procurement entities, and for matters related thereto.

**Preamble.** – WHEREAS it is expedient in public interest to render the process, of procurement Entities transparent in selecting, tenderers, inviting, processing and acceptance of tenders.

**BE** it enacted in the Fifty-third Year of the Republic of India as follows' -

**CHAPTER-I**

**1 Short title and commencement.** – (1) This Act may be called the Kerala Transparency in Public Purchase Act, 2002

(2) It shall come into force on such date as the Government may by notification, appoint and different dates may be appointed for different provisions of the Act.

**2 Definitions.** - In this Act, unless the context otherwise requires, -

(a) 'construction works' means putting up or demolishing, repairs or renovation of buildings, roads, bridges or other structures including fabrication of steel structures and all other civil works,

(b) 'goods' means machinery, motor vehicles, equipment, furniture, articles of stationary, textiles raw materials, drugs, scientific instruments, chemicals, food grains, oil and oil seeds or other commodity required for consumption, use or distribution by a procurement entity in discharge of its public duties;

(c) 'Government' means the Government of Kerala;

(d) 'Local Self Government Institution' means a Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);

(e) 'procurement entity' means any Government Department, a State Government Undertaking, a Local Self Government Institution, a local authority or board, body or corporation established by or under any law and owned or controlled by the Government, and any other body or authority owned or controlled by the Government and as may be specified by it;

(f) 'public purchase' or 'purchase' means purchase of goods, obtaining of services or undertaking of construction works by the procurement entities,

- (g) 'services' means the action of serving, attending upon, helping or benefiting a procurement entity in the course of discharging its public duties and includes construction works;
- (h) 'specified goods or services' means the goods or services, as the case may be, specified in a tender and identified in the contract resulting from acceptance of a tender on account of a procurement entity,
- (i) 'tender' means the formal offer made for supply of goods or services in response to an invitation for tender published in a tender bulletin,
- (j) 'tender accepting authority' means an officer or a committee appointed to accept tenders by the Government, under section 9,
- (k) 'tender bulletin' means a bulletin published for the State as a whole or for any district or districts within the State containing the details of invitation, processing and acceptance of tenders,
- (l) 'tender bulletin officer' means a State tender bulletin officer or a district tender bulletin officer referred to in section 7;
- (m) 'tender document' means the set of papers detailing the schedule of works, calendar of events, requirement of goods and services, technical specifications, procurement criteria and such other particulars, as may be prescribed, for evaluation and comparison of tenders;
- (n) 'tender inviting authority' means an officer or a committee appointed to invite tenders by the government under section 9

**3 Provisions not to apply to certain projects.** - The provisions of this Act in so far as they are inconsistent with the procedure specified in respect of the projects funded by international financial agencies or projects covered under international agreements, shall not apply to procurement of goods or services for such project

**4 Exceptions to applicability.** - The provisions of Chapter II shall not apply to procurement of goods and services, -

(a) during the period of natural calamity or emergency declared by the Government;

(b) where the goods or services are available from a single source or where a particular supplier or contractor has exclusive rights in respect of the goods or services or construction work and no reasonable alternatives or substitutes exist.

Provided that for the purpose of this clause there shall be a committee of three experts consisting of one technical representative of the procuring entity one technical representative of the governmental organisation dealing with similar procurement and one representative from a reputed academic or research institution or non-commercial institution having expertise in such line to examine and declare that the goods or services are available from a single source;

(c) Where the procuring entity having procured goods, services or technology from a supplier or contractor determines that additional supplies must be procured

from the same supplier or contractor for reasons of standardization and compatibility with the existing goods, service or technology;

(d) Where the goods or services are procured from certain Departments of Government, public sector undertakings, statutory boards and such other institutions specified by the Government and such goods are manufactured or services are provided by them, for a period not exceeding two years from the date of commencement of this Act;

(e) Where the value of the goods or services to be purchased, -

(i) by the Government Departments does not exceed rupees three lakhs; or such higher amount as may be fixed by the Government from time to time for this purpose, or

(ii) by a Local Self Government Institution for the purpose of implementing mini-water supply scheme or construction of school rooms does not exceed rupees two lakhs and for other purposes, does not exceed rupees one lakh or such higher amount as may be fixed by the Government from time to time for this purpose;

(f) in respect of specific purchases as may be notified by the Government from time to time,

## CHAPTER II

### REGULATION OF PURCHASE

**5 Procurement other than by tender prohibited.** – On and from the date of commencement of this Act no procurement entity shall purchase goods or services except by inviting tenders for supply

**6. Procurement entities to follow procedure.**- No tender shall be invited, processed or accepted by a procurement entity after the commencement of this Act except in accordance with the procedure laid down in this Act or the rules made there under

**7 Tender bulletin officers.** - (1) The Government may, by notification designate an officer not below the rank of a Deputy Secretary to Government of the concerned department to be the State Tender Bulletin Officer for the State in respect of that department, where the purchase of that department covers more than one district or for and on behalf any procurement entity under its control

(2) The District Collector shall be the District Tender Bulletin Officer

**8 Publication of tender bulletin.** - (1) The state tender bulletin officer, or as the case may be, the district tender bulletin officer shall on receipt of intimation relating to notice of invitation of tender from tender inviting authority or information relating to details of acceptance of tender under section 13 or rejection of tender under section 14

from the tender accepting authority, publish within the prescribed time, the state tender bulletin or as the case may be district tender bulletin

(2) The tender bulletin shall be made available for sale in the office of the tender bulletin officer and in such other places as the tender bulletin Officer deems fit to make available.

**9. Tender inviting authority and tender accepting authority.** - (1) The Procurement Entity may, by order, appoint. -

(i) one or more of officers or a committee of officers to be the tender inviting authority for any specified area, specified purchase or specified class of goods or services; and

(ii) one or more of officers or a committee of officers to be the tender accepting authority for any specified area or specified purchase, specified class of goods and services

Provided that where a multi-member committee is appointed for any procurement entity for discharging the function of accepting tenders, such committee shall be deemed to be a tender accepting authority appointed under this Act

**10. Tender scrutiny committee.** - The Tender accepting authority may constitute a tender scrutiny committee consisting of such persons as it deems fit to scrutinize tenders above five crores in the case of Public Works, Irrigation Departments of the Government and above one crore in other cases.

**11. Opening of tenders.** - (1) The procurement entity may authorise either the tender inviting authority or the tender accepting authority or any other officer to open the tenders and draw up a list of tenders responding to the notice inviting tender, in each case

(2) The Authority, or as the case may be, the officer referred to in sub-section (1) shall open the tender draw up a list of tenderers in the prescribed manner and unless it is also the tender accepting authority, forward the tenders along with the list of tenderers, to the tender accepting authority.

**12. Duties of tender inviting authority.** - (1) It shall be the duty of every tender inviting authority, -

(a) to take out notice inviting tenders at the behest of the procurement entity in the prescribed manner;

(b) to communicate the notice inviting tenders by marking a copy thereof to the tender bulletin officer concerned immediately after issue of the notice,

(c) to cause publication of notice inviting tenders in the prescribed manner,

(d) to supply the schedule or rates and tender documents to every intending tenderer who has applied to get such documents, and

(e) to cause publication of notice for selection tenderers and publication of list of selected tenderers by procurement entity in the prescribed manner;

(2) The tender inviting authority shall take out notices, communications and publications required to be taken out under this section in such form, in such manner, by such mode and at such time and interval as may be prescribed and different manner and mode of publication may be prescribed for different purchases depending on the value of the purchase.

(3) The tender inviting authority shall collect all the details received in response to the notice inviting tender, within the time stipulated and unless it is itself authorised to open the tender shall compile and forward all the tenders received to the authority or officer authorised to open the tenders.

**13. Acceptance of tender.** - The tender accepting authority shall, after following such procedure as may be prescribed pass order accepting the tender and shall communicate the information relating to acceptance of tender together with a comparative analysis and reasons for accepting of tender to the procurement entity and the tender bulletin officer

Provided that where the tender accepting authority consists of single officer who is due to retire within the next six months, from the date fixed for the acceptance for tender, he shall not act to accept the tender without obtaining prior approval of the procurement entity

Provided further that subject to such general or special order as may be issued by the Government from time to time, the tender accepting authority may before passing order accepting a tender negotiate with lowest tenderer.

**14. General rejection of tenders.** - (1) The tender accepting authority may at any time before passing an order of acceptance under section 13 reject all the tenders on the ground of changes in the scope of purchase, failure of anticipated financial resource, accidents, calamities or any other ground as may be prescribed which would render the purchase unnecessary or impossible and report the same to the procurement entity

(2) The procurement entity shall there after communicate the fact of the rejection under this section to all the tenderers and also cause the same to be published in the tender bulletin.

**15 Power to give direction.** - It shall be competent for the Government to give appropriate directions to the procurement entity or the authorities under the Act in order to secure and maintain transparency at any stage of the process of purchase, and it shall be the duty of the procurement entity or such authority to comply with the directions

**16. Appeal.** - (1) Any tenderer aggrieved by an order passed by the tender accepting authority or the Government under section 13 may appeal to the prescribed authority within thirty days from the date of receipt of the order.

Provided that the prescribed authority may, in its discretion allow further time not exceeding thirty days for preferring any such appeal, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

(2) The prescribed authority may after giving opportunity of being heard to both the parties pass such order, thereon as it deems fit and such order shall be final.

(3) The prescribed authority shall, as far as possible dispose of the appeal within thirty days from the date of filing thereof.

**17. Power to obtain information.** - Notwithstanding anything contained in this Act or in any other law for the time being in force, the Government may with a view to ensuring transparency call for and obtain, from any Authority under this Act any information relating to any matter in the process of purchase.

**18 Power to call for records.** - The Government may at any time, with a view to ensuring transparency in the purchase process call upon any authority under this Act, -

- (i) to produce records relating to invitation, processing and acceptance of tenders,
- (ii) to furnish the tender document, estimates or statements or accounts or statistics relating to such tenders, and
- (iii) to furnish report on any specific point incidental to the procurement

### CHAPTER-III

### MISCELLANEOUS

**19 Officers deemed to be public servants.** - Every officer acting under or in pursuance of the provisions of this Act or under a rule, order or notification made there under, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860)

**20 Protection of action taken in good faith.** - No suit or other legal proceeding shall lie against the Government or any officer or authority empowered to exercise powers or perform the functions under the Act in respect of anything which is in good faith done or intended to be done under this Act

**21 Bar of jurisdiction of courts.** - Save as otherwise provided in this Act no order passed or proceedings taken by any officer or authority under this Act shall be called in question in any court, and no injunction shall be granted by any court in respect of any action taken or to be taken by such officer or authority in exercise of powers conferred on him or it, by or under this Act.

**22. Act to override other laws.** - The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage, agreement, decree or order of a court or a Tribunal or other Authority



**23 Penalty.** - Whoever contravenes the provisions of this Act or the rules made thereunder shall be punishable with imprisonment for a term, which may extend to three years and with fine, which may extend to five thousand rupees

**24 Power to make rules.** - (1) The Government may by notification, makes such rules as are necessary for carrying out the purposes of this Act

(2) Every rule made or notification or order issued under this Act shall as soon as possible, after it is made or issued, be laid before of the Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agree in making any modifications in the rule, notification or order or the legislative assembly agree that the rule, notification or order shall not be made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order

**25 Savings.** - All rules, regulations, orders, notifications departmental codes, manuals, bye-laws, official memoranda, circulars or any other order made or issued before the commencement of this Act and in force on the date of such commencement providing for or relating to any of the above matters for the furtherance of which this Act is passed shall continue to be in force and effective as if they are made under the corresponding provisions of this Act to the extent they are not inconsistent with the provisions of this Act and unless and until superceded by anything done or any action taken or any rule, notification or order, made under this Act.

## STATEMENT OF OBJECTS AND REASONS

It is proposed to bring in an new legislation for ensuring transparency in public purchase of goods and services in selecting tenders or inviting, processing and acceptance of tenders by procurement entities. The proposed legislation provides for the regulation for the public purchase and also determines the procedure to be followed in inviting the accepting tender by procurement entities in order to secure and maintain transparency at any stage of the process of purchase.

## FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the consolidated fund of the state

## MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub -clause (2) of clause 1 of bill seeks to empower the Government to appoint the date of commencement of different provisions of the Act
2. Sub-clause (e) of clause 4 of the Bill seeks to empower the Government to fix the higher value of goods or services to be purchased by Government Departments or local self Government institutions
3. Sub-clause (1) of clause 7 of the bill seeks to empower the Government to designate an officer as the State Tender Bulletin officer
4. Sub-clause (1) (e) of clause 12 of the Bill seeks to empower the Government to prescribe the manner of publication of notice inviting tenders
5. Sub-clause (2) of clause 12 of the Bill seeks to empower the Government to prescribe the form, manner, mode time and interval of the publication of notices and communication of the different purchases depending on the value of purchase.
6. Clause 13 of the Bill seeks to empower the Government by general or special order prescribe the conditions for accepting a tender.
7. The above are matters of an administrative or routine nature or matters of detail. Further the rules, after they are made, are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is therefore of a normal character

## THE KERALA SELF-RELIANT CO-OPERATIVE BILL, 2002

### Background Note

Laws regarding Co-operative Societies have been in force in India from the early 20<sup>th</sup> century. The Acts formulated during the British period before independence provided for considerable government control, as was the case in respect of people's institutions those days. After independence, considerable importance was given to the spread and growth of co-operatives in different sectors. However, since most of them were formed under the development plans with government initiative and government finance and under government sponsored programmes, the earlier restrictions from government continued to be part of the enactments regarding co-operative societies that were brought about in 1950's and 1960's.

Since Co-operative Societies were started in a number of fields before independence as part of the people's movement, senior social and political workers gave leadership to the sector. They were disillusioned with the fact that political and bureaucratic controls continued even after independence. The Indian Co-operative Union consisting of eminent co-operators prepared a model Co-operative Bill as early as in 1960. However it had no effect on co-operative laws in the States. On a review of the state of affairs in the co-operative sector, the weaknesses that had developed and the failure to achieve the objectives for which the co-operatives were started under the development plans, the Planning Commission constituted the Brahma Prakash Committee towards the end of 1980's. The Report of the Brahma Prakash Committee (1991) is a land mark in co-operative reform. Based on the report, the Government of India circulated to the State Governments a model Bill urging them to introduce necessary changes in the Co-operative Laws. Subsequently, the Ramakrishnayya Committee (1994) also urged the immediate need for the reform of the co-operative sector. A Referential Bill, 1994 was also circulated to all States.

The suggestions for changes in the Co-operative Laws were not accepted by the State Governments largely because a number of co-operatives had been formed with government finance and many of them had become non-viable and there was no scheme for restructuring or rehabilitating them. Governments were also reluctant to give up political control. In the light of this impasse a number of eminent co-operators through the Co-operative Development Foundation, Hyderabad and the Co-operative Initiative Panel suggested that the only way out was to have a parallel co-operative law giving sufficient autonomy to the co-operatives which do not go in for government financial aid or those which are willing to repay the moneys received from the government and become self-reliant. Andhra Pradesh was the first State to pick up this idea and the Andhra Pradesh Mutually Aided Co-operative Societies Act was enacted in 1995. As a result of this Act as of the year 2002, as many as 4592 Co-operative Societies in 15 to 20 different sectors have become self-reliant co-operatives in Andhra Pradesh. Following the Andhra Pradesh Law, similar Laws were enacted in Bihar (1996), Karnataka (1997), Madhya Pradesh and Jammu & Kashmir (1999) and Orissa (2001). These new laws provided sufficient autonomy for co-operatives while ensuring that they function under

certain disciplines in larger public interest and in the interest of the members. A comparative statement of the provisions in these parallel Co-operative Acts is placed below.

The proposal to go in for a parallel law has been under consideration in several other States like Tamil Nadu, West Bengal, Gujarat, Maharashtra, Uttar Pradesh and Kerala. Meanwhile based on the experience of the working of parallel Co-operative Laws, the Co-operative Development Foundation, Hyderabad (CDF) prepared a Referential Bill 2000 to assist the various Committees that have been set up in State Governments to consider the reform and suggest new legislations.

The United Democratic Front in Kerala included the enactment of a parallel co-operative law with larger autonomy and democracy to co-operatives, in its election manifesto for the general elections in 2001. That government proposes to enact a parallel law in Kerala also as in other States mentioned above was also stated as part of policy statements in the Legislative Assembly in 2001 and 2002.

A draft Kerala Self-Reliant Co-operative Bill has been under consideration in the departments of Co-operation and Law during the last one year. The Committee has looked into it as a matter of urgency and has finalized it. The draft Kerala Self-Reliant Co-operatives Bill 2002, as prepared by the Committee, is appended. The draft is detailed because the object of the reform is that it should be brought about under the provisions of the Act and the Bye-laws of the co-operatives. It has been repeatedly urged to Co-operators and reformers in this field that it is through the Rules that restrictions and controls are brought in and that the Act should not contain Rule-making powers. Many of the parallel laws do not contain the usual rule-making provision. Some do. In this draft also, as an experiment, rule-making powers are not included.

Another important question arises in this context. As stated earlier, the need for the parallel law arose only because of the difficulties with the existing laws. At the Centre, Parliament has made major changes in the law relating to Multi-State Co-operatives and a new Multi-State Co-operative Societies Act, 2002 (39 of 2002) has been enacted. It has been brought into effect in August, 2002. The changes made relate to Registration, Audit, Disputes mechanism, Amalgamation, Merger etc. The Government of India have announced a programme involving over Rs. 8,000 crores for the rehabilitation and restructuring of sick and unviable Co-operative Societies. The assistance from this fund will be available only to those States which amend their original laws on co-operative Societies to be in accordance with the principles of co-operation and on the lines incorporated in the Multi State Co-operative Societies Act. It is therefore essential that changes are made in the Kerala Co-operative Societies Act, 1969 which was amended a few years ago. The Committee is considering this question and will suggest the changes to be made in the Kerala State Co-operative Societies Act, 1969 in its second report.

**COMPARISON OF IMPORTANT PROVISIONS IN VARIOUS PARALLEL CO-OPERATIVE ACTS**

Provisions	AP Mutually Aided Cooperative Societies Act, 1995	Bihar Self-Supporting Cooperative Societies Act, 1996	J&K Self-Reliant Cooperative Act, 1999	MP Swasatta Sahakar Adhiniyam, 1999	Karnataka Sosharda Sahakari Act, 1997	Orissa Self-Help Cooperative Act, 2001
Deemed Registration	Not provided	Provided	Not provided	Not provided	Provided	Provided
Compulsory amendment of bye laws	Not provided	Not provided	Not provided	Not provided	Not provided	Not provided
Compulsory division/amalgamation/merger	Not provided	Not provided	Not provided	Not provided	Not provided	Not provided
Term of Board	Not exceeding five years bye-laws to provide retirement of directors by rotation	Not exceeding three years bye-laws may provide retirement of directors by rotation	Not exceeding three years, bye-laws may provide retirement of directors by rotation	Not exceeding five years bye-laws may provide retirement of directors by rotation	Not exceeding five years election shall be held for the entire board	Not exceeding five years, bye-laws may provide retirement of directors by rotation
Supersession of Board	Not provided	Not provided	Not provided	Not provided	One of the functions of Federal Coop under this Act	Not provided
Responsibility to conduct timely election AGM & audit	With the Board, non-compliance entails disqualification to hold office for three years	With the Board non-compliance entails disqualification to hold office for three years	With the Board, non-compliance entails disqualification to hold office for three years	With the Board, non-compliance entails disqualification to hold office for three years	With the Board, non-compliance entails disqualification to hold office for five years	With the Board, non-compliance entails disqualification to hold office for three years
Investment of funds	In any non speculative manner	In any non-speculative manner	In any non-speculative manner	In any non speculative manner	Securities specified in Sec 20 of the Indian Trusts Act, 1882 or with Coop/Scheduled Bank	As specified under sub-section (5) of Sec. 11 of Income Tax Act, 1961
Government Assistance	No share capital but may accept other funds or guarantee through MOU	As per MOU with condition to nominate one director	No share capital but may accept other funds or guarantee as per MOU	Not entitled	Not entitled	No share capital but may accept other funds or guarantee as per MOU
Staff Recruitment	Service conditions as may be framed by the Board provision for personnel on deputation from other agencies including the Government	Service conditions as may be framed by the Board provision for personnel on deputation from agencies other than Government	Service conditions as may be approved by the Board	Service conditions as may be approved by the Board	On the approval of General Body, board to determine the service conditions Can borrow services of employees of other coops . State or Central Govt or their organisations and experts with the approval of General Body	Service conditions as may be framed by the Board
Audit	By Chartered Accountant, or by any other auditor from the office of the Registrar	By Chartered Accountant, or by any other auditor from the office of the Registrar	By Chartered Accountant	By Chartered Accountant, or by any other auditor from the office of the Registrar	By Chartered Accountant, or by any other auditor from the office of the Registrar	By Chartered Accountant, or by any other auditor from the office of the Registrar
Inquiry	By Registrar, on his own motion or on demand	By Registrar, on his own motion or on demand	By Registrar, on his own motion or on demand	By Registrar only on demand	By Federal Co-op on demand, failure by Fed Inquiry by Registrar	By Registrar only on demand
Settlement of Disputes	By Tribunals constituted by the Govt.	By Tribunals constituted by the Govt.	By Arbitral Tribunal constituted by G B	By Arbitral Tribunal constituted by GB	By Tribunal constituted by the Registrar	By Arbitral Tribunal constituted by GB
Affiliation to State Co-op Union/Fed. formed under Parallel Act	Not compulsory	Compulsory	Not compulsory	Not compulsory	Compulsory	Not compulsory
Power to issue directives in Public Interest	Not provided	Not provided	Not provided	Not provided	Not provided	Not provided
Rule making power to the Government	Not provided	Provided	Not provided	Not provided	Provided	Not provided



DRAFT**THE KERALA SELF RELIANT CO-OPERATIVE BILL, 2002****A  
BILL**

to provide for the voluntary formation of co-operatives as self-reliant, self-help, mutual aid, autonomous, voluntary, democratic, business enterprises, jointly owned, managed and controlled by their members for their economic and social betterment, through the financially gainful provisions of core services which fulfill a common need felt by them.

**Preamble.** - **WHEREAS**, it is expedient to provide for the voluntary formation of co-operatives as self-reliant, self-help, mutual-aid autonomous, voluntary, democratic, business enterprises, jointly owned, managed and controlled by their members for their economic and social betterment, through the financially gainful provision of core services which fulfill a common need felt by them, and for the matters connected therewith or incidental thereto;

**BE** it enacted in the Fifty-third Year of the Republic of India, as follows: -

**CHAPTER I  
PRELIMINARY**

**1. Short title, extent and commencement.** -(1) This Act may be called the Kerala Self Reliant Co-operatives Act, 2002  
 (2) It extends to the whole of the State of Kerala.  
 (3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

- 2. Definitions.** - In this Act, unless the context otherwise requires, -
- (a) "**arbitral tribunal**" means an individual or group of individuals not exceeding five, constituted by the general body of a co-operative for settlement of disputes, in accordance with the articles of association of that co-operative,
  - (b) "**articles of association**" means the articles of association of a co-operative framed for the management of its affairs,
  - (c) "**authorised equity capital**" means the maximum share that can be raised by a co-operative as shown in their articles of association;
  - (d) "**Board**" means the governing body of a co-operative by whatever name called, to which the direction of the affairs of the co-operative is entrusted by the articles of association of that co-operative;
  - (e) "**chief executive**" means that individual, in paid or honorary capacity, nominated or elected or appointed by the board of a co-operative from among its members, directors or others, in accordance with the articles of association, who is the person to sue or be sued on behalf of the co-operative, and who performs such

functions, and has such responsibilities and powers as are specified in the articles of association, and assigned by the board;

- (f) "**common need**" means that economic need which is common to all those who wish to form a co-operative, or have taken membership in a co-operative, and which the co-operative is expected to fulfill through the provision of core services;
- (g) "**co-operative**" means a self-reliant, self-help, mutual-aid, autonomous, voluntary, democratic, business enterprise incorporated under this Act, which is jointly owned, managed and controlled by its members, who may be individuals or co-operatives, for their economic and social betterment, through the financially gainful provision of core services which fulfill a common need felt by them;
- (h) "**co-operative business**" means a business which is committed to functioning in accordance with the principles of co-operation, and includes all co-operatives incorporated under this Act and all co-operative societies registered or deemed to have been registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969),
- (i) "**co-operative identity**" means the statement of identity specified in Schedule A of this Act,
- (j) "**co-operative principles**" means the principles included in the statement of co-operative identity specified in Schedule A of this Act;
- (k) "**co-operative society**" means a co-operative society registered or deemed to have been registered under the Kerala co-operative societies Act, 1969 (21 of 1969),
- (l) "**co-operative societies Act**" means the Kerala Co-operative Societies Act, 1969 (21 of 1969),
- (m) "**Co-operative Tribunal**" means the co-operative tribunal constituted under the Co-operative Societies Act,
- (n) "**core services**" means those main services provided to members, through which a co-operative intends to meet that economic need common to all members for the fulfillment of which the co-operative was established, and the fulfillment of which is expected to result in the economic and social betterment of members,
- (o) "**court**" means the principal civil court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction ,
- (p) "**deficit**" means the excess of expenditure over income, arrived at, at the end of a financial year, after the payment of interest, if any, on share capital,
- (q) "**deficit charge**" means the amount collected from or debited to the accounts of members, in proportion to the use or non-use of the services of the co-operative, in accordance with the articles of association and resolutions of the general body, to meet deficit, if any, in whole or part,
- (r) "**delegate**" means a member nominated by a co-operative to represent its interests at the time of promotion of a secondary co-operative, and or at meetings of a secondary co-operative to which the co-operative is affiliated;
- (s) "**director**" means a member elected in accordance with the articles of association to the board of the co-operative;
- (t) "**financial year**" means the twelve months accounting period as provided for in the articles of association of a co-operative, for which the annual statements of



- accounts are prepared for placement at the annual general meeting of that co-operative,
- (u) "**general body**" in relation to a co-operative means all its members;
  - (v) "**general meeting**" means a meeting of the general body called and conducted in accordance with the provisions of this Act and the articles of association of the co-operative;
  - (w) "**Government**" means the Government of Kerala;
  - (x) "**member**" means a person who is in need of and is able to use the core services of a co-operative and who is admitted and continues as a member of the co-operative, in accordance with the provisions of this Act and the articles of association of that co-operative, and includes a "member-cooperative";
  - (y) "**member-cooperative**" means a primary or secondary cooperative which is in need of and is able to use the core services of a secondary co-operative, and which is admitted as a member of that secondary co-operative, in accordance with the provisions of this Act and the articles of association of that secondary co-operative;
  - (z) "**memorandum of association**" means the document expressing the desire of the promoters to form themselves into a co-operative;
  - (aa) "**office-bearer**" means a director elected by the board of a co-operative to any office of such co-operative in accordance with its articles of association,
  - (ab) "**ordinary resolution**" means a resolution of the general body which has the approval of the majority of members with the right of vote, present and voting at the general meeting,
  - (ac) "**person**" means an individual or institution competent to contract;
  - (ad) "**potential member**" means a person who needs the core services being offered by a co-operative, applied for membership or been admitted as a member, and is eligible to be a member of that co-operative, but is not yet member,
  - (ae) "**president**" means an elected director who is further elected by the board to preside over its meetings and the meetings of the general body, and to perform such other functions and have such other powers and responsibilities as are specified in the articles of association and assigned by the board;
  - (af) "**primary cooperative**" means a cooperative whose members are individuals;
  - (ag) "**Registrar**" means the individual appointed as such under this Act, and includes any individual entrusted with the performance of functions and the discharge of responsibilities of the Registrar under this Act;
  - (ah) "**Registrar of cooperative societies**" means the individual appointed as such under the Cooperative Societies Act, and includes any individual entrusted with the performance of functions and the discharge of responsibilities of the Registrar of Co-operative Societies under that Act,
  - (ai) "**representative**" means a person elected by a section of members, in accordance with the articles of association, to participate on their behalf at the representative general body meeting;
  - (aj) "**representative general body**" in relation to a cooperative means all its representatives;

- (ak) "**representative general body meeting**" means a meeting of the representatives, called and conducted in accordance with the provisions of this Act and the articles of association of the cooperative;
- (al) "**secondary cooperative**" means a cooperative whose members are cooperatives;
- (am) "**special resolution**" means a resolution of the general body, at a meeting called with at least fifteen days notice, which has the approval of more than half of all the members of the cooperative with right to vote at the time of the general meeting, or of at least two-third of members with right to vote at the time of the general meeting and present in the general meeting, whichever is less;
- (an) "**service**" means such facilities as are organized primarily for being provided to members to meet the objective of the cooperative;
- (ao) "**surplus**" means the excess of income over expenditure, arrived at the end of the financial year, after the payment of interest, if any, on share capital, and before the payment of surplus refund, and allocation of reserves and other funds;
- (ap) "**surplus refund**" means the refund from the surplus given to the members or credited to the accounts of members, in proportion to their use of the services of the cooperative in accordance with the articles of association and resolutions of the general body;
- (aq) "**this Act**" means the Kerala Self Reliant Co-operative Act, 2002.

## CHAPTER II

### INCORPORATION

**3 Incorporation of a new cooperative.** – (1) Notwithstanding anything in the Co-operative Societies Act, from the date of commencement of this Act all new co-operatives shall be incorporated under this Act only and no new cooperative society shall be registered or incorporated under any other law for the time being in force

(2) A memorandum of association in the form provided in Schedule B may be submitted to the Registrar by hand or registered post signed by a minimum number of twenty five promoters who wish to form a primary cooperative or by the delegates of cooperatives which wish to form a secondary cooperative

(3) Every such memorandum shall be accompanied by, -

- (a) the original of a declaration by the promoters expressing commitment to the principles of cooperation as provided for in Schedule-A;
- (b) the original and one copy of the articles of association of the proposed cooperative as adopted by the promoters;
- (c) a true copy of the resolution passed at a meeting of the promoters adopting the articles of association; and
- (d) a list of names of the promoters with their complete address

(4) The Registrar shall register the cooperative and also take on record its articles of association and communicate by registered post a certificate of registration and the original of the registered articles of association signed and sealed by him, within sixty

days from the date of submission of application, to such person as specified in the application

Provided that , -

- (a) the application is in conformity with the requirements laid down by this Act, and
- (b) the proposed articles of association are not contrary to the provisions of this Act.

(5) If the conditions laid down in sub-section (3) are not fulfilled, the Registrar shall within sixty days from the date of submission of the memorandum pass an order of refusal together with specific reasons there of to such person as may be specified in the memorandum

Provided that no order of refusal shall be passed except after giving an opportunity of making representation by such person as may be specified in the memorandum

(6) Where a cooperative is registered under sub-section (4) the certificate of incorporation signed and sealed by the Registrar shall be conclusive proof for a cooperative being duly incorporated under this Act

(7) Where the person specified in the memorandum receives neither the certificate of incorporation nor the order of refusal, within ninety days of submission of the memorandum for incorporation, the promoters may move the Co-operative tribunal Court for redressal

**4. Conversion of a cooperative society into a cooperative under this Act. – (1)** Notwithstanding anything contained in the Cooperative Societies Act from the date of commencement of this Act, any cooperative society functioning under the Cooperative Societies Act, which is not in receipt of any share capital from the Government, at the time of seeking incorporation under this Act, may apply for incorporation under this Act

Provided that where the Government does have share capital in a cooperative societies desiring to convert itself into a cooperative under this Act, the cooperative society may, before applying for incorporation under this Act, return such share capital to the Government, and the Government shall accept such returned share capital

(2) A memorandum for incorporation may be submitted to the Registrar by hand or by registered post, by the board of such cooperative society as wishes to convert itself into a cooperative under this Act, on the basis of a decision of a majority of members present at a meeting of the general body of the cooperative, called with at least fifteen days notice, and attended by at least one fourth of the total members or five hundred members, which ever is less

(3) Every such memorandum shall be in such form and containing such particulars as specified in Schedule D and shall be accompanied by,-

- (a) a true copy of the resolution of the general body expressing commitment to the principles of cooperation as provided in Schedule-A;
- (b) the original and one copy of the articles of association of the proposed cooperative as adopted by the general body;

- (c) a true copy of the resolution of the general body adopting the articles of association;
- (d) a true copy of the declaration of the general body stating that the cooperative society is not in receipt of any share capital from the Government or any source other than members;
- (e) a true copy of the latest annual report and audited statement of accounts,
- (f) a true copy of the resolution of the general body, along with a financial statement duly certified by a Chartered Accountant indicating the adjustment of accumulated losses, if any, to various reserves or by debiting to the accounts of members as decided at the meeting,
- (g) a statement of the total number of members of the cooperative society with right of vote as on the day of the meeting, the members who attended the meeting, and the number of members who voted for the resolution;

(4) The Registrar shall, if satisfied that the memorandum of association is in conformity with the requirements laid down by this Act, register the memorandum of association and articles of association of the cooperative and issue a certificate of incorporation in the form specified in Schedule-E together with and a certified copy of the memorandum of association and of the articles of association signed by him, within sixty days from the date of submission of the memorandum of association, to such person as is specified in the memorandum

(5) If the conditions laid down in sub-section (3) are not fulfilled, the Registrar shall within sixty days from the date of submission of memorandum pass an order of refusal stating the reasons therefore and the order shall be communicated to such person as may be specified in the memorandum.

Provided that no order of refusal shall be passed except after giving an opportunity of making representation by such person as may be specified in the memorandum

(6) Where a cooperative is registered under sub-section (4), the certificate of incorporation signed and sealed by the Registrar shall be the conclusive proof for a cooperative being duly incorporated under this Act.

(7) Where the person specified with memorandum receives neither the certificate of incorporation nor the order of refusal, within ninety days of submission of the memorandum for incorporation, the cooperative society may move the Co-operative tribunal for redressal.

(8) Where a cooperative is registered under sub-section (4), its earlier registration as a cooperative society under the Cooperative Societies Act shall stand cancelled and it shall send within seven days of receipt of the certificate of incorporation, by registered post, to the Registrar of Cooperative Societies a copy of the certificate of registration issued under the Cooperative Societies Act and a copy of the certificate of incorporation under this Act, and the Registrar of Co-operative Societies shall, within seven days of

receipt of such information remove the name of such cooperative society from the register maintained under the Co-operative Societies Act.

(9) Where a cooperative is registered under sub-section (4) the assets and liabilities, the rights and obligations and members of the applicant Cooperative Society shall become the assets and liabilities, the rights and obligations and the members, as the case may be, of the cooperative incorporated under this Act, and all transactions of the applicant cooperative society shall be deemed to have been the transactions of the cooperative registered under this Act.

(10) Where a cooperative society is in receipt of loan or guarantee from the Government at the time of submission of memorandum for incorporation as a cooperative under this Act, it shall within a month of incorporation under this Act, apply to the Government for entering into an agreement with the Government for repayment of the amount of loan or guarantee made available by the Government, failing which, it shall repay the entire amount due as loan to the Government or other source for which guarantee was made available by the Government, within six months from the date of incorporation under this Act.

(11) Where a cooperative has not entered into an agreement with the Government or repaid such amount in accordance with sub section (10), it shall be competent for the Government to recover such amounts from the cooperative as an arrear of public revenue due on land as per the provisions of the Revenue Recovery Act for the time being in force.

(12) Where a cooperative society which is a member of another secondary cooperative society is incorporated as a cooperative under this Act, such cooperative may continue to receive services from such secondary cooperative society and to participate in its affairs for a period of one year from the date of its incorporation under this Act, at the end of which period, its membership in that secondary cooperative society shall cease, unless, by then, the secondary cooperative society too is incorporated under this Act

Provided that in all matters governing the internal functioning of the cooperative, the provisions of this Act shall apply and in matters governing the relationship of the cooperative with the secondary cooperative society to which it is affiliated the cooperative societies Act shall apply:

Provided further that even on cessation of membership in the Co-operative Society the cooperative may continue to receive such services, and have such business relations as are mutually agreed upon, and permissible under the Cooperative Societies Act and the bye-laws of the cooperative society.

(13) Where a secondary cooperative society, which has other cooperative societies as its members, is registered as a secondary cooperative under this Act, it may continue to serve, and, have its affairs managed by its member cooperative societies, for a period of one year from the date of its incorporation under this Act, at the end of which

period it may be have as its members only such cooperatives as are incorporated under this Act.

Provided that in all matters governing the relationship between the secondary cooperative and its member cooperative societies, the provisions of this Act shall apply

**5 Cooperative to be body corporate.** – The incorporation of a cooperative under this Act shall render it a body corporate by the name under which it is incorporated having perpetual succession and a common seal with power to acquire hold and dispose of property and to enter into contracts and shall, by the said name sue and be sued.

**6 Articles of Association.** – (1) The members constituting a cooperative, shall have a set of articles of association, formulated or amended from time to time, in accordance with the provisions of this Act, and the affairs of the cooperative shall be managed in accordance with the terms, conditions and procedures specified in such articles of association

(2) Except on such specific matters provided for by this Act the functioning of every cooperative shall be regulated by its articles of association.

(3) The articles of association may contain such matters as decided by the members and shall be specific on all matters listed in Schedule-F of this Act.

**7. Amendment of articles of association.** – (1) A cooperative may decide, by a special resolution, to amend its articles of association.

Provided that the text of such proposed amendment with reasons thereof shall be sent to each member, along with the notice of the general meeting at which the proposed amendment is to be discussed

(2) A copy of any amendment shall be forwarded by the cooperative, by the registered post, to the Registrar within a period of thirty days from the date on which the resolution was passed

(3) Every such information forwarded to the Registrar under sub-section (2) shall be signed by the President and two Directors and shall be accompanied by the following particulars, namely. -

- (a) a copy of the resolution agreeing to the amendment,
- (b) the date of the general body meeting at which the amendment was approved,
- (c) the date on which the amendment comes into force.

(4)The Registrar shall take on record the amendment immediately on receipt of the notice.

Provided that such action shall not preclude the Registrar from challenging the legal validity of the amendment before the court, after giving the cooperative a reasonable opportunity to reconsider the amendment.

**8. Name of a cooperative.** -(1) A cooperative may not be registered with the same name as another cooperative registered under this Act or the Cooperative Societies Act, as the case may be

Provided that where the articles of association of a secondary cooperative require all its member cooperatives to use a common name, the name of each such member-cooperative shall have its location or other distinguishing feature included in the name at the beginning or end of the common name;

(2) Every cooperative shall display its full name in legible characters in a conspicuous position,-

- (a) at every office or place at which it carries on business,
- (b) in all notices and other official publications;
- (c) on all its contracts, business letters, orders for goods, invoices, statements of account, receipts and letters of credit, and
- (d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money its signs or that are signed on its behalf

(3) Every cooperative shall display its full name in legible characters on its common seal

(4) A cooperative with limited liability shall have as a suffix to, or as part of its name, the expression "limited" or its equivalent in any Indian language

(5) Nothing in sub-section (2) shall prevent a cooperative displaying more conspicuously than the full name, any shorter name by which it is popularly known and which, too is specifically provided for in the articles of association.

(6) A cooperative may, by an amendment to its articles of association, change its name

Provided that it shall send prior notice of its intention to change its name to the Registrar, along with the proposed name, and the Registrar shall, within fifteen days of receiving such notice inform the cooperative if such name is already in use by another cooperative

(7) Where a cooperative changes its name, the Registrar shall,-

- (a) enter the new name of the cooperative in the register of cooperatives in place of the former name,
- (b) make necessary changes in the memorandum of association and articles of association;
- (c) issue a fresh certificate of incorporation with the necessary alterations; and
- (d) communicate to the cooperative, by registered post, the fresh certificate of incorporation along with certified copies of the amended memorandum and articles of association

(8) The change of name of a cooperative shall not affect any rights or obligations of the cooperative or of any of its members or past members or render defective any legal proceedings by or against it; and any legal proceedings which might have been continued or commenced by or against the cooperative under its former name may be continued or commenced under its new name

(9) A cooperative which changes its name shall publish such change of name in a popular newspaper in the district in which its registered office is located

**9. Location of registered office.** – (1) Every cooperative shall notify to the Registrar the full address of its registered office, within ninety days of being registered as a cooperative.

(2) Every cooperative shall display in full the address of its registered office in legible characters in a conspicuous position,-

- (a) at every office or place at which it carries on business,
- (b) in all notices and other official publications;
- (c) on all contracts, business letters, orders for goods, invoices, statements of account, receipts and letters of credit, and
- (d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or that are signed on its behalf

(3) A cooperative may, by a resolution of the board of directors, change the address of its registered office

Provided, that it shall, give notice of such change to its members, creditors, the Registrar and to any secondary cooperative to which it is affiliated, within fifteen days of the board's resolution;

(4) The Registrar shall, within fifteen days of receiving information from a cooperative, take on record, in the register of cooperatives the full address of the registered office of a cooperative and any change thereof

**10. Transfer of assets and liabilities.** – (1) A cooperative may, by a special resolution, decide to transfer its assets and liabilities, in whole or in part, to any other cooperative which agrees by a special resolution to receive such assets and liabilities.

(2) Where a special resolution is passed under sub-section (1), each cooperative shall, within the following fifteen days, give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and notwithstanding any provision in the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed transfer of assets and liabilities and any creditor shall during a period of fifteen days from the date of service of the notice upon him, have the option of withdrawing from the cooperative, his interest, subject to the discharge of his obligations to the cooperative



(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have agreed to the resolution.

(4) A special resolution passed under sub-section(1) shall not take effect until,-

- (a) all claims of the members and creditors of each cooperative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied; and
- (b) information about the transfer of assets and liabilities has been sent by the cooperatives concerned to the Registrar and his acknowledgement of receipt of the information received

(5) When a special resolution passed under sub-section(1) taken effect, the resolution shall be sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance

(6) When a cooperative transfers the whole of its assets and liabilities to any other cooperative, under this section, the incorporation of the cooperative shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body, and the Registrar shall delete the name of the cooperative from the register of cooperatives.

**11. Division.** – (1) A cooperative may, by a special resolution, decide to divide itself into two or more cooperatives

(2) Where a special resolution is passed under sub-section (1), the cooperative shall, within the following fifteen days, give notice thereof together with a copy of the resolution to all its members and creditors and notwithstanding any provision in the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed division or creditor shall during a period of fifteen days from the date of service of the notice upon him have the option of withdrawing his interest, subject to the discharge of his obligations to the cooperative

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have agreed to the resolution

(4) The special resolution passed under sub-section (1) shall not take effect until,-

- (a) all claims of the members and creditors of the cooperative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied,
- (b) information of the intended division and settlement of claims of members and creditors is sent to the Registrar and his acknowledgement or receipt of the information is obtained; and
- (c) the certificate of incorporation and the copies of the registered memorandum and articles of association of the resultant cooperatives, signed and sealed by the Registrar, are issued in accordance with section 4

(5) When a cooperative divides itself into two or more cooperatives under this section, the incorporation of the cooperative shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a body corporate and the Registrar shall remove the name of the cooperative from the register of cooperatives

(6) When a cooperative divides itself into two or more cooperatives each member who has assented to the division shall be deemed to have become a member of that newly formed cooperative to which his interests were transferred, in accordance with the scheme of division approved by the general body.

(7) When a special resolution passed under sub-section (1) takes effect, the resolution shall be sufficient conveyance to vest the assets and liabilities in the transferees without any further assurance.

**12. Amalgamation.** - (1) Any two or more cooperatives may, by special resolutions, decide to amalgamate themselves and form a new cooperative.

(2) Where a special resolution is passed under sub-section (1) each cooperative shall within the following fifteen days, give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and notwithstanding any provision of the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed amalgamation, or creditor shall, during a period of fifteen days from the date of service of the notice upon him, have the option of withdrawing from the co-operative, his interests, subject to the discharge of his obligations to the co-operative.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the resolution

(4) A special resolution passed under sub-section (1) shall not take effect until,-

(a) all claims of the members and creditors of each co-operative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied,

(b) information of the impending amalgamation and settlement of claims of members and creditors is sent to the Registrar and his acknowledgement of receipt of the information is obtained, and

(c) the certificate of incorporation and a copy of the memorandum and articles of association of the resultant co-operative, signed and sealed by the Registrar, is issued in accordance with section 4.

(5) When two or more co-operatives amalgamate themselves into a new co-operative under this section, the incorporation of the cooperatives so amalgamated shall stand cancelled and they shall be deemed to have been dissolved and shall cease to exist as body corporate, and the Registrar shall delete the names of the cooperatives from the register of cooperatives

(6) When two or more cooperatives amalgamate themselves into a new cooperative under this section, all the members of the cooperatives who have assented or are deemed to have assented to the amalgamation shall be deemed to have become members of the new cooperative.

(7) when special resolutions passed under sub-section (1) take effect, the resolutions shall be sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance

13. **Merger.**- (1) A cooperative may, by a special resolution, decide to merge itself into any other cooperative which agrees by a special resolution to such merger

(2) Where a special resolution is passed under sub-section (1) each cooperative shall, within the following fifteen days, give notice thereof together with a copy of the resolution passed by it to all its members and creditors, and notwithstanding any provision in the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed merger, or creditor shall, during a period of fifteen days from the date of service of the notice upon him have the option of withdrawing from the cooperative, his interests, subject to the discharge of his obligations to the cooperative

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the resolution

(4) The special resolution passed under sub-section (1) shall not take effect until,-

(a) all claims of the members and creditors of each co-operative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied, and

(b) information of the impending member and settlement of claims of members and creditors is sent to the Registrar and his acknowledgement of receipt of the information is obtained

(5) When a cooperative merges itself into any other cooperative under this section, the registration of the cooperative shall stand cancelled and it shall be deemed to have been dissolved and shall cease to exist as a corporate body, and the Registrar shall delete the name of the cooperative from the register of cooperatives

(6) When a cooperative merges itself into any other cooperative under this section, the members of the first cooperative who assented to the merger shall be deemed to have become the members of the second cooperative

(7) When special resolutions passed under sub-section (1) take effect, the resolutions shall be sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

**14. Registration offices.-** (1) For the purpose of registration of cooperatives under this Act there shall be offices at such places as the Government thinks fit

(2) The Government shall appoint a Registrar of Co-operatives and such other individuals as it thinks necessary to carry out the duties, to perform the functions, and to exercise the powers of the Registrar in pursuance of this Act.

(3) No individual appointed under this section shall, either during the course of his service with the Government or for a period of three years thereafter serve in any capacity as an employee or as a director with any cooperative.

Provided that this restriction shall not apply where the individual appointed under this section is a member of a cooperative

**15. Fee for services.-** (1) Every application for registration under this Act shall be accompanied by a registration fee amounting to one per cent of the authorised equity capital of the proposed cooperative

Provided that such fee shall be not less than rupees one hundred and not more than rupees five thousand

Provided further that the fee shall be rupees five hundred in the case of such cooperatives as do not intend to have any equity capital

(2) The fee to be paid by cooperatives and others for various services rendered by the Registrar under this Act may be fixed by the Government and made known to the Registrar, who in turn shall make such information available to any interested person.

Provided that any charge in the fee payable for any service may be made by the Government only after publishing in two leading vernacular newspapers or advertising in the vernacular electronic media, inviting comment from those affected

### CHAPTER III

#### MEMBERSHIP

**16 Eligibility for membership in a cooperative.-** (1) Any person who needs the services of a cooperative, expresses willingness to accept the responsibilities of membership, meets such other conditions as may be specified in the articles of association of the cooperative and is in a position to use the services, may seek membership and be admitted as a member:

Provided that the cooperative is in a position to extend its services to the applicant

(2) Every applicant for membership, and every member of a cooperative must keep each cooperative of which the person is a member informed of membership in other

cooperatives and it shall be competent for a cooperative to refuse admission or remove from membership on grounds, among others, of dual or conflicting membership

**17. Admission to membership.-** (1) Admission to membership shall be made only by elected board in accordance with the procedure specified in the articles of association.

(2) Where admission is refused, the decision with the reasons there of shall be communicated by registered post to such applicant within fifteen days of the date of the decision, or within sixty days from the date of application for membership, which ever is earlier.

(3) Where an application for membership in a cooperative is rejected by the Board, the applicant shall file an appeal to the general body of the Society within the time specified thereof.

**18. Withdrawal of membership.-** (1) A member may at any time withdraw from membership in a cooperative in accordance with the procedure specified in the articles of association of that cooperative

(2) Withdrawal from membership shall nonetheless require the person to fulfill such obligations as were undertaken / assumed as a member, under the provisions of this Act, the articles of association or other agreements

**19. Cessation of membership.-** (1) A person shall cease to be a member on death or on incurring such disqualification as may be specified in the articles of association.

(2) Every cooperative shall inform, in the event of the death of the member the nominee of the member, and in every other instance, the member, about the cessation of membership and consequences thereof

**20 Termination of membership.-** (1) The Board of a cooperative may terminate the membership of a person who has acted adversely to the objects and interests of the cooperative, including the violation by the member of the articles of association of the cooperative the policies of the general body or board, and / or contracts entered into by the member with the cooperative

Provided that member has been given a reasonable opportunity to make representation at the board meeting as to why membership should not be terminated

(2) Where the membership of a person has been terminated by the board, the person may request the board to place its decision for review by the general body The Board shall place the matter before the general body at its next general meeting and the decision of the general body shall be final:

Provided that pending the decision of the general body the person may have only such transactions, if any, with the cooperative, as may be permitted by the board

**21. Registers of members.-** (1) Every cooperative shall maintain a register of members. The name of every person admitted as a member of the cooperative, the date of admission, and the address of the member shall be entered in the register along with such other particulars as are deemed necessary by the board

(2) The name of every person whose membership has ceased, or was terminated or withdrawn, shall be struck off the register.

**22. Cooperative education.-** 1) Every cooperative shall include in its budget annually, provision for expenses on member and potential member education and staff and directors training for the development of the cooperative in accordance with the principles and practices of cooperation

(2) Any balance under the budget head provided for under sub-section (1) shall be transferred at the end of the year into a cooperative education fund, and may be used only for the purpose of educating and training members, potential members, staff and directors in cooperative principles and practices

**23 Services primarily for members.-** (1) A cooperative's services shall normally be available to members only.

(2) After two years of its being registered under this Act, any cooperative found to be providing more than one fourth of its core services, as specified in its articles of association, in terms of the value of transactions, to non-members in any given financial year shall be deemed to be an "aberrant cooperative" and may be liable to lose for that year exemptions, if any, provided to it, on the ground that it is a cooperative, by this Act or other laws

(3) Any cooperative found to be "aberrant" for three continuous years shall be deemed to be an organization not operating on a cooperative basis and the Registrar or any person may apply to the Co-operative tribunal for an order dissolving the cooperative

**24 Exercise of rights.-** (1) No member of a cooperative shall exercise the rights of membership, including the right of vote, unless the member has made such payments to the cooperative in respect of membership or has acquired and continues to have such interest in the cooperative, including a minimum use of the services of the cooperative, as may be specified in the articles of association

(2) Every year, within twenty days of closure of the previous financial year, the chief executive shall prepare a list of members with the right of vote and a list of members without the right of vote, valid for the current financial year. The list shall be affixed to the notice board of the cooperative for information of all members, and any

member, not satisfied with the specific instances of inclusion or non-inclusion of members in the lists, may appeal to the Board within ten days of the affixation of the of the lists on the notice board, for re-examination of the records, and the board shall, within forty five days of closure of the previous financial year, review the lists, finalise them and have them affixed to the notice board of the cooperative.

**25. Voting rights of members.**- In primary cooperatives, as well as in secondary cooperatives rights members shall have equal voting rights (one member, one vote)

Provided that a person has been member for at least one full financial year before being eligible to vote:

Provided further that the condition of one year membership shall not apply to the members who join at any time after the incorporation of a cooperative but before the end of the first financial year ending

Provided also that the articles of association of a secondary cooperative may fix an upper limit on the number of votes that a member cooperative can have

**26 Member's liability** - (1) A cooperative may be registered with limited or unlimited liability, where,-

(a) a "cooperative with limited liability" means a cooperative in which the liability of its members for the debts of the cooperative is limited by its articles of association, to such form and extent as they may undertake to contribute to any deficit in the assets of the cooperative, in the event of its being wound up, and

(b) a "cooperative with unlimited liability" means a cooperative in which its members are jointly and severally liable for the debts of the cooperative and to contribute to any deficit in the assets of the cooperative, in the event of its being wound up.

(2) Where a cooperative amends its articles of association to change the form and extent of its members' liability, it shall, within the fifteen days of such amendment, give notice thereof together with a copy of the amendment to its members and creditors and, notwithstanding any provision in the articles of association or contract to the contrary, any member other than one who voted in favour of the proposed change, or creditor shall, during a period of fifteen days from the date of service of the notice upon him, have the option of withdrawing from the cooperative, his interests, subject to the discharge of his obligations to the cooperative.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the resolution.

(4) An amendment passed under sub-section (2) shall not take effect until,-

(a) all claims of the members and creditors of the cooperative who have exercised the option under sub-section (2) have been met in full or otherwise satisfied, and

(b) notice of the amendment of the articles of association of the cooperative has been received by the Registrar in accordance with this Act.

(5) Subject to the provisions of sub-section (6), the liability of a member or of the estate of a deceased member for the debts of the cooperative as they existed,-

(a) in the case of a past member, on the date on which the person ceased to be a member, and

(b) in the case of a deceased member, on the date of his death,-

shall continue for a period of two years from such date

(6) Where a cooperative is ordered to be dissolved, the liability of a past member, who ceased to be a member or the estate of a deceased member, who died, within two years immediately preceding the date of order of dissolution, shall continue until completion of the liquidation proceedings, but such liability shall be limited only to the debts of the cooperative as they existed on the date of cessation of membership or death, as the case may be

**27 General Body -** (1) There shall be a general body for every cooperative consisting of all the members of such cooperative

Provided that where the general body of a cooperative decides that the size, spread or types of its membership requires a representative body for more effective decision making, its articles of association may provide for a smaller body called representative general body drawn from the members, to be formed in such a democratic manner with such functions and powers, and such relationship with members as may be specified in the articles of association

(2) Any reference in this Act to the general body shall apply to the representative general body where it exists

Provided however, that the representative general body shall not alter any provision in the articles of association or take any decisions relating to such subjects as the general body may have explicitly retained for itself.

(3) Subject to the provisions of this Act and the articles of association of a cooperative, the ultimate power of a cooperative shall vest in the general body of its members

Provided that nothing contained in this sub-section shall affect the exercise by the board or any other authority of a cooperative of any power conferred on such board or such other authority by this Act.

(4) Any function or responsibility, falling within the scope of a cooperative as a body corporate, which has not been specifically entrusted by this Act or the articles of



association, to any of the several authorities within the cooperative, maybe dealt with the general body, on a reference by the board of directors.

**28. Functions and responsibilities of general body.-** The following and such other matters as are considered necessary by the board, shall be dealt with by the general body at its annual general meeting, namely :-

- (a) action on resolutions of the previous meeting;
- (b) consideration of the long term plan and budget, when required;
- (c) consideration of the annual operational plan and budget for the current financial year;
- (d) appointment of auditors for the current financial year;
- (e) consideration of the annual report of activities for the previous financial year;
- (f) consideration of the annual audited statements of accounts, and the audit report relating to the previous financial year;
- (g) consideration of the report on deviations, if any, from the approved budget relating to the previous financial year and the appropriate action to be taken;
- (h) disposal of surplus, if any of previous financial year;
- (i) management of deficit, if any, of previous financial year,;
- (j) creation of specific reserves and other funds,;
- (k) review of actual utilization of reserves and other funds,
- (l) review of the report on the attendance at meetings by directors;
- (m) review of the use of the cooperative's services by the directors.
- (n) review of remuneration paid to any director or member of any committee or internal auditor in connection with his duties in that capacity or his attendance at related meetings;
- (o) review of quantum and percentage of services provided to non-members vis-avis services provided to the members,
- (p) appeal of a person whose application for membership has been rejected by the board,
- (q) appeal of a person who has been expelled from membership by the board,
- (r) report of activities and accounts related to member education and board and staff training,

(2) The following and other matters when considered, necessary by the board, shall be dealt with by the general body at its annual or other general body meeting, namely -

- (a) election of directors;
- (b) amendments to articles of association,
- (c) removal of directors;
- (d) elections or appointments to casual vacancies in the board,
- (e) removal, and consequent appointment of auditors;
- (f) membership of the cooperative in secondary cooperatives;
- (g) partnership with other cooperatives;
- (h) amalgamation, division, merger, transfer of assets and liabilities;
- (i) dissolution of the cooperative,

(j) consideration of the Registrar's report of inquiry, if any;

**29 General meetings.** (1) The Board of a cooperative may, at any time call a general meeting of the members of the cooperative:

Provided that one such meeting known as annual general meeting shall be held within one hundred and fifty days of the closure of the cooperative's financial year to deal with the matters specified in sub section (1) of section 28.

(2) The board shall hold a special general meeting within thirty days of the date of receipt of a requisition from,-

(a) not less than one fifth of the members having the right to vote; or

(b) the Registrar, in pursuance of his functions under this Act:

Provided that any such requisition shall contain the reasons why the meeting is felt necessary and the proposed agenda, and no subject other than the subjects included in the proposed agenda shall be discussed at the special general meeting.

(3) All directors shall cease to be directors at the end of the period within which an annual general meeting under sub-section (1) or a special general meeting under sub-section (2) is required to be held, if the board fails to hold such general meetings within the specified period

(4) All directors shall cease to be directors at the annual general meeting, if the audited annual financial statement and auditor's comments and observations, if any, along with the report of activities for the previous financial year were not made available to the members along with the notice to attend the annual general meeting at which the report and accounts are to be considered by the general body, and such meeting shall be conducted by an ad hoc body appointed under sub-section (5) of section 34

(5) The quorum for a general meeting shall be as specified in the articles of association, but shall not be less than one-fifth of the members eligible to vote at the meeting.

Provided that quorum for a representative general body meeting shall not be less than two-fifth of the representatives eligible to vote at the representative general body meeting

**30. Minutes of general meeting.-** (1) Every cooperative shall maintain, in the language specified by the articles of association, in the minutes book, minutes of all proceedings of every general meeting and the chief executive shall send the copy of the minutes within fifteen days of the conclusion of every such meeting to all members

(2) The minutes so recorded shall be signed by the person who chaired the said meeting, or in the event of his incapacity to sign the minutes within the time required, by a director or duly authorised by the board.

## CHAPTER IV.

### MANAGEMENT

**31. Board of directors** - There shall be an elected board of directors for every cooperative constituted and entrusted with the direction of the affairs of the cooperative in accordance with the provisions of the articles of association:

Provided that in the case of a cooperative newly registered under this Act, the persons who have signed the memorandum for the incorporation of the cooperative may appoint a promoter board, for a period not exceeding one year from the date of incorporation, to direct the affairs of the cooperative and to get elections of directors conducted within the said period, and the promoter board appointed so shall cease to function as soon as a regular board has been constituted in accordance with the articles or association

Provided further that in the case of a cooperative society originally registered under the Cooperative Societies Act and subsequently registered under this Act, the elected members of the board, whose term has not expired at the time of incorporation under this Act, may be deemed to be the promoter board, for a period not exceeding one year from the date of incorporation under this Act, to direct the affairs of the cooperative and to get elections of directors conducted within the said period, and the deemed promoter board shall cease to function as soon as a regular board has been constituted in accordance with the articles of association

**32 Functions and responsibilities of board** - (1) The board may perform the following functions and discharge responsibilities in accordance with the terms, conditions and procedure laid down in the articles of association, namely -

- (a) to interpret the organizational objectives to set up specific goals to be achieved towards these objectives, and to make periodic appraisal of operations,
- (b) to elect and remove office bearers;
- (c) to appoint and remove the chief executive,
- (d) to frame regulations for the appointment of all employees of the cooperative and the scales of pay, allowances and other conditions of service including disciplinary action;
- (e) to finalise long term perspective plan, annual plan and budget, and to direct the affairs of the cooperative in accordance with the plan and budget approved by the general body,
- (f) to make arrangements for the mobilization of funds;
- (g) to authorise acquisition and disposal of immovable property, and
- (h) to frame, approve and amend regulations relating to services, funds, accounts and accountability, and information and reporting systems.

(2) Every director of a cooperative while performing functions, discharging responsibilities, and exercising powers shall,-

- (a) act honestly and in good faith and in the best interests of the cooperative, and

(b) exercise such due care, diligence and skill as a reasonable prudent person would exercise similar circumstances

(3) Any director who is guilty of misappropriation, breach of trust or any other omission or commission, resulting in loss or shortfall in revenue to the cooperative, shall be personally liable to make good that loss or shortfall, without prejudice to any criminal action to which the director may be liable under law

**33. Eligibility for directorship in a cooperative.-** In addition to such other conditions as may be specified in the articles of association, a member of a cooperative shall be eligible for being chosen as a director of the cooperative, if,-

- (i) such member has the right to vote in the affairs of the cooperative, and
- (ii) such member has patronized the services of the cooperative during the previous financial year to the extent and in the manner specified in the articles of association; and
- (iii) such member has no interest in any subsisting contract made with or work being done for the cooperative except as otherwise specified in the articles of association; and
- (iv) six years have lapsed from the date that such member may have ceased to be a director of the cooperative for reasons of , -
  - a) non-conduct of general meeting,
  - b) non-conduct of a elections to the board,
  - c) non-submission of annual report of activities, audited annual financial statements and / or auditor's report to the general body, or
  - d) absence from board meetings

**34 Elections -** (1) The conduct of elections of directors to the board and of representative to the represent at general body of a cooperative shall be the responsibility of the incumbent board of the cooperative

(2) Elections shall be conducted in the manner specified in the article of association Elections shall be conducted before the term of office of the outgoing directors or representatives comes to an end.

(3) All directors on the board shall cease to be directors at the point of time when any task required for the conduct of elections by the artiacles of association is not undertaken or completed and the board has not immediately taken necessary steps to continue with the process as required by the articles of association.

(4) Elections of directors shall normally take place at the annual general meeting

(5) Where a board fails to conduct elections before the expiry of the term of the directors or representatives, or where the process of elections is discontinued or suspended at any stage of the process and the board has not initiated remedial measures, or where there are no directors remaining on the board, the arbitral tribunal, within such time and in such manner as specified in the articles of association, shall appoint a three-

member ad-hoc board from among members who are not members of the arbitral tribunal, nor members of the outgoing board, nor intend to stand as candidates for the elections on hand, for the specific purpose of conducting elections and to perform all functions of the board during the interregnum except those prescribed by the articles of association.

(6) The term of the ad-hoc board so appointed shall not exceed three months and the ad-hoc board shall cease to function as soon as a regular board is elected in accordance with the articles of association

(7) The directors shall hold office for the period for which they were elected and the newly elected directors shall assume office at the end of this period

(8) The directors may not be eligible, if so specified in the articles of association, for re-election

(9) Where there are vacancies on the board and where there is a quorum, the remaining directors may exercise all the powers of the board or may fill the vacancies by cooption for the remainder of the respective terms.

(10) Where there are vacancies on the board and where there are not sufficient number of directors to constitute a quorum for board meeting the arbitral tribunal shall call a general meeting for the purpose of electing directors to fill the vacancies

**35 Tenure of directors** - Where the articles of association provide for retirement of all directors at one time, the tenure of office of all the directors, and, where the articles of association provide for retirement of directors by rotation, the tenure of office of the individual directors shall be for such period as specified in the articles of association, not exceeding three years from the date of assumption of office, as specified in the articles of association

**36 Board meetings.**- The President of a cooperative may, at any time, call a meeting of the board of directors

Provided, that at least four board meetings shall be held in a financial year, and the period between two consecutive board meetings shall not exceed one hundred and twenty days.

(2) The President shall hold a special board meeting within fifteen days of the date of receipt of a requisition from,-

- (a) at least one-third of the directors on the board, or
- (b) the Auditor

Provided that any such requisition shall contain the reasons why the meeting is felt necessary and the proposed agenda and no subject other than the subjects included in the proposed agenda shall be discussed at the special board meeting

(3) The President shall cease to be President at the end of the period within which a board meeting under sub-section (1) or sub-section (2) or the articles of association has to be held if he fails to hold such board meeting within the specified period

(4) An individual who ceases to be President under sub-section (3) shall not be eligible to hold the office of President for a period of six years from the date of such cessation

(5) The quorum for a board meeting shall be as specified in the articles of association, but shall be more than half of the total number of directors on the board

(6) The procedure to convene and conduct the board meetings shall be such as specified in the articles of association

(7) If a director fails to attend three consecutive board meetings, he shall cease to be director, from the date of the third board meeting

**37. Minutes of Board meeting** - (1) Every cooperative shall maintain in the language specified by the articles of association, in the minutes book, minutes of all proceedings of every board meeting and the chief executive shall send the copy of the minutes within seven days of the conclusion of every such meeting to all directors

(2) The minutes so recorded shall be signed by the person who chaired the said meeting or by the person who chairs the following meeting, wherein the minutes are confirmed

## CHAPTER V

### FINANCE

**38. Mobilization of funds** - (1) A cooperative may mobilize funds including equity capital, deposits, grants, and loans from its members in such form, to such extent and under such conditions as may be specified in the articles of association

(2) A cooperative may raise funds and other forms of financial support including guarantee from non-members including individuals, banks other financial and non-financial institutions, and the Government, on mutually agreed terms, to such extent and subject to such conditions as may be specified in the articles of association

**39. Deployment of funds** - (1) The funds mobilized by a cooperative shall be for the furtherance of its objectives

(2) Such of its funds as are not needed for use in its business, a cooperative may invest or deposit, outside its business, in any manner specified in sub-section (5) of section 11 of the Income tax Act, 1961.

**40. Disposal of surplus.-** (1) Surplus, if any, arising out of the business of a cooperative in a financial year may be used in one or more of the following ways, namely.-

- (a) towards a deficit cover fund;
- (b) to be distributed as surplus refund among its members;
- (c) to develop its business;
- (d) towards reserves and funds constituted in accordance with the articles of association;
- (e) to provide common services to its members;
- (f) to provide rewards or incentives to staff;
- (g) towards a non-divisible corpus fund.

Provided that surplus arising out of services provided to non-members may not be used for the provision of common services to the community at large, and for encouraging potential members to become members.

(2) Surplus must be fully allocated at the annual general meeting in which the audited statements of accounts for the financial year in which the surplus arose are presented for the consideration of the general body

**41. Management of deficit.-** (1) Deficit, if any, arising out of the business of a cooperative in a financial year, shall be fully settled by debiting a part of all of the deficit to the deficit cover fund, if any, and/or as deficit charge among its members:

Provided that nothing in this sub-section shall preclude a cooperative from proceeding against its directors for recovery of amounts contributing to the deficit, where such deficit is the result of gross negligence or mismanagement:

Provided further that where such amounts are recovered, the general body may resolve to credit a part or all of the amount to the deficit cover fund and / or to the account of each member in proportion to the deficit charge levied on him in this regard.

(2) No member shall be permitted to withdraw from the membership of the cooperative without paying his share towards clearing the deficit, if any.

**42 Operation of special funds.-** (1) A cooperative may, in the interest of its members and towards the fulfillment of its objectives, create reserves and such other funds as are specified in the articles of association or resolved on by the general body

(2) Funds so created may be used in the business of the cooperative, but at the end of every year, on that portion of each fund which was not applied for the purpose for which it was created, the cooperative shall credit to the account of such fund an annual interest, at not less than the rate paid by Scheduled Banks on long term fixed deposits debiting such interest as operational expenditure.

43. **First Charge** - Notwithstanding anything contained in any law for the time being in force, but subject to any claim of the Government in respect of land tax, any debt or other amount due to a cooperative by any member shall be a first charge upon such properties of the member as agreed by the cooperative, and as the member may declare the manner specified in the articles of association, at the time of membership, and subsequently thereafter

## CHAPTER VI ACCOUNTABILITY

44 **Accounts, records and documents to be maintained.**- (1) Every cooperative shall keep at its registered office, the following accounts, records and documents, namely -

- (a) a copy of this Act, with amendments made from time to time;
- (b) a copy of its articles of association, with amendments made from time to time;
- (c) the minutes books,
- (d) account of all sums of money received and expended by the cooperative and their respective purposes,
- (e) account of all purchases and sales of goods by the cooperative,
- (f) account of the assets and liabilities of the cooperative,
- (g) a list of members, their fulfillment of responsibilities over the previous financial year, their eligibility to exercise their rights for the current financial year, updated within forty five days of closure of the cooperative's financial year, and
- (h) all such other accounts, records and documents as may be required by this Act or other laws and regulations

Provided that where a cooperative has branch offices; summarized statements of accounts relating to such branch offices, shall be available at the registered office for each quarter, within fifteen days of the end of that quarter.

(2) Every cooperative shall keep open the books of account and other records for inspection by any director during business hours, in accordance with the procedure framed by the Board

(3) Every cooperative shall make available during its business hours to any member who so requests, copies of this Act, articles of association, minutes book of the general body, voters' list and such accounts and records of transactions that relate to that member.

(4) Every cooperative shall preserve its books of accounts relating to a period of at least eight years before the current year together with supporting records and vouchers.

45. **Audit** - (1) A cooperative shall get its accounts audited by a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949.



Provided that where a cooperative's business turnover is less than rupees forty lakhs, it may appoint an auditor, any person from within its membership or outside, with such qualifications as are specified in the articles of association

**Explanation.-** For the purpose of this section, business turnover shall mean the value of sales, services provided and / or loans recovered.

(2) A cooperative, at its annual general meeting, shall appoint an auditor This appointment shall be valid only until the close of the next succeeding annual general meeting

(3) The remuneration of an auditor may be fixed by the general body or, if not so fixed, by the arbitral tribunal

(4) An auditor ceases to hold office when the auditor, -

- (a) resigns,
- (b) is removed from office under sub-section (6); or
- (c) completes his term of office

(5) The resignation of an auditor becomes effective at the time a written resignation is received by the cooperative, or at the time specified in the resignation which ever is later.

(6) The general body may, by a special resolution, remove an auditor from office

(7) An auditor, who,-

- (a) resigns, or
- (b) receives a notice or otherwise learns of a general meeting called for the purpose of removing him from office;  
is entitled to submit to the general body a written statement giving the reasons for his resignation or the comments on the proposed removal, as the case may be.

(8) A vacancy created by the resignation of an auditor shall be filled up by the arbitral tribunal.

(9) A vacancy created by the removal an auditor shall be filled up by the general body.

(10) An auditor appointed to fill a vacancy holds office for the unexpired term of his predecessor.

(11) An auditor shall be given notice of every general meeting and, at the expense of the cooperative, will be entitled to attend and be heard thereat on matters relating to his duties as auditor and their exercise.

(12) It shall be the duty of the board to ensure that annual financial statements are prepared and presented for audit within forty-five days of closure of the cooperative's financial year.

(13) Upon the reasonable demand of the auditor of a cooperative, the chief executive shall arrange to,-

- (a) provide such access to records, documents, books, accounts and vouchers of the cooperative : and
- (b) furnish such information and explanations,

as, are in the opinion of the auditor, necessary to enable him to make the examination and report, and as the Chief executive or a present or former director, members, managers or employees are reasonably able to furnish

(14) It shall be the duty of the auditor to ensure that audited annual financial statements and his accompanying report are furnished to the cooperative within forty five days of the submission of annual financial statements by the board

(15) The auditor's report to the members of the cooperative shall,-

- (a) state whether the auditor has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit,
- (b) state whether the cooperative's balance sheet and income and expenditure account dealt with by the report are in agreement with the books of accounts,
- (c) indicate the basis on which each asset and liability was valued, and make specific mention of any change in the manner in which such valuation was done in the year under examination and its effect on surplus or deficit,
- (d) indicate the amount of surplus earned or deficit incurred from provision of services to non-members as distinct from surplus or deficit accruing because of services to members or in normal course of business,
- (e) indicate every deviation in actual expenses and income from the estimated expenses and income in the approved budget;
- (f) specify the gross remuneration or honorarium or allowances paid or value of benefits provided, if any, to the Chief Executive, any of the office bearers, or directors, in the financial year under audit,
- (g) state whether or not any of the office bearers or directors had become, at any time during the year under review, ineligible under this Act to continue in office as an office bearer or director, and
- (h) state whether the decisions on disposal of surplus or assessment of deficit, of the general body, at its previous annual general meeting were implemented correctly and completely or not.

**46. Return to be filed with the Registrar:-** (1) Every year, within thirty days of the holding of the annual general meeting, every cooperative shall file the following returns with the Registrar, namely:-

- (a) annual report of activities;
- (b) audited annual statements of accounts with auditor's report
- (c) statistical statement indicating name of the cooperative; core services offered by the cooperative to its members; total number of members as on the last day of the year; total liabilities expressed as (i) funds from members and surpluses, (ii) funds from the Government, if any, and (iii) funds from other external sources as on the last day of the financial year, quantum in rupees of services provided (i) to members, and (ii) to non-members; and surplus or deficit at end of year and.
- (d) annual disposal of surplus or management of deficit

(2) Alongwith the return specified in sub-section (1) every cooperative shall furnish the following information to the Registrar, namely -

- (a) the date of the annual general meeting at which the returns being filed with the Registrar were considered and / or approved;
- (b) the total number of members on the rolls of the cooperative who were eligible to vote on the date of such annual general meeting,
- (c) the number of eligible members present at such annual general meeting;
- (d) list of names of directors, their addresses and their terms of office,
- (e) name and address of the auditor appointed for auditing the current year's accounts

(3) The Registrar shall submit an annual report to the Government by 21<sup>st</sup> March of each year, containing statistical information on the cooperative in the State compiled from the returns received during the previous calendar year, under clause (e) of sub-section (1), with regard to the total number of cooperative in the state, their membership, funds, services and surplus or deficit, and the report shall also contain information on the strength of staff in the department of cooperation, including those on deputation, establishment expenses on the department, fee raised under this Act by the department and a statistical summary of statutory powers exercised during the previous calendar year.

(4) Any person may apply in writing to the Registrar seeking a copy of the Registrar's annual report, or of any return or any information filed by the cooperatives with the Registrar, and such information shall be made available by the Registrar on reasonable fee

**47 Inquiry.-** (1) The Registrar may after first providing an opportunity to the cooperative concerned to present its case, for reasons to be recorded in writing, of his/her own motion and shall, on the application of a secondary cooperative to which the cooperative concerned is affiliated, or of a creditor to whom the cooperative is indebted, or of not less than one third of the directors, or of not less than one tenth of the members,

hold an inquiry or cause an inquiry to be made into any specific subject or subjects relating to any gross violation of any of the provisions of this Act by the cooperative.

(2) Except when an inquiry is undertaken on his own motion, the Registrar shall order an inquiry only after the receipt of a fee, from the applicant or the applicants, deemed sufficient to meet the costs of the inquiry to be conducted

(3) The inquiry shall be completed within a period of one hundred and twenty days from the date of ordering the inquiry.

(4) If the inquiry is not completed within the time specified in sub-section (3), it shall lapse at the end of the said period and the Registrar shall refund to the applicants the fee collected from them

(5) The Registrar shall, within a period of thirty days from the date of the completion of the inquiry, as specified in sub-section (3) or of the lapse of the inquiry as specified in sub-section (4) communicate the report of the inquiry or the reasons for the non-completion of the inquiry, as the case may be,-

- (a) to the cooperative concerned;
- (b) to the applicant secondary cooperative, if any;
- (c) to the applicant-creditor, if any,
- (d) to the person designated by the applicant-directors, if any,
- (e) to the person designated by the applicant-members, if any, and
- (f) to any person, on payment of fee specified by the Registrar

## CHAPTER VII

### OFFENCES

48. **Offences** - (1) A person, who makes or assists in making a report, return notice or other document required in this Act to be sent to the Registrar or to any other person that contains an untrue statement of a material fact or omits to state a material fact which is required in the report or necessary to make a statement contained in the report not misleading in the light of the circumstances in which it was made shall be guilty of an offence and shall on summary conviction, be punishable,-

- (a) in the case of an individual with a fine which may extend to one thousand rupees or with imprisonment for a term which may extend to three months or with both,
- (b) in the case of a person other than an individual, with a fine which may extend to rupees ten thousand.

(2) Where the person guilty of an offence under sub-section (1) is a body corporate and whether or not the body corporate has been prosecuted or convicted, any director or officer of the body corporate who knowingly authorizes, permits or acquiesces in the offence shall also be guilty of an offence and shall on summary conviction be

punished with a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to three months or with both.

(3) No person shall be guilty of an offence under sub-section (1) or (2) where the untrue statement or omission,-

- (a) was unknown to him, and
- (b) in the exercise of reasonable diligence could not have been known to him.

(4) Every person who,-

- (a) without reasonable cause, contravenes a provision of this Act for which no penalty is otherwise provided, or
- (b) fails to give any notice, send any return or document that is required by the this Act,

shall be guilty of an offence and shall on summary conviction, be punished with a fine which may extend to one thousand rupees.

(5) An offence by a cooperative shall be deemed to have been also committed by each office bearer of the cooperative bound by the articles of association thereof to fulfill the duties where of the offences is a breach, or if there is no such office bearer, then by each of the directors, unless the office bearer or directors, as the case may, be, prove to have attempted to prevent the commission of the offence

(6) Where a person is convicted of an offence in pursuance of this Act, the Court may, in addition to any punishment imposed, order the person to comply with the provisions of this Act or the regulations for the contravention of which he has been convicted

(7) No prosecution for an offence under the Act shall be commenced after two years from the time when the subject matter of the complaint arose.

(8) No civil remedy for an act or omission under the Act is suspended or affected by reasons that the act or omission is an offence under this Act

## CHAPTER VIII

### DISPUTES

49 **Disputes** - (1) Notwithstanding anything contained in any law for the time being in force, any dispute touching the constitution, management or business of a cooperative arises,-

- (a) among members, past members and persons claiming through members and deceased members; or

(b) between a member, past member or a person claiming through a member, past member or deceased member and the cooperative, its board, director, office-bearer, or liquidator, past or present; or

(c) between the cooperative or its board and any past board, any director, office bearer, or any past director, past office bearer, or the nominee, heir, or legal representative of any deceased director or deceased office bearer of the cooperative,

such dispute shall be referred to the arbitral tribunal of the cooperative.

**Explanation** - For the purposes of this sub-section, a dispute shall include a claim by a cooperative for any debt or other amount due to it from a member, past member, the nominee, heir or legal representative of a deceased member, and/or surety, whether such debt or other amount be admitted or not.

(2) If any question arises whether a dispute referred to the arbitral tribunal under this section is a dispute touching the constitution, management or business of the cooperative, such question shall be decided by the arbitral tribunal

(3) The arbitral tribunal shall decide the dispute in accordance with the provisions of this Act and the articles of association, and such decisions shall be final. Pending final decision on the dispute, the arbitral tribunal may make such interlocutory orders, as it may deem necessary in the interest of justice.

(4) Every order or decision made under this section, shall be executed by the Civil court having jurisdiction, as if such order is a decree of that court, on a certificate issued by the arbitral tribunal

(5) Notwithstanding anything in sub-section (4), or in any other law for the time being in force, and without prejudice to any other mode of recovery which is being taken or may be taken, an arbitral tribunal may, on the application made by the co-operative for the recovery of arrears due to the co-operative by any of its members, and on its furnishing a statement of accounts in respect of the arrears and after making such inquiry as the arbitral tribunal deems fit, issue a certificate for the recovery of the amount stated therein to be due as arrears.

(6) A certificate issued by the arbitral tribunal under sub-section (5) shall be final and conclusive proof of the arrears stated to be due and the certificate shall be executed by the chief executive in the manner specified in the articles of association.

**50. Arbitral tribunal.**- The articles of association of each cooperative shall provide for the constitution of an arbitral tribunal consisting of an individual or group of individuals not exceeding five chosen by the General body from among its members, in accordance with the provisions of articles of association.

## CHAPTER IX DISSOLUTION

**51. Dissolution by members -** (1) A cooperative may, by a special resolution, authorise its own dissolution.

Provided that a copy of the notice of the general meeting shall be sent by registered post with an invitation to attend, to the Registrar, to all to whom the cooperative owes money, to any secondary cooperative to which the cooperative is affiliated, and to any cooperative with which a partnership contract has been entered into

(2) Invitees under the proviso of sub-section (1) shall have the right to make a presentation to the general body, if they so wish to, on the issue of the proposed dissolution

(3) Within fifteen days of such authorization for dissolution, the cooperative shall send to the Registrar a copy by registered post of the authorization to dissolve the cooperative

(4) The authorization approved in pursuance of sub-section (1) is required to set out,-

- (a) the assets and liabilities of the cooperative,
- (b) the claims of creditors,
- (c) the number of members;
- (d) the nature of extent of the members' interest in the cooperative;
- (e) the name and address of the liquidator appointed by the cooperative

(5) When a Registrar receives the special resolution passed in pursuance of sub-section (1),-

- (a) where he is satisfied that the cooperative has no assets or liabilities, he may dissolve the cooperative, strike off its name from the register of cooperatives and issue a certificate of dissolution, or
- (b) he, shall, within thirty days of such approval, cause at the expense of the cooperative a notice of the special resolution to be published once a week for two consecutive weeks in a newspaper published or distributed in the district where the registered office of the cooperative is located.

(6) In the case of dissolution, the Registrar may require till the certificate of dissolution is issued by him, from the liquidator appointed by the cooperative or any other person who is required to furnish information, a periodical return showing,-

- (a) the progress of dissolution,
- (b) the distribution of any undistributed surplus or reserve, and
- (c) any other relevant information that he may require.

**52. Dissolution by Registrar - (1)** Where the Registrar has reasonable cause to believe that a cooperative,-

- (a) has not commenced business within two years after the date shown on its certificate of incorporation, or
- (b) has not carried on business for two consecutive years,

he shall send to the cooperative a letter by registered post, inquiring whether the cooperative is carrying on business

(2) Where the Registrar does not, within thirty days of the date he sent a letter in pursuance of sub-section (1) received a reply to the letter, he shall, within fifteen days after the expiry of thirty days, send to the cooperative a letter stating that,-

- (a) a letter was sent to the cooperative in pursuance of sub-section (1),
- (b) no reply to that letter has been received by him,
- (c) if reply answer is not received to the letter sent under this sub-section within thirty days from the date it is sent, a notice shall be published in the Gazette to dissolve the cooperative

(3) Where the Registrar,-

- (a) receives a reply from the cooperative that it is not carrying on business, or
- (b) does not, within thirty days after the date that he sent a letter in pursuance of sub-section (2), receive a reply to that letter,

he may publish in the Gazette and send to the cooperative a notice that, at the expiry of thirty days from the date of that notice, the cooperative shall have its name struck off the register, or, unless cause is shown to the contrary, be dissolved

(4) On the expiry of thirty days after the date of the issue of the notice in pursuance of sub-section (3), the Registrar may, unless cause to the contrary is previously shown by the cooperative,-

- (a) where he is satisfied that the cooperative has no assets or liabilities, dissolve the cooperative, strike off its name from the register of cooperatives and issue a certificate of dissolution; or
- (b) appoint a liquidator, in accordance with the section 54, to dissolve the cooperative



(5) Where a cooperative fails to file returns and furnish information, as required under section 46, even after a lapse of two hundred and forty days from the close of the cooperative's financial year, the Registrar shall require the board to call a special general meeting for the purpose of considering the annual return to be filed with and the information to be furnish to the Registrar

(6) Where the board fails to call a special general meeting within the time specified in sub-section (2) of section 29, the Registrar may call the special general meeting to ascertain where the general body desires to continue the cooperative.

(7) Where,-

(a) a quorum of members is not present at a special general meeting called in pursuance of sub-section (5) or (6); or

(b) the general body fails to pass a resolution to the effect that,-

(i) the cooperative is to carry on business,

(ii) the board must present, within sixty days from the date of the special general meeting, to the general body the annual returns to be filed with and the information to be furnished to the Registrar, and

(iii) the cooperative will file a returns with and furnish the information to the Registrar within ninety days from the date of the special general meeting, or

(c) the cooperative fails to file the returns with and furnish the information to the Registrar within ninety days from the date of the special general meeting, the Registrar shall,-

(i) if he is satisfied that the cooperative has no assets or liabilities, dissolve the cooperative, strike off its name from the Registrar of cooperative and issue a certificate of dissolution, or

(ii) appoint a liquidator, in accordance with section 54, to dissolve the cooperative

**53 Dissolution by Court** - (1) The Registrar or an interested person may, after giving the cooperative ninety days notice of the proposed application, apply to the Court for an order dissolving a cooperative, where the cooperative:

(a) obtained its incorporation by fraud or mistake;

(b) exists for a illegal purpose,

(c) has willfully, after notice by the Registrar, violated any of the provisions of this Act or its articles of association; or

(d) is no longer operating on a cooperative basis.

(2) Where an interested person applies to a Court in pursuance of this section, he shall give the Registrar notice or his application and the Registrar is entitled to appear and be heard in person or by counsel.

(3) Where the Court receives an application in pursuance of this section, it may order that the cooperative be dissolved or liquidated and dissolved under the supervision of the Registrar

(4) Where the Registrar receives an order made in pursuance of sub-section (3) he shall,-

- (a) if the order is to dissolve the cooperative, dissolve it, strike off its name from the register of cooperatives and issue a certificate of dissolution, or
- (b) if the order is to liquidate and dissolve the cooperative, appoint any person as a liquidator to wind up the affairs of the cooperative

**54 Appointment of liquidator.-** Where a cooperative is to be dissolved and no liquidator is appointed by the general body or the Court, the Registrar may,-

- (a) appoint any person as a liquidator to wind up the affairs of the co-operative, or
- (b) where he is satisfied that the co-operative has no assets and liabilities, issue a certificate of dissolution

**55 Duties of liquidator.-** A liquidator shall, -

- (a) immediately after his appointment, give notice of his appointment,
  - (i) in the case of a liquidator not appointed by the Registrar, to the Registrar; and
  - (ii) to each claimant and creditor known to the liquidator,
- (b) publish notice of his appointment in the Gazette and once a week for two consecutive weeks in a newspaper published or distributed in the district where the cooperative has its registered office and take reasonable steps to give notice of the liquidation in every jurisdiction where the cooperative carries on business,
- (c) include in the notice mentioned in clause (a) and (b) a provision requiring any person,-
  - (i) indebted to the cooperative, to render an account and pay to the liquidator at the time and place specified any amount owing,
  - (ii) possessing property of the cooperative, to deliver it to the liquidator at the time and place specified in the notice; and
  - (iii) having a claim against the cooperative, whether liquidated, un-liquidated, further or contingent, to present particulars of the claim in writing to the liquidator at the time and place specified in the notice which shall not exceed sixty days from date of first publication of the notice.
- (d) take into custody and control the property of the cooperative;
- (e) open and maintain a trust account for the moneys of the cooperative;
- (f) keep accounts of the moneys of the cooperative received and paid out by him;
- (g) maintain separate lists of the members, creditors and other persons having claims against the cooperative;

- (h) where at any time he determines that the cooperative is unable to pay or adequately provide for the discharge of its obligations, apply to the Registrar or general body, as the case may be, for directions; and
- (i) deliver to the Registrar or general body, periodically as the Registrar or general body may require, financial statements of the cooperative in any form that the liquidator considers proper or that the Registrar or general body may require

**56 Functions and responsibilities of liquidator.** – (1) The liquidator may,-

- (a) retain lawyers, accountants, engineers, appraisers, professional advisors,
- (b) bring, defend or take part in any civil, criminal or administrative proceeding in the name and on behalf of the cooperative;
- (c) carry on the business of the cooperative as required for an orderly liquidation;
- (d) sell by public auction or private sale any property of the cooperative,
- (e) do all acts and execute any documents in the name and on behalf of the cooperative;
- (f) borrow money on the security of the property of the cooperative;
- (g) settle or compromise any claims by or against the cooperative, and
- (h) do all other things that he considers necessary for the liquidation of the cooperatives and distribution of its property

(2) Where a liquidator has reason to believe that any person has in his possession or under his control, or has concealed, withheld or misappropriated any property of the cooperative, he may apply to the court for an order requiring that person to appear before the co operative tribunal at the time and place designated in the order and to be examined

(3) Where the examination mentioned in sub-section(2) discloses that a person has concealed, withheld or misappropriated property of the cooperative, or has in possession or under his control the property of the co-operative the Co-operative tribunal may order that person to restore the property or pay compensation to the liquidator or on behalf of the cooperative

(4) No liquidator shall purchase, directly or indirectly any part of the stock-in-trade, debts or assets of the cooperative.

**57. Final accounts.** – (1) A liquidator shall pay the costs of liquidation out of the property of the cooperative and shall pay or make adequate provision for all claims against the cooperative

(2) After paying or making adequate provisions for all claims against the cooperative, the liquidator shall apply to the Registrar for approval of his final accounts and for permission to distribute in cash or in kind the remaining property of the cooperative in accordance with the articles of association.

(3) Where the Registrar approves the final accounts rendered by a liquidator in pursuance of sub-section (2) he shall,-

- (a) issue directions with respect to the custody or disposal of the documents and records of the cooperative; and
- (b) discharge of the liquidator

(4) Where the Registrar discharges a liquidator under sub-section (3), he shall dissolve the cooperative, issue a certificate of dissolution and strike off its name from the register of cooperative.

(5) The cooperative ceases to exist on the date shown in the certificate of dissolution, which shall not be later than two years after the appointment of the liquidator

## CHAPTER X MISCELLANEOUS

**58. Exemption from certain taxes, duties and fees.** – The Government, if in its opinion it is necessary in the public interest so to do, may by notification in the Gazette, and subject to such restrictions and conditions as may be specified in such notification, reduce or exempt in respect of cooperatives,-

- (a) the taxes on professions, trades, callings and employments;
- (b) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a cooperative or by an office bearer, or director or member and relating to business of such cooperative or any class of such instruments or decisions or orders of the Registrar or arbitral tribunal or liquidator under this Act, are respectively chargeable,
- (c) any fee payable under the law relating to incorporation for time being in force or court fees.

**59. Exemption from compulsory incorporation of instruments.** – Nothing in the Indian Registration Act, 1908 shall apply to –

- (a) any instruments relating to shares in a cooperative notwithstanding that the assets of the cooperative consist in whole or in part of immovable property.
- (b) any debentures issued by any such cooperative and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the cooperative has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or
- (c) any endorsement upon or transfer of any other debenture issued by any such cooperative

**60. Removal of difficulty** - (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may issue such order not inconsistent with the provisions of this Act as it may deem necessary to remove such difficulty:

Provided that no such order shall be passed after be passed after the expiry of the period of two years from the date of coming into force of this Act.

(2) The order passed under sub-section(1) shall be laid on the table of the legislative assembly.

**61. Right Information.-** Any member or creditor having interest in the affairs of the cooperative may seek information relating to any transaction of the cooperative and for that purpose may be provided a certified copy of any document within one month of application relating to such transaction on payment of such fee as may be specified in the articles of association

**62. Bar of Jurisdiction of Courts'-** (1) Save as provided in this Act, no Civil shall have jurisdiction in respect of-

(a) the registration or conversion of a Cooperative or of an amendment of a bye - law,

(b) any matter concerning the winding up and the dissolution of a Cooperative

(2) While a Cooperative is being wound-up no suit or other legal proceedings relating to the business of such Co-operative shall be proceeded with, or instituted against, the liquidater as such or against the Cooperative or any member thereof

(3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court or any ground whatsoever

**63. Indemnity for acts done in good faith -** No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting under his authority, in respect of anything done or purporting to have been done by him in good faith under this Act

**64 Directors, Office bearers of co operative auditors, members of arbitral tribunal etc. to be public servant -** All office bearers and directors of a cooperative, the auditors appointed by the co operative , the members of arbitral tribunal shall be deemed , when acting or purporting to act in pursuance of any of the provisions of this Act to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860)

**65 Settlement of Disputes by co operative Tribunal.-** (1)If any dispute arises touching the constitution management of business of a co-operative , and matters connected therewith or incidental thereto:-

(a) among members, past members or persons claiming through members, past members and deceased members; or

(b) between a member, past member or a person claiming thorough a member, past member or deceased member and the co-operative, its board, director, office-bearer or liliquidator past or present or

- (c) between the cooperative or its board and any past board, director, office bearer, or the nominee, heirs, or legal representatives of any deceased director, deceased officer, of the co-operative, or
- (d) between the cooperative and any other cooperative; or
- (e) between the promoters of a cooperative and the Registrar, or a cooperative and the Registrar; or
- (f) between a cooperative and liquidator of another cooperative or between the liquidators of two or more cooperatives

such disputes may be referred to the tribunal for decision.

Provided that no dispute shall be referred under this section to the tribunal unless the disputing parties exhausted all remedies that may be available in the articles of association for the settlement of disputes

#### SCHEDULE - A

(See section 2(j), 2(k), 3(3)a, 4(3)(a))

### STATEMENT OF CO-OPERATIVE IDENTITY

**1. Definition** - A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise

**2. Values.**- Cooperatives are based on the values of self-responsibility, democracy, equality, equity, and solidarity. In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibilities and caring for others

**3. Principles** - The cooperative principles are guidelines by which cooperatives put their values into practice

#### **1st Principle: Voluntary and Open Membership**

Cooperatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination.

#### **2<sup>nd</sup> Principle Democratic Member Control**

Cooperatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to membership. In primary cooperatives members have equal voting rights (one member's one vote) and cooperatives at other levels are also organized in democratic manner

### **3<sup>rd</sup> Principle: Member Economic Participation**

Members contribute to, and democratically control, the capital of their cooperative. At least part of that capital is usually the common property of the cooperative. Members usually receive limited compensation, if any, on capital subscribed to as a condition of membership. Members allocate surpluses for any of the following purposes: developing their cooperative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the cooperative; and supporting other activities approved by the membership.

### **4<sup>th</sup> Principle: Autonomy and Independence**

Cooperatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including Governments, or raise capital from external sources, they do so in terms that ensure democratic control by their members and maintain their cooperative autonomy.

### **5<sup>th</sup> Principle: Education, Training and Information**

Cooperatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their cooperatives. They inform the general public particularly young people and opinion leaders – about the nature and benefits of cooperation.

### **6<sup>th</sup> Principle: Cooperation among Cooperatives**

Cooperatives serve their members most effectively and strengthen the cooperative movement by working through local, national, regional, and international structures.

### **7<sup>th</sup> Principle: Concern for community**

Cooperatives work for the sustainable development of their communities through policies approved by their members.

**SCHEDULE B**

[section 3(2)]

**Memorandum of Association**

(for primary/secondary cooperatives to be newly incorporated)

(form in which to be submitted)

1. we, the following persons.

Sl. No	Full name In capital letters	Full Postal address in capital letters	Occupation, if the promoters are individuals
--------	---------------------------------	---	--

desire to incorporate ourselves into a primary/secondary cooperative under Kerala Self Reliant Co-operatives Act, 2002.

(Please have as many rows above, as there are promoters)

2. For the purposes of incorporation, Shri /Smt . . . . . at serial number above shall be our representative, and all communication may be addressed to him/her at his/her address
3. The name of our cooperative shall be . . . . .
4. The registered office of our cooperative will be situated in (please provide name of village/town/city in the blank space provided)
5. The object of our cooperatives shall be . . . . . (please state here only that need common to all members, which the cooperative hopes to fulfill, and for which it is Being established – eg increase in returns on dairying/sericulture/paddy farming, etc, or access to quality consumer goods/housing/production inputs at reasonable prices, or access to savings and credit/insurance, etc. Please do not provide here the list of services or activities through which this object will be fulfilled)

We hereby declare that we are committed to the principles of cooperation as provided for in Schedule A of the Act and intend to manage our cooperative in conformity with these

We have enclosed

- (a) the articles of association of the proposed cooperative as adopted by us, the promoters,
- (b) a true copy of the resolution passed by us, at a meeting, adopting the articles of association;

8. Signed by us, dated . . . . . at place

Sl.No.	Full name (preceded by name and designation of representative where the promoters are cooperatives)	Signature
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Schedule C  
[Section 3(3)(d)]  
Certificate of Incorporation  
(for a cooperative to be newly incorporated)

Registrar of Self Reliant Cooperatives  
Government of Kerala

Certificate of Incorporation under Section 3 of the Kerala Self Reliant Cooperatives (Amendment) Act, 2002.

I do hereby certify that the . . . . .  
. . . . .

is registered No . . . . . together with its memorandum of association and articles of association

Given under my hand and seal

this . . . . . day of . . . . .

Registrar of Self Reliant Cooperatives  
Government of Kerala

Schedule D  
[Section 4(2)]

Memorandum of Association

(for cooperatives to be converted from the Kerala Co-operative Societies (Amendment Act, 1969;  
(form in which to be submitted)

1 We, the directors of the board of the . . . . . State hereby, that the general body of our cooperative society desires that our cooperative society now be incorporated as a cooperative under the Kerala Self Reliant Cooperatives Act, 2001.

(Please fill the current complete name of the Cooperative Society)

2. For the purposes of incorporation all communication may be addressed to . . . . .  
. . . . . at . . . . .

(Please fill the first blank with the name and designation of the contact person in the cooperative society, and the second blank with the full postal address of the cooperative society)

3. The name of our cooperative, on conversion to the Kerala Self Reliant Cooperatives Act, 2002 shall remain the same/become. . . . .  
(Based on whether or not the name will undergo change please strike out whatever is inapplicable above)
4. The registered office of our cooperative society is situated in . . . . . and shall remain the same change to . . . . .  
(please provide name of village/town/city in the blank space provided, and strike out that which is not applicable)
5. The object of our cooperative society is . . . . . and on conversion shall be the same/change to . . . . . (Please state in the first blank only that need common to all members, for which the cooperative society was established, and in the second blank, please fill change, if any, in this object, upon conversion. Please do not provide here the list of services through which this object will be fulfilled)
6. We have enclosed
  - (a) a true copy of the resolution passed by our general body expressing commitment to the principles of cooperation as provided for in schedule A of the Act,
  - (b) the articles of association of the proposed cooperative as adopted by our general body,
  - (c) a true copy of the resolution passed by the general body, adopting the articles of association,
  - (d) a true copy of the declaration of the general body stating that our cooperative society is not in receipt of any share capital from the government or any other external source, and does not intend ever to raise share capital from the Government or any source other than members;
  - (e) a true copy of the latest annual report and audited statement of accounts,
  - (f) a true copy of the resolution of the general body along with Particulars regarding the wiping off of accumulated losses from various reserves and/or by debiting to the accounts of members as decided at the meeting, (or) a true copy of the resolution of the general body stating that our cooperative society does not have losses, accumulated or current,
  - (g) the statement on adjustment of accumulated losses, if any, certified by an auditor as correct

7. Particulars about the general body meeting at which the decision to convert was taken.

Date of general body meeting	No of members as on date of general body meeting	No of members present at general body meeting	No. of members who voted for the conversion
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8. Signed by us, dated . . . . . at place . . . . .

Sl No	Full name of the	Designation	Signature
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(please note that there should be as many rows as there are directors The signature of the chief executive, too, should be obtained)

**SCHEDULE E**  
**[Section 4(4)]**  
**Certificate of Incorporation**  
**(for cooperative to be converted from**  
**Kerala Cooperative Societies Act, 1969**

**Registrar of Self Reliant Cooperatives**  
**Government of Kerala**

Certificate of Incorporation under section 4 of the Kerala Self Reliant Cooperatives Act, 2002

I, do hereby certify that the ..... is registered with No ..... together with its memorandum of association and articles of association.

This cooperative is successor to be

(Registration No ..... Dt. .... registered under the Kerala Co-operative Societies (Amendment) Act, 1999, whose registration now stands cancelled, and is now deemed to have assumed all rights and obligations and assets and liabilities of its predecessor cooperative society All acts and transactions of that predecessor cooperative society shall stand devolved on this cooperative

Given under my hand and seal this ..... day of .....

**Registrar of Self Reliant Cooperatives**  
**Government of Kerala**

**Schedule F**  
**[Section 6(3)]**

Subject matter for specific consideration when framing articles of association of a co-operative

1. Identity of the Co-operative
  - a. the name of the co-operative, and any shorter name by which the co-operative is to be popularly known

- b the village/town/city where the registered office of the co-operative is to be located
  - c the custody and use of the common seal
- 2 Aim and services
- a the aim of the co-operative explicitly stated as a common central need of the members which the co-operative aims at fulfilling
  - b core services, and support services to members to fulfil the common central need stated in the aim
  - c the conditions under which services may be provided to non-members
3. Membership
- a form for applying for membership
  - b form for declaring assets by member upon which arrears due to the co-operative shall be a first charge
  - c eligibility, ineligibility for obtaining membership
  - d eligibility, ineligibility for continuing membership
  - e procedure for obtaining membership
  - f procedure for withdrawing membership
  - g procedure for termination of membership
  - h circumstances under which membership ceases
  - i procedure for cessation of membership
- 4 Member rights and obligations
- a the rights of members
  - b manner of fixation of minimum performance expected annually of each member vis-a-vis use of services, financial commitment, participation in meetings, and adherence to articles of association, in order to be eligible to exercise the rights of membership including the right to vote
  - c the consequences of performing below the minimum level fix
  - d the consequences of default in payment of any sum due by a member
- 5 General Body
- a the role of the general body, and of the representative general body, if any, and subjects which must be dealt with by the general body, and by the representative general body, if any
  - b the manner and frequency of convening general meetings, and quorum required
  - c the quorum necessary for adjourned meetings
  - d conditions and manner in which arbitral tribunal may convene general meeting
  - e the minutes of proceedings of general meeting
  - f the person(s) to take responsibility for and the manner of convening and extraordinary general meeting and the period within which such meeting ought to be convened for the purpose of appointing an ad-hoc board

## 6. Board of Directors

- a. the size and composition of the board of directors
- b. eligibility, ineligibility for becoming director
- c. eligibility, ineligibility for retaining directorship
- d. the procedure for election and removal of directors
- e. the terms of office of the directors
- f. the frequency of board meetings
- g. the manner of convening board meetings and quorum
- h. the function, responsibilities and powers of the board
- i. the minutes of proceedings of board meetings
- j. the functions, responsibilities and powers of the directors
- k. eligibility, ineligibility for being appointed by arbitral tribunal as member of ad-hoc board

## 7. President and other office-bearers

- a. the election and removal of president and other office-bearers, if any
- b. the functions responsibilities and powers of the president an other office-bearers, if any

## 8 Chief executive and staff

- a. the person to sue or be sued on behalf of the co-operative
- b. the manner of appointment and removal of chief executive
- c. the functions, responsibilities and powers of the chief executive

## 9 Finances

- a. the financial year which the co-operative wishes to adopt
- b. the manner of appointment of auditors and their role
- c. the manner of appointment of internal auditors and their role
- d. the nature and amount of equity capital, if any, of the co-op
- e. the maximum capital which a single member can hold
- f. the types and extent of funds to be raised
- g. the purposes for which the funds raised by the co-operative maybe applied
- h. the equity-debt ratio that the co-operative wishes to maintain at all times, and the maximum external debt that a co-operative wishes to permit itself at any point of time
- i. procedure for transfer of shares or interest by a member
- j. procedure for redemption of shares by the co-operative
- k. procedure for transfer or payment of interest on death of member
- l. the nature and extent of the liability of the members for the debts contracted by the co-operative
- m. the nature and extent of the liability of the directors for the debts contracted by the co-operative
- n. the manner of disposal of funds if under liquidation
- o. the manner of recovery of dues from members

**10. Secondary Co-operatives**

- a. the rights, if any which the co-operative wishes to confer on any secondary co-operative of which it is a member and the circumstances under which these rights may be exercised by such secondary co-operative
- b. the procedure for appointing and changing delegates to secondary co-operative

**11. Arbitral Tribunal**

- a. the manner of constitution and functioning of Arbitral Tribunal for settlement of disputes
- b. eligibility, ineligibility for being chosen as arbitrator
- c. eligibility, ineligibility for being continued as arbitrator
- d. the manner in and conditions under which the arbitral tribunal may appoint ad-hoc board

**12. Other matters**

- a. the language in which the internal affairs of the Co-operative are to be conducted
- b. any provisions of transitory nature
- c. the manner of dissolution of the co-operative
- d. the manner of amending articles of association

## STATEMENT OF OBJECTS AND REASONS

Laws regarding co-operative Societies have been in force in India from the early 20<sup>th</sup> Century. The Acts formulated during the British period before independence provided for considerable Government control, as was the case in respect of people's institutions those days. After independence, considerable importance was given to the spread and growth of Co-operatives in different sectors. However, since most of them were formed under the development plans with Government initiative and Government finance and under Government sponsored programmes, the earlier restrictions from Government continued to be part of the enactments regarding co-operative Societies that were brought about in 1950's and 1960's.

In early 1960 Co-operative Legislation all over the country underwent major changes with a view to enabling State and Union Governments to play an active role in the promotion and development of Co-operatives. The Kerala Co-operative Society Act, 1969 was enacted which provide an active role for the State Government in all activities of Co-operative movement. At a time when deregulation and liberalization are enabling other forms of business to break new ground, it is necessary to enable business registered as Co-operatives also to have at least the same degree of freedom to conduct their affairs, if these business are to have a fair chance of being able to complete successfully with other business.

Co-operative Financing Organizations, such as the National Bank for Agriculture and Rural Development, the National Co-operative Development Corporation and the National Dairy Development Board have also been seeking ways by which they can, where possible, deal directly with Co-operative Societies without necessarily having to involve Government. There are some Co-operatives which may have some Government funds but are not dependent on such funds or on Government assistance in other forms for their survival. These co-operatives need to be given greater autonomy and encouraged to pursue the legitimate interest of the members in an effective self reliant, responsible, accountable and democratic manner. The Government also recognizes that enabling legislation is required if ordinary people who expect to benefit from the Co-operative form of business, without being dependent on Governmental resources, are to voluntarily promote and effectively develop services for themselves through their own Co-operative Societies. Therefore Government have decided to undertake legislation in order to promote self-reliant and autonomous Co-operative Societies and make the Co-operative movement more vibrant in the State without any kind of restriction by the State.

The Bill seeks to achieve the above objects

## FINANCIAL MEMORANDUM

Sub-clause (2) of Clause 14 of the Bill seeks to empower the Government to appoint a Registrar of Co-operative and such other officers to carry out the duties and functions and to exercise the powers of the Registrar under the Act. The salary and other allowances to these officers will have to be met from the Consolidated Fund of the State.



Some amount so spent can be recouped from the societies by way of fees for all kinds of services given by the Registrar. However the actual amount that may initially required for payment of salary and allowances of Registrar cannot be calculated at any degree of accuracy at this stage.

However initially the District officers of the Co-operative Department can be appointed as Registrar for the purposes of this Act and the services of the employees attached to the District Officers can also be used for assisting the Registrar. In that event the Bill if enacted and brought into force would not involve any additional expenditure from the Consolidated Fund of the State.



## **THE KERALA VEXATIOUS LITIGATION (PREVENTION) BILL, 2002**

### **Background Note**

Our State stands second in the number of litigations pending in India one of the reasons is that the tendency to abuse the process of the Court is on increase. People must resort to courts for vindicating justice and not for harassing others. Prevention of vexatious litigation is a very laudable object. It is incongruous that the vexatious litigation (Prevention) Act, 1949 to prevent vexatious litigation is in force only in Malabar area of the State.

A Division Bench of the High Court of Kerala in its judgment in Advocate General, Vs T A.Rajendran reported in 1988 (1) KLT 305, stressed the urgency of enacting a uniform law to prevent vexatious litigation, applicable to the entire State of Kerala. Accordingly a Bill was published in the Ninth Kerala Legislative Assembly as Bill No 118. That Bill could not be introduced in or passed by the Legislative Assembly before its dissolution. The Law Reforms Committee recommends to enact a legislation on the lines of the Bill already published. A draft Bill is also appended herewith.



DRAFT

**THE KERALA VEXATIOUS LITIGATION (PREVENTION)  
BILL, 2002**

**A  
BILL**

to prevent the institution of vexatious proceedings in courts in the State of Kerala.

**Preamble.-** WHEREAS, it is expedient to prevent the institution of vexatious proceedings in courts in the State of Kerala;

**BE** it enacted in the Fifty-third Year of the Republic of India as follows:-

**1. Short title, extent and commencement.-**(1) This Act may be called the Kerala Vexatious Litigation (Prevention) Act, 2002

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once

**2 Leave of Court necessary for vexatious litigant to institute proceedings.-** If, on an application made by the Advocate General, or otherwise, the High Court is satisfied that any person has habitually and without any reasonable ground instituted vexatious proceedings of a civil, criminal or other nature in any court or courts, the High Court may, after giving that person an opportunity of being heard, order that no proceedings of a civil, criminal or other nature shall be instituted by him in any court, without the leave of the High Court, if the proceedings are to be instituted in the High Court and without the leave of the District and Sessions Judge, if the proceedings are to be instituted in any other court

(2) If it appears to the High Court that the person against whom a proceeding is instituted or initiated under sub-section (1) is unable, on account of poverty, to engage a pleader, the High Court may engage a pleader to appear for him

**Explanation.-** For the purpose of this section "Pleader" has the same meaning as in clause (15) of section 2 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

**3. Leave to be granted only if prima facie ground exist.-** The leave referred to in sub-section (1) of section 2 shall not be given in respect of any proceedings unless the High Court or the District and Sessions Judge, as the case may be, is satisfied that there is prima facie ground for such proceedings.

**4. Appeals.-** 1) An appeal shall lie to the High Court against the order of the District and Sessions Judge refusing leave under section 3, within thirty days of the date of such order

(1) The provisions of sections 5 and 12 of the limitation Act, 1963 (Central Act XXXVI of 1963), shall apply to an appeal filed to the High Court.

(2) The application for leave filed before the High Court under section 3 and the appeal filed under this section shall be heard by a Bench consisting of not less than two judges of the High Court and the decision of the High Court thereon shall be final.

**5. Proceedings instituted without leave to be dismissed.-** Any proceedings instituted by a person against whom an order under sub-section (1) of section 2 has been made, without obtaining the leave referred to in that sub-section, shall be dismissed

Provided that this section shall not apply to any proceedings instituted for the purpose of obtaining such leave

**6. Publication of orders.-** Every order made under sub-section(1) of section 2 shall be published in the Gazette

**7. Madras Act VIII of 1949 to cease to apply.-** The vexatious Litigation (Prevention) Act 1949 (Madras Act VIII of 1949), shall cease to apply to the Malabar District referred to in sub-section (2) of section 5 of the States Re-organization Act, 1956 (Central Act 37 of 1956).

## STATEMENT OF OBJECTS AND REASONS

The vexatious Litigation (prevention) Act, 1949 (Madras Act VIII of 1949), is in force in the Malabar Area of the State referred to in sub-section (2) of section 5 of the States Reorganization Act, 1956 (Central Act 37 of 1956), as the Malabar District. No similar legislation is in force in the remaining parts of the State. A Division Bench of the High Court of Kerala in its judgment in Advocate General, Kerala State Vs T.A. Rejendran, reported in 1988 (1) K.L.T 305, has observed, among other things that prevention of vexatious litigation is a very laudable object. People must resort to Courts for vindicating justice and not for harassing others. The tendency of abusing the process of the court and harassing the innocent is on the increase. It is incongruous that law to prevent vexatious litigation is in force only in a part of the State. The Court, therefore, has stressed the urgent necessity of enacting a uniform law to prevent institutions of vexatious litigation in courts, applicable to the whole of the State of Kerala. Government also considers that it is desirable to enact a uniform law on the subject applicable to the whole of the State.

- 2 The Bill is intended to achieve the above object

## FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State





## **MODERNISING THE LABOUR REGIME FOR PROMOTING JOB CREATION**

### **Background Note:-**

Most of our labour laws and procedures in Kerala are focused on the organised sector and its protection which is less than ten percent of the labour force. The organized sector has not grown and there is a vast body of unemployed persons of our work force. Given our critical unemployment situation, is the responsibility of the Government to create a labour regime that will enable job creation by spurring investment. Most of our labour enactments are out of tune with present day requirement. These have to be revamped, simplified and unified, while ensuring that the legitimate interests of organised labour are assured. The nature of work has also changed substantially in the past few years and hence labour legislation has to be refocused in tune with the times.

Complementary to this, provisions in the laws and rules which increase administrative work and the transaction costs and thus act as disincentives to the establishment of small enterprises have to be amended and simplified.

### **Renewal Registration / licenses etc.**

As per the Kerala Panchayat Raj Act, 1994, the Kerala Municipality Act, 1994 and the Kerala Shops and Commercial Establishments Act, 1960 the registration / licence for starting an establishment, licence is given for one year and the same can be renewed year to year. For administrative convenience it is proposed that such licenses can be issued for three years or for a shorter period as the applicant proposes.

In addition, amendments to Acts on the following lines are suggested.

### **Kerala Industrial Establishment (National and Festival Holidays) Act, 1958**

The application of the Act can be limited to establishments to employing 50 or more workers and thereby exclude all SSI Units from the purview of the said Act.

The said Act empowers officers to inspect or to fix festival holidays for an establishment. In fixing the festival holidays there is the obvious difficulty of specifying the days acceptable to all regions and employees because of the varying nature and importance of the festivals in different localities. Therefore, it is proposed to make provisions for deciding the festival holidays between the employer and the workers themselves and only send a copy of the list to the Inspector of the area for information. Only in the case of specific written complaints from either party need the intervention of the Inspector be involved.

There is provision enabling the employer to require the employee to work in a holiday. However, in cases where an employee works on any holiday he shall be entitled to twice the wages and to avail himself of a substituted holiday with wages.

### **Kerala Shops and Commercial Establishments Act, 1960**

The Law relating to the regulation of conditions of work and employment in shops, commercial establishments, restaurants, theatres and other establishments in the State is contained in the Kerala Shops and Commercial Establishments Act, 1960. Under the said Act an employee includes an apprentice also. An apprentice under the said Act means a person, aged not less than twelve years, whom an employer employs in his service for training by himself or by any other person for any trade or calling. The Committee suggested that it can be limited to apprentices who have completed more than two years.

One month notice in writing is required to dispense with the services of an employee employed continuously for a period of not less than six months. The Committee suggests enhancement of the period from six months to one year.

There is prohibition of engaging women before 6 a.m. or after 7 p.m. and exemption has to be granted in each case. In hospitals, in I.T. institutions and the several modern sectors, it is necessary to engage women employees during night also. Women, now seek employment in all sectors and there should be no discrimination against them. In the interests of increasing women's employment in all sectors, the Committee recommends that only in categories of establishments to be notified by the Government the prohibition may be insisted upon and that the general prohibition may be removed.

### **The Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989**

The said Act applies to all factories, plantations, motor transport undertakings and also all establishments under the Kerala Shops and Commercial Establishments Act, 1960. The Committee suggests that SSI Units may be exempted from the purview of the said Act.

The Committee recommended that the said Act may be made applicable to,

- (1) Shops and establishments employing more than 20 workers,
- (2) Factories and plantations employing more than 25 workers,
- (3) Motor transport undertakings employing 20 workers.

The draft bills for the amendment of the concerned Acts for the above purposes are appended.

**2002 - ലെ കേരള പഞ്ചായത്ത് രാജ് (ഭേദഗതി) ബിൽ**

**1994 -ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് വീണ്ടും ഭേദഗതി ചെയ്യുന്നതിനുള്ള**

**ഒരു ബിൽ**

പീഠിക .- 1994 -ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ട് ഇതിനുശേഷം കാണുന്ന ആവശ്യങ്ങൾക്കായി വീണ്ടും ഭേദഗതി ചെയ്യുന്നത് യുക്തമായി തിരിക്കുകയാൽ;

ഇന്ത്യൻ റിപ്പബ്ലിക്കിന്റെ അൻപത്തിമൂന്നാം സംവത്സരത്തിൽ താഴെ പറയും പ്രകാരം നിയമമുണ്ടാക്കുന്നു:-

- 1. ചുരുക്കപ്പേരും പ്രാരംഭവും.- (1) ഈ ആക്ടിന് 2002 -ലെ കേരള പഞ്ചായത്ത് രാജ് (ഭേദഗതി) ആക്റ്റ് എന്ന് പേര് പറയാം
- (2) ഇത് ഉടൻ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. 236 -ാം വകുപ്പിനുള്ള ഭേദഗതി.-1994 -ലെ കേരള പഞ്ചായത്ത് രാജ് ആക്ടിലെ (1994 -ലെ 13) 236-ാം വകുപ്പിലെ (1)-ാം ഉപ വകുപ്പിൽ "അപേക്ഷയിൽ പറഞ്ഞിട്ടുള്ള ഒരു വർഷമോ അതിൽ കുറഞ്ഞ കാലമോ" എന്ന വാക്കുകൾക്കു പകരം "അപേക്ഷയിൽ പറഞ്ഞിട്ടുള്ള മൂന്ന് വർഷമോ അതിൽ കുറഞ്ഞ കാലമോ" എന്ന വാക്കുകൾ ചേർക്കേണ്ടതാണ്.

**ഉദ്ദേശകാരണങ്ങളുടെ വിവരണം**

കേരള പഞ്ചായത്തു രാജ് ആക്ടിലെ 236-ാം വകുപ്പ് (1)-ാം ഉപ വകുപ്പു പ്രകാരം വ്യവസായങ്ങളും ഫാക്ടറികളും മറ്റു വ്യാപാര സ്ഥാപനങ്ങളും തുടങ്ങുന്നതിനുള്ള ലൈസൻസുകളും അനുവാദങ്ങളും മറ്റും ഒരു വർഷക്കാലത്തേക്കാണ് നൽകുന്നത്. അപ്രകാരം നൽകിയ അനുവാദങ്ങളും ലൈസൻസുകളും പൂതൂക്കുന്നതും ഒരു വർഷത്തേക്കാണ്. പ്രസ്തുത കാലയളവ് ഒരു വർഷത്തിൽ നിന്നും മൂന്നുവർഷമായി നീർത്തിരിക്കുന്നതിന് ഉദ്ദേശിച്ചു കൊണ്ടുള്ളതാണീ ബിൽ.

**ധനകാര്യമെമ്മോറാണ്ടം**

ഈ ബിൽ നിയമമാക്കുകയും പ്രാബല്യത്തിൽ കൊണ്ടുവരുകയും ചെയ്താൽ സംസ്ഥാന സഞ്ചിതനിധിയിൽ നിന്നും യാതൊരു ചെലവും ഉണ്ടാകുന്നതല്ല.



DRAFT

**2002-ലെ കേരള മുനിസിപ്പാലിറ്റി (ഭേദഗതി) ബിൽ**

1994-ലെ കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റ് വീണ്ടും ഭേദഗതി ചെയ്യുന്നതിനുള്ള ഒരു ബിൽ

പീഠിക.- 1994-ലെ കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റ്, ഇതിനുശേഷം കാണുന്ന ആവശ്യങ്ങൾക്കായി വീണ്ടും ഭേദഗതി ചെയ്യുന്നത് യുക്തമായിരിക്കുകയാൽ;

ഇന്ത്യൻ റിപ്പബ്ലിക്കിന്റെ അൻപത്തിമൂന്നാം സംവത്സരത്തിൽ താഴെ പറയുന്നപ്രകാരം നിയമമുണ്ടാക്കുന്നു:-

1. ചുരുക്കപ്പേരും പ്രാരംഭവും.- (1) ഈ ആക്റ്റിന് 2002-ലെ കേരള മുനിസിപ്പാലിറ്റി (ഭേദഗതി) ആക്റ്റ് എന്നു പേര് പറയാം.

(2) ഇത് ഉടൻ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

2. 447-ാം വകുപ്പിന്റെ ഭേദഗതി.- 1994-ലെ മുനിസിപ്പാലിറ്റി ആക്റ്റിലെ (1994-ലെ 20), 447-ാം വകുപ്പിലെ (4)-ം (5)-ം ഉപവകുപ്പുകൾക്ക് പകരം താഴെ പറയുന്ന ഉപവകുപ്പുകൾ ചേർക്കേണ്ടതാണ്, അതായത്:-

"(4) ഈ ആക്റ്റോ അതിൻകീഴിലുണ്ടാക്കിയിട്ടുള്ള ചട്ടമോ ബൈലായോ പ്രകാരം, ഏതെങ്കിലും ലൈസൻസിനോ അനുവാദത്തിനോ, അല്ലെങ്കിൽ അതുപുതുക്കുന്നതിനോ ഉള്ള ഏതൊരു അപേക്ഷയും, ലൈസൻസോ അനുവാദമോ ആവശ്യമുള്ള ഏറ്റവും ആദ്യത്തെ തീയതി മുതൽ അല്ലെങ്കിൽ ലൈസൻസോ അനുവാദമോ ആവശ്യമുള്ള കാലം (അപേക്ഷയിൽ പറഞ്ഞിട്ടുള്ള മൂന്നുവർഷമോ അതിൽ കുറഞ്ഞകാലമോ) തുടങ്ങുന്നതുമുതൽ മുഷതുദിവസത്തിൽ കുറയാതെയും തൊണ്ണൂറുദിവസത്തിൽ കവിയാതെയും ഉള്ള സമയത്തിനുള്ളിൽ കൊടുത്തിരിക്കേണ്ടതാകുന്നു.

(5) ഏതെങ്കിലും ലൈസൻസിനോ അനുവാദത്തിനോ വേണ്ടിയുള്ള ഒരു പേക്ഷയിൻമേൽ, ആ അപേക്ഷ സെക്രട്ടറിക്ക് ലഭിച്ചതിനുശേഷം, മുഷത് ദിവസത്തിനകമോ, ഏതെങ്കിലും വിഭാഗം സംഗതികൾ സംബന്ധിച്ച്

ന്ധിച്ച് നിർണ്ണയിക്കാവുന്ന കൂടുതൽ കാലത്തിനുള്ളിലോ, ഉത്തരവ് അപേക്ഷകനെ അറിയിക്കാതിരുന്നാൽ, ആ അപേക്ഷയിൽ ആവശ്യപ്പെട്ടിരുന്ന കാലത്തേക്ക് സാധാരണയായി വിധേയമാക്കപ്പെടുമായിരുന്ന നിയമത്തിനും ചട്ടങ്ങൾക്കും ബൈലാക്കും എല്ലാ നിബന്ധനകൾക്കും വിധേയമായും അനുവദിക്കപ്പെട്ടിരുന്നതായി കരുതേണ്ടതാണ്. ”

**ഉദ്ദേശകാരണങ്ങളുടെ വിവരണം**

കേരള മുനിസിപ്പാലിറ്റി ആക്റ്റിലെ 447 -ാം വകുപ്പ് (4)- ഉം (5)-ഉം ഉപവകുപ്പുകൾ പ്രകാരം വ്യവസായങ്ങളും ഫാക്ടറികളും മറ്റു വ്യാപാരങ്ങളും തുടങ്ങുന്നതിനായുള്ള ലൈസൻസുകൾ ഒരു വർഷക്കാലത്തേയ്ക്കാണ് നൽകുന്നത്. പ്രസ്തുത കാലയളവ് ഒരു വർഷത്തിൽ നിന്നും മൂന്നു വർഷമായി ദീർഘിപ്പിക്കുന്നതിനും അപ്രകാരം നൽകിയ ആപേക്ഷ സെക്രട്ടറിക്ക് ലഭിച്ച് ഒരുമാസത്തിനകം അതിൻമേൽ തീർപ്പുകൽപ്പിക്കുന്നതിനും അപേക്ഷകനെ അറിയിക്കണമെന്ന് വ്യവസ്ഥ ചെയ്യുന്നതിനും അപ്രകാരം അപേക്ഷകനെ അറിയിക്കാത്തപക്ഷം നിയമത്തിലെ മറ്റ് വ്യവസ്ഥകൾക്ക് വിധേയമായി അനുവാദം നൽകിയതായി കണക്കാക്കുന്നതിനും ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണീ ബിൽ.

**ധനകാര്യമെമ്മോറാണ്ടം**

ഈ ബിൽ നിയമമാക്കുകയും പ്രാബല്യത്തിൽ കൊണ്ടുവരികയും ചെയ്താൽ സംസ്ഥാന സഞ്ചിത നിധിയിൽ നിന്നും യാതൊരു ചെലവും ഉണ്ടാകുന്നതല്ല.

DRAFT

**THE KERALA INDUSTRIAL ESTABLISHMENTS NATIONAL AND  
FESTIVAL HOLIDAYS (AMENDMENT) BILL, 2002**

**A  
BILL**

further to amend the Kerala Industrial Establishments National and Festival Holidays Act, 1958.

*Preamble:-* **WHEREAS**, it is expedient to amend the Kerala Industrial Establishments National and Festival Holidays Act, 1958, for the purposes hereinafter appearing;

**BE** it enacted in the Fifty-third Year of the Republic of India as follows:-

**1 Short title and commencement.-** (1) This Act may be called the Kerala Industrial Establishments National and Festival Holidays (Amendment) Act, 2002.

(2) It shall come into force at once

**2 Amendment of section 2.-** In section 2 of the Kerala Industrial Establishments National and Festival Holidays Act, 1958, (47 of 1958) (hereinafter referred to as the principal Act), in sub-clause (I) of clause (e) for the word "twenty" the word "fifty" shall be substituted

**3 Amendment of section 3.-**In section 3 of the principal Act, -

(1) The existing section shall be numbered as sub-section (1) and in the sub-section so numbered, -

(a) for the words "Inspector may, in consultation with the employer and employees" the words "employer may in consultation with the employees" shall be substituted

(b) In the proviso for the word "inspector" the words "the employer in consultation with the employees" shall be substituted

(1) after the sub-section so numbered the following sub-section shall be inserted, namely -

"(2) Any person aggrieved by the decision of the employer in fixing the holidays under sub-section (1) may file an appeal before the Inspector and the decision of the Inspector on such appeal shall be final"

(1) **Amendment of section 4.-** In section 4, of the principal Act, the words "and forward a copy of the statement to the Inspector" shall be added at the end.

(2) **Amendment of section 5 . -** In sub-section (2) of section 5 of the principal Act, for the words "twice the wages and to avail himself of a substituted holiday on any other day" the words "wages for such day and to avail himself of a substituted holiday with wages on any other day" shall be substituted

## STATEMENT OF OBJECTS AND REASONS

As part of modernising the labour regime for promoting job creation, it is proposed to amend the Kerala Industrial Establishments National and Festival Holidays Act, 1958, so as to make the Act applicable only to establishments employing 50 or more workers. Also to make provisions for deciding the festival holidays between the employer and the workers and to exhibit the approved holidays in the notice board of the establishment and send a copy of the list to the Inspector for information. A provision is incorporated to prefer appeal to the Inspector in cases of complaints if any. As per section 5 of the Act the employees are entitled to twice wages and entitled to avail of a substituted holiday for working in any national or festival holiday. It is proposed that where an employee works on any national or festival holiday he may be entitled to wages for such days and to avail himself of a substituted holiday with wages on any other day.

The Bill, seeks to amend the above Act to achieve the above objectives

## FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the consolidated Fund of the State



DRAFT

**THE KERALA SHOPS AND COMMERCIAL  
ESTABLISHMENTS (AMENDMENT) BILL, 2002**

**A  
BILL**

further to amend the Kerala Shops and Commercial Establishments Act, 1960.

*Preamble.* - **WHEREAS**, it is expedient to amend the Kerala Shops and Commercial Establishments Act, 1960 for the purposes hereinafter appearing;

**BE** it enacted in Fifty-third Year of Republic of India as follows -

**1 Short title and commencement** - (1) This Act may be called the Kerala Shops and Commercial Establishments (Amendment) Act, 2002

(2) It shall come into force at once

**2 Amendment of section 2.** - In the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960) (hereinafter referred to as the Principal Act, in sub-clause (6) of section 2, after the word 'apprentice' the words "who have completed two years training" shall be added to the end.

**3. Amendment of section 5A.** - In section 5A of the principal Act, for sub-section (5) the following sub-section shall be substituted, namely: -

"(5) A registration certificate granted under this Act shall be valid for a period of three years and may be renewed once in three years "

**4 Amendment of section 18.** - In sub-section (1) of section 18 of the Principal Act, for the words "six months" the words "one year" shall be substituted

**5. Amendment of section 20.** - In section 20 of the principal Act, for the words "in any establishment" the words "in any establishment notified by the Government in this behalf" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

In the Kerala Shops and Commercial Establishment Act, 1960, apprentice persons are also included in the definition of employee. An apprentice under the Act means a persons aged not less than twelve years whom an employer employs in his service for training by himself or for any other persons for any trade or calling. All these persons need not be included in the definition of employees. Now it is proposed that apprentices who have completed two years training alone be included in the definition of employee. At present the registration certificate granted under section 5 (5) of the Act for running an establishment shall be valid for one year only and it can be renewed from year to year. For administrative convenience it is proposed to grant the registration certificate for three years with power to renew once in three years.

Sub-section (1) of section 18 of the Act provides for giving one-month notice for dismissal of an employee who has worked not less than six months. It is proposed to enhance the period from six months to one year. Section 20 of the Act prohibits the employment of women and person below seventeen years during night in all establishments. In hospital, IT and other like establishments it is necessary to engage women during night also. Therefore it is necessary to confine the prohibition only in certain notified establishments.

The Bill seeks to achieve the above objects

## FINANCIAL MEMORANDUM

The Bill if enacted and brought in to operation would not involve any additional expenditure from the Consolidated Fund of the State

## MEMORANDUM REGARDING DELIGATED LEGISLATION

Clause 5 of the Bill proposed incorporate section 20 of the Act empowers the Government to notify the establishment where prohibition of employment of women and persons below seventeen years during night is to be insisted. The notification proposed to be issued of an administrative nature. Delegation of legislation is therefore of normal character. Further notification so issued will be subject to the scrutiny by the subordinate legislative committee of the Assembly.

DRAFT

**THE KERALA CASUAL, TEMPORARY AND  
BADLI WORKERS (WAGES) AMENDMENT BILL, 2002**

**A  
BILL**

to amend the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989

**Preamble.** - WHEREAS, it is expedient to amend the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989 for the purposes hereinafter appearing;

**BE** it enacted in the Fifty-third Year of the Republic of India as follows -

**1 Short title and commencement** - (1) This Act may be called the Kerala Casual, Temporary and Badli Workers (wages) Amendment Act, 2002

(2) It shall come into force at once

**2. Amendment of section 1:** - In sub-section (4) of section 1 of the Kerala Casual, Temporary and Badli Workers (Wages) Act, 1989, (1 of 1990) (hereinafter referred to as the principal Act), -

(i) in clause (a) for the words "plantation and motor transport undertaking" the words "and plantation where twenty five or more workers are employed" shall be substituted

(ii) after clause (a), the clause (aa) shall be inserted, namely -

"(aa) motor transport undertakings where twenty or more workers are employed "

(iii) in clause (b) for the words "which is specified by the Government by notification in the Gazette and which is situated in such area or areas as may be specified in the notification" the words "and where twenty or more workers are employed" shall be substituted

(iv) in the proviso to clause (c) the words "clause (b) or" shall be deleted

### **STATEMENT OF OBJECTS AND REASONS**

The Kerala Casual, Temporary and Badali Workers (Wages) Act, 1989 applies to all factories, plantations, motor transport undertakings and shops and commercial establishments. In order to exclude establishment employeing small number of employees it is proposed to amend the said Act, so as to limit its application to shops and establishments employing more than 20 workers, to factories and plantations employing more than 25 workers and motor transport undertakings employing 20 workers.

The Bill seeks to achieve the above object.

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

## **THE KERALA STATE HOUSING BOARD (AMENDMENT) BILL, 2002**

### **Background Note.**

The Kerala Housing Board disburses various kinds of house loans to citizens. As security for the loan the Board insists on the mortgage of the property. This requires additional expenses by way of stamp duty and registration charges. Most of the loanees belong to lower middle class or are economically weaker sections. It has been suggested to amend the Kerala State Housing Board Act, 1971 (19 of 1971) in order to empower the Board to advance loans for construction of new houses, repairs to existing houses, purchase of ready built houses etc. to individuals and institutions on the basis of principles of valuation, by creating a Gehan in favour of the Board, which may not involve any additional expenditure to the loanee.



DRAFT

**THE KERALA STATE HOUSING BOARD (AMENDMENT)  
BILL, 2002**

**A  
BILL**

further to amend the Kerala State Housing Board Act, 1971

**Preamble.-** WHEREAS, it is necessary and expedient further to amend the Kerala State Housing Board Act, 1971, for the purposes hereinafter appearing,

**BE** it enacted in the Fifty-third Year of the Republic of India as follows:-

**1 Short title and Commencement.-** (1) This Act may be called the Kerala State Housing Board (Amendment) Act, 2002.

(2) It shall come into force at once

**2. Insertion of new sections after section 68.-** After section 68 of the Kerala State Housing Board Act, 1971 (19 of 1971) the following sections shall be inserted, namely.-

**"68A. Powers of Board to advance loans.-** Subject to the provisions of this Act and the rules and regulations made there under, it may be competent for the Board to advance loans for the following purposes, namely:-

- (a) construction of new houses;
- (b) repairs of existing houses;
- (c) purchase of ready built houses with land;
- (d) purchase of ready built flats;
- (e) purchase of land and construction of houses;
- (f) construction of houses as per the schemes of the Board or Government.

**68B. Security for loans.-** (1) Subject to the provisions of this Act, the Board may advance loans to individuals and institutions on the security of lands and other fixed assets or assets acquired by the loan borrowed which have been hypothecated to the Board on the basis of principles of valuation approved by the Board

(2) Notwithstanding anything contained in any other law for the time being in force, the Board may, under any housing scheme prepared and approved under the provisions of this Act, grant or advance loans to any person with or without security of land for construction of house specified in the scheme, subject to such terms and conditions as may be fixed by the Board.

(3) All loans and advances granted and all amounts payable to or recoverable by, the Board shall, in case of default of payment, in addition to other remedies available to

the Board, be recoverable in the same manner as if they are arrears of public revenue due on land

**68C. Charge on movable or immovable property of borrower for amounts borrowed.** (1) Notwithstanding anything contrary contained in this Act or in any other law for the time being in force, but subject to any claim of the Government in respect of land revenue, whether prior in time or subsequent, any person owning any land or owning any other movable or immovable property who applies to the Board for a loan, shall make a declaration in the prescribed form creating a Gehan or mortgage or hypothecation in favour of the Board on the land or other movable or immovable property or interest therein or any immovable properties or assets to be acquired with the loan, specified in the declaration, for repayment of the loan or advance granted or to be granted to him by the Board, together with interest on such amount of the loan or advance and expressly reserving in favour of the Board a right of sale without intervention of court, in case of default

**Explanation:-** For the purpose of this section "Gehan" means a special charge on movable or immovable property in favour of the Board by a declaration in writing by the borrowers for securing the payment of money advanced or to be advanced by way of loans, which will have the characteristics of a valid mortgage

(2) A declaration under sub-section (1) may be varied or cancelled at any time by the person executing the same with the prior approval of the Board

(3) No land or other movable or immovable property or assets to be acquired with the loan or advance in respect of which a declaration under sub-section (1) has been made and no part thereof or the interest in such land or movable or immovable property shall, without the consent of the Board, be sold or otherwise transferred until the entire amount of the loan or advance taken from the Board together with interest thereon has been passed to the Board, and any transaction made in contravention of this sub-section shall be null and valid

(4) Notwithstanding anything contained in the Registration Act, 1908 (Central Act 16 of 1908) or any other law for the time being in force, it shall not be necessary to register any Gehan or mortgage or hypothecation created or executed in favour of the Board, provided the Board sends within such time and in such manner as may be prescribed, a copy of the declaration or instrument whereby the Gehan or mortgage or hypothecation has been created or executed for the purpose of securing repayment of the loan, to the registering office within the local limits of whose jurisdiction the whole or any part of the properties to which the Gehan or mortgage or hypothecation relates is situate

(5) On receipt of the copy of the declaration or instrument sent under sub-section (4), the registering officer shall file a copy or copies thereof, as the case may be, in Book No 1, referred to in section 51 of the Registration Act, 1908 (Central Act 16 of 1908) and thereupon, such Gehan or mortgage or hypothecation shall be deemed to create an



interest in the property to which the declaration or instrument relates and shall constitute notice to any one dealing with the said property

(6) Any person who makes any false statement in a declaration under sub-section (1) shall be punishable with imprisonment for a term, which may extend to six months or with fine, which may extend to two thousand rupees or with both "

### **STATEMENT OF OBJECTS AND REASONS**

Government decided to amend the Kerala State Housing Board Act, 1971 (19 of 1971) in order to empower the Board to advance loans for construction of new houses, repairs to existing houses, purchase of ready built houses etc to individuals and institutions on the security of lands and other fixed assets, on basis of principles of valuation, by creating a gehan or mortgage or hypothecation in favour of the Board.

The Bill seeks to achieve the above object

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.



## **THE INDIAN PARTNERSHIP (KERALA AMENDMENT) BILL, 2002**

### **Background Note**

As per sub-section (1) of section 71 of the Indian Partnership Act, 1932, the State Government is empowered to make rules, to prescribe fees which shall accompany documents sent to Registrars' of Firms, or which shall be payable for the inspection of documents in custody of the Registrar of Firms, or for copies from the Registrar of Firms, subject to the condition that such fees shall not exceed the maximum fees specified in Schedule I. In our State, the maximum fee was fixed during 1973, by Act 25 of 1973. Since more than 30 years have gone by after the last enhancement of maximum fee, the Government had decided to enhance the maximum fees, and a Bill was introduced in the X th Kerala Legislative Assembly as Bill no 72. But that Bill could not be passed by the Assembly and the same has lapsed with its dissolution. The Committee suggests amendment of the Indian Partnership Act, 1932 as proposed in the earlier bill. A draft Bill is appended.



DRAFT

**THE INDIAN PARTNERSHIP (KERALA AMENDMENT) BILL  
2002**

**A  
BILL**

further to amend the Indian Partnership Act, 1932, in its application to the state of Kerala.

**Preamble.-** WHEREAS, it is expedient further to amend the Indian Partnership Act, 1932 in its application to the State of Kerala for the purposes hereinafter appearing,

**BE** it enacted in the Fifty Third Year of the Republic of India as follows:-

1. **Short title, extent and commencement** - (1) This Act may be called the Indian Partnership (Kerala Amendment) Act, 2002

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once

2 **Substitution of new Schedule for Schedule** .-For Schedule I to the Indian Partnership Act, 1932 (Central Act 9 of 1932), the following shall be substituted. Namely -

**" SCHEDULE I**

**Maximum Fees**

(See sub-section (1) of section 71)

Document or Act in respect of Which the fee is payable (1)	Maximum fee (2)
Statement under section 58	Two Hundred Rupees
Statement under section 60	Fifty Rupees
Intimation under section 61	Fifty Rupees
Intimation under section 62	Fifty Rupees
Notice under section 63	Fifty Rupees
Application under section 64	Fifty Rupees
Inspection of the Register of a firms under sub-section (1) of section 66	Two rupees for inspecting one volume of the Register
Inspection of document relating to a firm under sub-section (2) of section 66.	Two rupees for the inspection inspection of all documents relating to one firm.
Copies from the Register of Firms	Ten rupees for each hundred Words or a part thereof."

### **STATEMENT OF OBJECTS AND REASONS**

The State Government have decided to raise the maximum fees envisaged in schedule I of the Indian Partnership Act, 1932. In order to give effect to the changes, the Indian Partnership Act, 1932 has to be suitably amended

The Bill is intended to achieve the above object.

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation would not involve any expenditure from the consolidated Fund of the State.

## **THE KERALA LAND REFORMS (AMENDMENT) BILL, 2002**

### **Background Note**

The Kerala Land Reforms Act, 1963 provide for imposition of ceiling on holdings. However certain kinds of lands are exempted from ceiling limit. They interalia, include plantations, private forests etc. Lands principally cultivated with tea, coffee, cocoa, rubber, cardamom or cinnamon will come under plantation. At national and international level the production of tea, coffee, cocoa, etc has increased and the price of these commodities has come down. The landholders are therefore reluctant to cultivate the above items. Lands cultivated with plantation will not get the exemption from ceiling limits, if they are used for non-plantation purposes. Cashew estates having a contiguous extent of ten acres or more were originally exempted from ceiling limits. Act 35 of 1969 took this exemption away with effect from 1 1 1970. This has affected adversely the traditional cashew industry in our State. Further medicinal plants and vanilla are on great demand all over the world. The planters of these items have been seeking exemption of their lands from ceiling provisions. The committee has considered the present trends and demands of these commodities and recommends grant of exemption to lands planted with cashew, medicinal plants and vanilla from the ceiling provisions of the Kerala Land Reforms Act, 1963 prospectively and that the holders of these lands may be allowed to convert their lands for other plantation purposes or any other exempted category.

A Bill to amend the Kerala Land Reforms Act, 1963 for the above purposes is appended





DRAFT**THE KERALA LAND REFORMS (AMENDMENT) BILL, 2002****A  
BILL**

further to amend the Kerala Land Reforms Act, 1963

**Preamble.-** WHEREAS, it is expedient further to amend the Kerala Land Reforms Act, 1963 for the purposes hereinafter appearing;

**BE** it enacted in the Fifty-third Year of the Republic of India as follows -

**1. Short title and commencement.-** (1) This Act may be called the Kerala Land Reforms (Amendment) Act, 2002.

(2) It shall come into force at once

**2 Amendment of section 2.-** In section 2 of the Kerala Land Reforms Act, 1963 (1 of 1964) (hereinafter referred to as the principal Act), in clause (15) after the words "pepper vines" the words "vanilla plant" shall be inserted

**3. Amendment of section 81.-** In section 81 of the principal Act, in sub-section (1),-

(a) after clause (e) the following clauses shall be inserted, namely -

"(f) cashew estate,

**Explanation.-** For the purpose of this clause cashew estate shall mean dry land principally cultivated with not less than 150 cashew trees per hectare

(g) vanilla gardens,

**Explanation I.-** For the purpose of this clause "vanilla gardens" shall mean a garden planted with not less than 2000 vanilla plants per hectare

**Explanation II.-** For the purpose of this clause in calculating the number of vanilla plants in vanilla garden, the plants, if any trained on coconut trees or arecanut trees shall not be taken into account

(h) lands principally cultivated with medicinal plants only;

**Explanation.-** For the purpose of this clause the lands principally cultivated with all kinds of species of medicinal plants will alone be taken into account."

**4 Amendment of section 82.-** In section 82 of the principal Act, in sub-section (4), the following proviso shall be added, namely:-

"Provided that nothing in this section shall apply to the conversion of any land into cashew estate or vanilla garden or for cultivation of medicinal plants,"

**5. Special Provision.** - Notwithstanding anything contrary contained in any other provisions of this Act or in any judgment, decree or order of any court or tribunal or Taluk Land Board or Land Board no ceiling case in respect of cashew estate or vanilla gardens which had been surrendered to the Government as excess land and the possession of such land had been taken over by the Government as per the provisions of the principal Act before the date of commencement of the Kerala Land Reforms (Amendment) Act, 2002 shall be reopened and accordingly,-

- (a) all acts, proceedings or things done or taken by the Taluk Land Board or the Land Board or the Government in connection with the taking over the possession of such excess lands shall, for all purposes be deemed to be, and to have always been done or taken in accordance with law,
- (b) no suit or other proceedings shall be maintained in any court or tribunal against the Government, the Taluk Land Board or the Land Board or any person or authority whatsoever for the recovery of possession of any such land, and
- (c) no court or tribunal or authority shall enforce any order directing the re-conveyance of any such land

### **STATEMENT OF OBJECTS AND REASONS**

The Kerala Land Reforms Act, 1963 provides for imposition of ceiling on holdings. However certain kinds of lands are exempted from ceiling limit. They inter alia includes plantations, private forests etc lands principally cultivated with tea, coffee, cocoa, rubber, cardamom or cinnamon will come under plantation. At national and international level the production of tea, coffee, cocoa etc has increased and the price of these commodities comes down. The landholders are therefore reluctant to cultivate the above items. Cashew estates having a contiguous extent of ten acres or more were originally exempted from ceiling limit. Act 35 of 1969 took this exemption away with effect from 1.1.1970. This has affected adversely the traditional cashew industry in our State. Further medicinal plants and vanilla are highly demanded items all over the world. The planters of these items of land are demanding to exempt their lands from ceiling provisions. Further land holders cultivated with plantation will not get the exemption from ceiling limit if they used the land for non plantation purposes. Therefore it was considered necessary to grant exemption to lands planted with cashew, medicinal plant and vanilla from ceiling provision and the holders of such land may be allowed to convert their lands for other plantation purposes.

2. The Bill seeks to amend the Kerala Land Reforms Act, 1963 for the above purposes.

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the consolidated fund of the State

## **THE KERALA STAMP (AMENDMENT) BILL, 2002**

### **Background Note**

Stamp duty is levied by the Central Government under the authority derived from Article 245 of the Constitution. However Article 268 prescribes that the proceeds of the stamp duty though levied by the Union Government are to be totally retained by the State Government. There are 65 instruments mentioned in the Indian Stamp Act, 1899 of which 10 instruments viz. Bills of Exchange, Cheques, Letter of Credit, Policies of Insurance, Transfer of Shares, Debentures, Proxies and Receipts are Central Instruments on which stamp duty is levied / remitted by the Central Government. On the rest of instruments, State Governments are empowered to levy / remit stamp duty.

The proper stamp duty for conveyance under entries 21 and 22 were on slab rates based on the value secured in the document. During 1988 changes with regard to minimum value of land where made without changing the rate of stamp duty. The minimum value of land fixed by the Government was struck down by the High Court. Therefore, it was necessary to revert back to the previous position. Statutory provision to check under valuation cases and also for, fixing fair value of the property for the purpose of imposing stamp duty were introduced in the Act during 1991.

As per the Kerala Stamp Act, 1959 duty at 8.5% is levied for conveyance of the property situated within the municipal limit and 6% if the property is situated outside the municipal limit. In addition to above surcharge on stamp duty is levied by municipalities and grama panchayats at the rate of 5% as per the Kerala Municipality Act, 1994 and the Kerala Panchayat Raj Act, 1994. As such 13.5% of fair value of property is levied as stamp duty for conveyance of property if it is situated in municipal area and 11% if it is in panchayat area. As the value of the property increase day by day there is a tendency among public to undervalue documents. This has caused the increase of under valuation cases and consequent settlement of under valuation cases through amnesty Schemes introduced by the Government from time to time and has resulted in administrative inconvenience and loss of revenue.

During 1996 the West Bengal Government reduced the stamp duty for conveyance from 11% to 5% and there was no fall in the quantum of stamp duty levied during subsequent years.

The National Housing and Habitat Policy envisages rationalization of stamp duty by various States.

The Committee has considered this long pending question and therefore recommends levy of stamp duty on conveyance based strictly on the fair value of the property at a reduced rate. Committee recommends to reduce the stamp duty for conveyance under entries 14, 21 and 22 to 2.5%, 2.5% and 3% respectively and the surcharge on stamp duty to be imposed by the grama panchayat and municipality may be

reduced to 2% A Draft Bill to amend the Kerala Stamp Act 1959 is appended herewith  
Reduction of surcharge on stamp duty levied by the grama panchayat and municipalities  
can be done by issuing necessary orders under the respective Statutes.

DRAFT**THE KERALA STAMP (AMENDMENT) BILL, 2002****A  
BILL**

further to amend the Kerala Stamp Act, 1959

**Preamble.-** WHEREAS , it is necessary and expedient further to amend the Kerala Stamp Act, 1959 for the purposes herein after appearing;

**BE** it enacted in the Fifty – third Year of the Republic of India as follows:

**1. Short title and Commencement.-** (i) This Act may be called the Kerala Stamp (Amendment) Act, 2002.

(2) It shall come into force at once

**2 Amendment of the Schedule to the Kerala Stamp Act -** In the Schedule to the Kerala Stamp Act, 1959, –

(a)in column (3) against serial No 14, for the entry “Five rupees for every Rs 100 or part thereof of the amount or value secured” the entry “Two rupees fifty paise for every Rs 100 or part thereof of the amount or value secured”, shall be substituted,

(b) in column (3) against serial number 21 for the entry “Six rupees for every Rs 100 or part thereof of the amount or value of the consideration for such conveyance” the entry “two rupees fifty paise for every Rs 100 or part thereof of the fair lalue of the properly or value of the consideration for such conveyance which ever is higher” shall be substituted,

(c)in column (3) against serial number 22 for the entry “Eight rupees fifty paise for every Rs 100 or part thereof of the amount or value of the consideration for such conveyance” the entry “three rupees for every Rs 100 or part thereof of the fairvalue of the property or value of the consideration for such conveyance which every is higher ” shall be substituted.

### **STATEMENT OF OBJECTS AND REASONS**

The Law Reforms Committee appointed by the State Government to revise the laws applicable to State has recommend to reduce the stamp duty under entries 14,21 and 22 of the Stamp Act and also strictly insist for the imposition of stamp duty on conveyance based on the fair value of the property

The Bill seeks to amend the Kerala Stamp Act, 1959 in order to reduce the stamp duty on items 14,21 and 22.

### **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the consolidated Fund of the State

## CHAPTER III

### LAWS REQUIRING UNIFICATION

It is over 45 years since the formation of the Kerala State. Yet there are several important subject areas in which old laws are in force in the Travancore / Travancore-Cochin / Malabar areas of the State. The Committee looked into the question and found that in as many as 10 subject areas over 30 laws are in force, leaving aside the laws relating to Devaswoms.

As regards the 10 subject areas the following are the laws which require to be unified and brought up-to-date to cover the whole State.

#### 1. Town Planning Laws.

- (i) The Town and Country Planning Act, 21 of 1120
- (ii) The T C Town Planning Act, 4 of 1108 (T C area only)
- (iii) The Madras Town Planning Act, 7 of 1920 (Malabar area only)

Urban planning including town planning is a subject now allotted to Municipalities under Entry 1 of the Twelfth Schedule to the Constitution. Further Article 243 ZD and Article 243 ZE of the Constitution provides for the constitution of the district planning committees for each district and also metropolitan planning committee for metropolitan cities. The future of development authorities constituted under the existing town planning laws has to be considered in the context of the constitutional provisions and status of Local Self Government Institutions, the District Planning Committees and Metropolitan Planning Committees. A draft Town and Country Planning Bill, taking into account the most modern laws in this regard will be proposed in the second report.

#### 2. Irrigation Laws.

- (i) The Travancore – Cochin Irrigation Act, 1956
- (ii) The Madras Irrigation Cess Act, 1965
- (iii) The Madras Irrigation Cess (Amendment) Act, 1900
- (iv) The Madras Irrigation (Voluntary Cess) Act, 1942
- (v) The Malabar Irrigation Works (Construction and Levy of Cess) Act, 1947
- (vi) The Madras Irrigation (Levy of Betterment Contribution) Act, 1955
- (vii) The Madras Irrigation Tanks (Improvement) Act, 1949
- (viii) The Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943
- (ix) The Travancore Cochin Irrigation Tanks (Preservation and Improvement) Act, 1952
- (x) The Kerala Irrigation Workers (Execution by Joint Labour) Act, 1967

As per item 3 of the Eleventh Schedule to the Constitution "Minor Irrigation Water Management and Watershed Development" is entrusted to the Panchayats for preparation of schemes and execution. Provision will have to be made in the unified law for entrustment of the above items to the Panchayats

Major changes in the irrigation laws have to be made in the State providing for participatory management, water users associations and other aspects. Several States have gone ahead with advanced legislation in this regard.

Under Entry 17 of the State List the State Legislature is competent to make laws on water that is to say water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry 56 of List I

Under Entries 14, 17 and 18 of List II, the State Legislature has competency to legislate with respect to all water within its territory but so far as inter-state rivers flowing through the state is concerned, the powers of the State Legislature shall be subject to Entry 56 of List I which means that the State Legislature's power relating to regulation and development, inter state river waters shall be exercisable only so long and so far as the control over their regulation and development has not been taken over by a law of Parliament passed under Entry 56 List I. At present there is no law relating to inter state or inter state rivers in our state. A draft Irrigation Bill is in advanced stage of consideration in the Government. This will be included in the second report with Committee's suggestions

### **3 Fisheries**

The following Acts require unification

- (i) Travancore Cochin Fisheries Act, 1956
- (ii) The Indian Fisheries Act, 1897 as amended by Indian Fisheries (Madras Amendment) Act, 1927.

Entry 5 of the Eleventh Schedule to the Constitution empowers the panchayats to frame schemes in respect of fisheries and to implement the same. The regulatory functions with respect to "Fisheries" have to be entrusted to local bodies. A new law will be suggested in the second report

### **4 Canals and Ferries**

The following Acts require unification

- (i) The Travancore Public Canals and Public Ferries Act, 1096
- (ii) The Madras Canals and Public Ferries Act, 1980
- (iii) The Cochin Ferries and Tolls Act, 1082
- (iv) The Cochin Public Canals and Backwaters Navigation Act, 1 of 1092.

Under Entry 13 of the 11<sup>th</sup> Schedule to the Constitution ferries, waterways and other means of communication is an item of subject entrusted to Panchayats. The unified



Ferries and Canals law has to provide entrustment of powers to Panchayats. A new law will be suggested in the second report.

### **5. Health and Hygiene**

The following Acts require unification

- (i) The Travancore Cochin Public Health Act, 1955
- (ii) The Madras Public Health Act, 1939.

The unified law has to be taken into account the functions entrusted to Local Self Government Institutions and propose over all guiding and regulatory powers to State Government and its officers

### **6. Christian Marriage.**

The Cochin Christian Civil Marriage Act empowers registration of Christian Marriages solemnized in Cochin area The Registration of Birth and Death and Marriage Act (Central Act) provides for the registration of christian marriage solemnized in Malabar area There is no such law applicable to Travancore area It will be considered whether a unified law on the above subject may be enacted and this will be considered in the second report

### **7. Societies Registration**

The following Acts require unification

- (i) The Travancore Cochin Literary Scientific and Charitable Societies Registration Act, 1955
  - (ii) The Societies Registration Act, 1860
- This will be proposed in the second report.

### **8. Epidemic Diseases**

The following Acts require unification

- (i) The Travancore Epidemic Diseases Act, 1073.
- (ii) The Cochin Epidemic Diseases Act, 1072

This will be included in the second report as part of the Public Health Law

### **9. Medical Registration.**

The following Acts require unification

- (i) The Travancore-Cochin Medical Practitioner's Act, 1953.
- (ii) The Madras Medical Registration Act, 1914

This will be proposed in the second report

**10. Prevention of Begging**

The following Acts require unification

- (i) The Travancore prevention of Begging Act, 1120
- (ii) The Cochin Vagrancy Act, 1120
- (iii) The Madras Prevention of Begging Act, 1945.

This will be considered in the second report

## CHAPTER IV

### REPEAL OF OBSOLETE LAWS

As per its terms of references the Committee is expected to give its recommendations on the laws which are no longer needed or liable to be repealed. With the help of the Law Department, the Committee identified 84 enactments as no longer relevant and liable to be removed from the Statute Book.

The Committee, as decided in its second and third meetings, issued notices regarding the repeal of 84 Acts, to Bar Associations, Secretaries to Government and to all M.L.A.'s vide letter No.5988/Leg.Pbn 1/02/Law dated 16-5-2002 for their suggestions and remarks. The list was published in dailies also

The Committee received about thirty representations from individuals and associations. It has considered the matter in detail and the suggestion of the committee is incorporated in the notes of the respective Acts. It has also gone into each case carefully on its own. Out of the 84 enactments initially identified for removal from the Statute Book, 78 Acts were found to be fit for repeal. These are enactments which have ceased to be in force or have become obsolete or the retention whereof as separate Acts is unnecessary or which have been struck down by the courts. One of the Acts the village Courts Act, 1960 ( Act 6 of 1961) though enacted over forty years ago, has not been brought into force till date. Section 113 of this Act seeks to repeal 5 other Acts and the proposed repeal of the said unenforced Act necessitates the repeal of those five Acts, namely,

- 1 The Travancore Village Panchayat Courts Act, 1090 (1 of 1090)
- 2 The Cochin Village Courts Act XII of 1118
- 3 The Travancore-Cochin Village Courts Act, 1953. (VII of 1954)
4. The Madras Village Courts Act, 1888 (1 of 1889)
- 5 The Madras Village Panchayat Act, 1950 (X of 1950) (Section 132 only)

In addition to the above, 19 more Acts were also identified to be fit for removal from Statute Book as they were enacted as temporary measures. The total number of Acts to be repealed thus comes to 102

The list of 102 Acts is scheduled in the order of Travancore Acts, Cochin Acts, Travancore-Cochin Acts, Madras Acts applicable to Malabar Area and the Kerala Acts

Another set of 595 Amendment Act is also included in the list as there is no necessity to retain these Acts in the Statute book as separate Acts since they have become part of their parent Acts.

The notes which follow, explain the reasons for the repeal suggested in respect of each of the 102 main Acts.

The draft of the Kerala Repealing and Amending Bill, 2002 is also proposed

The Committee recommends that a review of laws on the Statute Book may be made once in ten years in order to repeal obsolete laws and others which have lost relevance

## **NOTES ON LAWS TO BE REPEALED**

### **1. Sirkar Relinquishing Claims to properties descending on convert heirs of Hindu - Proclamation 1044.**

This proclamation was issued by His Highness the Maharaja of Travancore on 29<sup>th</sup> June 1869. By the said proclamation the Sirkar relinquished all claim to property left by a deceased person being a Hindu by religion and leaving no heirs by such as have become converts to a different religion which will descend to the natural heirs independently of religious considerations, subject only to such public demands as would hold in the case of succession by Hindu heirs. After the application of the Indian succession Act, 1925 and after the passing of Hindu succession Act, 1956 the said proclamation has no relevancy and is therefore suggested to be deleted from the statute book

### **2 Metals and Minerals Proclamation of 1056**

Metals and Minerals Proclamation was issued by His Highness the Maha Raja of Travancore on 14<sup>th</sup> June 1881. The said regulation notified the mining rights of Government in metals and minerals found throughout the State and for the grant of mining rights to private persons. Parliament has passed number of laws regarding Mines and Minerals. The subject matter of the proclamation mainly falls under Mines and Minerals (Regulation and Development) Act, 1957 and the rules framed under the said Act. The provisions of the proclamation are not necessary. The same is therefore suggested to be deleted from the statute book.

### **3 Tax on land granted for Coffee or Tea cultivation- Proclamation of 1086.**

The said proclamation was issued by His Highness the Maha Raja of Travancore on the 3<sup>rd</sup> October 1910. By the said proclamation tax on all lands granted for coffee and tea cultivation payable to Sirkar were fixed. The said proclamation has no relevancy after the passing of the Kerala Land Tax Act, 1960 and also the Kerala Grants and leases (Modification of Rights) Act, 1970. The aforesaid proclamation is proposed to be deleted from the statute book

### **4 Travancore Tolls Recovery Act, 1088.**

The said Regulation was passed by His Highness the Maharaja of Travancore on the 25<sup>th</sup> December 1912. The said regulation empowers the Government to realize tolls levied upon any road or bridge, which has been made or repaired at the expenses of the State. As per the Tolls Act 6 of 1977 there is provision for realization of tolls from

vehicles ply over certain bridges. Under the Kerala Road Fund Act also there is provision for realization of user fee from the beneficiaries who used the bridges and roads constructed or maintained using the fund established under the said Act. The aforesaid regulation is not being implemented by the Government. Therefore it is unnecessary to retain the same in the statute book.

#### **5. The Travancore Village Panchayat Courts Act, 1090 (1 of 1090)**

This Act, together with 4 other Acts, have been repealed by Section 113 of this Kerala Village Courts Act, 1960 (Act 6 of 1961). But the Kerala Village Court Act, 1960 was not brought into force and repeal of the said un-enforced Act, necessitates the repeal of this Travancore Village Panchayat Court Act, 1090 (Act 1 of 1090).

#### **6. The Christian Succession Regulation, 1092.**

Travancore Christian Succession Act was passed by His Highness the Maharaja of Travancore on 21.12.1916. The said Act consolidated the rules of law applicable to intestate succession among Indian Christian in Travancore area. The said Act was not repealed by section 6 of the Part B State (Laws) Act III of 1951. Therefore, it continued in operation after the formation of State of Travancore- Cochin and Kerala. However, the Hon Supreme Court, on the 24<sup>th</sup> day of February 1986, held in the judgment in Mrs Mary Roy and others Vs State of Kerala that the above Act was not saved by sub-section (2) of the section 29 of the Indian Succession Act and as such the law applicable to intestate succession among Indian Christians in Travancore area is the Indian Succession Act, 1925 and not the Travancore Christian Succession Act. By virtue of the aforesaid decision of the Supreme Court the provisions of the above Act, became inoperative. Therefore, the aforesaid Act is to be deleted from the statute book.

The Committee has received representations from individuals stating that the judgment in Mary Roy's case will have the effect of rendering illegal or defective a large number of intestate succession of properties, title deeds and registered transactions of properties in the state occurred or made during the period between the 1<sup>st</sup> day of April 1951 and the 23<sup>rd</sup> day of February, 1986 and it will very adversely affect the legitimate interest of a large section of people. So they have requested that the provisions of the Indian Succession Act may be given prospective effect. The Indian Succession Act was made applicable to the Christians retrospectively by virtue of the verdict of the Hon Supreme Court and settled cases were reopened and a number of cases are pending before various courts in the light of said decisions. The question of validating the transactions if any occurred during the period between 1<sup>st</sup> day of April 1951 and 23<sup>rd</sup> February 1986, which were not reopened so far consequent on the verdict of the Supreme Court, can be examined in due course and the same does not in any way affect the need for repeal of the Travancore Act.

### **7 Travancore Markets Act VII of 1092.**

The Travancore Markets Act was passed by His Highness the Maha Raja of Travancore on the 4<sup>th</sup> August 1917 to regulate the holding of Markets in Travancore area. The said Act provides places for use of public markets and also licensing of Private Markets. The powers of the Government under the aforesaid Act are now being exercised by the Panchayats and Municipalities under the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994. The afore said Act has become unnecessary. Therefore, it is necessary to repeal the said Act and to delete it from the Statute Book.

### **8 The Travancore Public Debt Act 1122(XX of 1122)**

The Travancore Public Debt Act was passed by His Highness the Maharaja of Travancore on 3<sup>rd</sup> August, 1947. After the formation of Travancore Cochin, the Travancore Cochin Public Debt Act, 1954 was enacted. The said Act validates the continuation of the provisions of the Travancore Public Debt Act. Until 1946 the Indian Securities Act, 1920 governed the securities issued by both the central and provincial Governments. The working of the said Act disclosed certain defects and it was considered necessary to amend it, particularly in the context of the very large increase of Public Debt during the war years. Under the Government of India Act, 1935, the Central Legislature was competent to change only the law in respect of central securities and the provisions of the Indian securities Act were accordingly replaced so far as the central public debt was concerned, by a comprehensive new Act, the Public Debt Act 1944, which was brought into effect from 1<sup>st</sup> May, 1946 leaving the provincial securities to be regulated by the Indian securities Act, 1920. As the money market is common in the whole country and the Public Debt of the central and the provincial Governments is administered by a single agency namely, the Reserve Bank of India it was obviously desirable to have uniform legislation for regulating the public debt of both. The provincial Government concurred in the view. The legislatures of part B states including the Travancore Cochin State passed resolutions in pursuance of Art 252 of the constitution empowering parliament to pass the necessary legislation on the subject. Accordingly Parliament has amended the Public Debt Act, 1944 by Act 57 of 1956 extending the provisions of the said Act to the Travancore Cochin area also. After the formation of the State of Kerala the said Act continues to apply the Kerala State. The earlier Travancore Act has no relevance since then. The same is to be deleted from the statute book.

### **9. Cochin Forest Steam Tramway Act, 1082( V of 1082)**

The said Act was passed by His Highness the Maharaja of Cochin on the 26<sup>th</sup> day of June 1907. The said Act provides for the protection and management of the Forest Steam Tramway in the Cochin State. The said Act has no relevancy now. The same may be deleted from the statute book.

#### **10. Devaswom Proclamation, 1085**

This proclamation was issued by His Highness the Maharaja of Cochin on 11<sup>th</sup> February 1910. By the said proclamation the endowments attached and the income derived from the devaswom whether incorporated and unincorporated be constituted into Trust for all administrative purposes. The subject matter of the proclamation mainly falls under the Travancore Cochin Devaswom Act and Guruvayoor Devaswom Act. The continuance of the provisions of the proclamation is not necessary and the same is to be deleted from the statute book.

#### **11. Cochin Rubber Theft Prevention Act ,VII of 1089**

This Act was passed by His Highness the Maharaja on 23.4.1914 to make special provision to prevent theft of rubber and to repress and punish the offence of receiving or disposing of stolen Rubber in Cochin. To deal with the offence like theft or receiving stolen property there are sufficient provisions in Indian Penal Code. There is no necessity for a special legislation. Hence there is no need to keep alive this Act in the statute book.

#### **12. The prevention of Juvenile Smoking Act , II of 1096.**

The said Act was passed by His Highness the Maharaja of Cochin on the 1<sup>st</sup> day of October 1920. The said Act provides for the prevention of Juvenile Smoking in public places and for seizure of tobacco from youthful person. The punishment provided for the said offence is to receive six stripes in the way of school discipline. The said Act is not being enforced in the Cochin area for years. Further it is proposed to enact a legislation prohibiting smoking in public places. Therefore the aforesaid Act could be repealed.

#### **13. The Cochin Christian Succession Act, VI of 1097**

The Cochin Christian Succession Act was passed by His Highness the Maharaja of Cochin on 5.12.1992. The said Act defines the rules of law applicable to intestate succession among Christians in Cochin State. The said Act was not repealed by section 6 of the Part B State(Laws) Act III of 1951. Therefore it continued in operation after the formation of the State of Travancore-Cochin and Kerala. However, during 1986, the Hon. Supreme Court in Mary Roy's case, held that the above Act was not saved by sub-section (2) of section 29 of the Indian succession Act and as such the Law applicable to interstate succession among Indian Christians in Cochin area is Indian succession Act, 1925 and not the Cochin Christian Succession Act. By virtue of the aforesaid decision of the Supreme Court the provisions of the above Act became ineffective with retrospective effect. Therefore the aforesaid Act is to be deleted from the Statute book.

#### **14. The Cochin Joint Land Registration Act, II of 1103**

The said Act was passed by his Highness the Maharaja on the 16<sup>th</sup> day of September 1927. The said Act provides for the joint registration of landholder and occupants of certain lands to enable the Government for the arrears of revenue from

occupants jointly registered with landholders. After the passing of the Kerala Land Tax Act, the said enactment has no relevancy. The same may be deleted from the statute book.

#### **15. Cochin Loans - Proclamation, 1109**

Cochin Loan Proclamation 1109 was issued by His Highness the Maharaja of Cochin on the 28<sup>th</sup> day of February 1934 so as to render assistance to those agriculturists whose lands are in danger of being sold at unduly low price for debts. This proclamation was made as a timely arrangement to assist the agriculture debtors, to release their debt by procuring loan raised from the Government. The periodic validity of the first charge in favour of Government is already over. There is no need to keep this Proclamation in the statute book.

#### **16. The Validating and Indemnity Act , X of 1109**

The purpose of the Act was to ratify and validate certain actions taken by M P Krishna Menon for and on behalf of the Ernakulam Municipal Council and as Chairman of the Council. As the purpose of the Legislation was served long ago, this law need not be retained.

#### **17 Relief to Kuries Subscribers - Proclamation ,I of 1112**

Relief to Kuries Subscribers Proclamation was enacted to give relief to representations regarding the desirability of continuing the operation of the proclamation relating to Kuries issued under the Proclamation dated 29<sup>th</sup> day of Chingam 1111. The said Proclamation has no relevance now. This may be deleted from the statute book.

#### **18 Kanams and panayams - Proclamation ,III of 1112**

Kanams and Panayams proclamation was issued by His Highness the Maharaja of Cochin in 1112, to remove the inconvenience caused to the litigants regarding Kanams and Panayams, under the issuance of proclamation dated 15<sup>th</sup> Edavam 1107. This proclamation is issued to repeal an earlier proclamation dated the 15<sup>th</sup> day of Edavam 1107 in connection with Kanams and Panayams. These tenancy rights were abolished by the Kerala Land Reforms Act, 1963. Therefore there is no necessity to retain the proclamation in the Statute book. The same may be repealed.

#### **19. Proclamation , V of 1112**

This proclamation was issued by His Highness the Maharaja of Cochin on the 26<sup>th</sup> day of June 1937 to change all enactments passed as regulations into Acts.

As the purpose of the proclamation has been served years ago, this proclamation need not be retained in the statute book.



## **20. The Cochin Carriers Act, 1112.(XVI of 1112)**

The said Act was passed by His Highness the Maharaja of Cochin on the 25<sup>th</sup> day of December 1936. The said Act not only enabled the Common Carriers to limit their liability for loss of or damage to property delivered to them to be carried but also to declare that liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves their servants or agents. The said Act applies only to Cochin area. The carriers Act, 1865, Carriage by Air Act, 1972, Carriage of Goods by Sea Act, 1925, Contract Act, 1872, Railways Act, 1890, Sale of Goods Act, 1930, Merchant Shipping Act, 1968 etc. provides similar provision for rights and liabilities of Common Carriers. Therefore it is not necessary to keep alive the provisions of the said Act. The same may be deleted from the statute Book.

## **21 Landing and Shipping Fees -Proclamation III of 1113**

Landing and Shipping fees proclamation was issued by His Highness Sir Sree Rama Varma G C I E Maharaja of Cochin on 24<sup>th</sup> day of June 1938. The said proclamation provides for the levy of Landing and Shipping Fees upon passengers and goods landed from or shipped into any vessel lying or being within the limits of the Port of Cochin. At present administration and activities of the Cochin Ports are governed by the Indian Ports Act, 1908 and Major Port Trusts Act, 1963. Therefore it is not necessary to keep alive the provisions of the said Act. The same may be removed from the statute book.

## **22. Proclamation , II of 1114**

The Proclamation II of 1114 was promulgated by his Highness Sree Ramavarma G C.I.E Maharaja of Cochin on 13<sup>th</sup> day of October 1938, consequent to the surrender of Naduvil Madhom Trichur to the Government. The proclamation was issued making applicable the provisions of Cochin Revenue Recovery Act for the better management of those properties. The Cochin Revenue Recovery Act IV of 1083 was repealed by the enactment of the Cochin Revenue Recovery Act, 1951 (Published in Part I Section III of the Gazette dated 22<sup>nd</sup> May 1951) which was later repealed by the Kerala Revenue Recovery Act, 1968 (15 of 1968). Hence, the proclamation of 1114 has now no relevance. The same may be removed from the statute book.

## **23 Proclamation – VII of 1115.**

The Proclamation VII of 1115 was promulgated by His Highness Sir Sree Ramavarma, G.C.I.E, Maharaja of Cochin, on the 30<sup>th</sup> day of November 1939, making applicable the provisions of Cochin Revenue Recovery Act IV of 1083, for the efficient and prompt collection of pattom, michavaram etc to the Palliara Muthalpidi Estate and to the Devaswoms under the Management of the said Estate.

All kinds of tenancy rights were abolished after the coming into force of the Kerala Land Reforms Act, 1963. Therefore there is no necessity to retain the above proclamation.

**24. Koodalmanikam Proclamation (IX of 1115) (Annulment of Decree, in O.S. 173 of 1114 – Proclamation).**

This proclamation was promulgated by His Highness the Maharaja of Cochin on 17.4.1940. By the proclamation, the decree in O.S. No. 173 of 1114 of the Anjikaimal District Court, which permanently restrained the Thachudaya Kaimal from exercising the rights, privileges and duties pertaining to "Sthanam" of the Kaimal in the Koodalmanikam Temple, was annulled. Since section 34 of the Koodalmanikam Devaswam Act, 1971, (7 of 1971) repealed all the previous Koodalmanikam proclamations, there is no necessity to retain this proclamation alone. Therefore the proclamation 9 of 1115 can be repealed.

**25 The Cochin Town Councils Act, 1115 (Act XXVI of 1115)**

The Act was passed by His Highness the Maharaja of Cochin on 22.5.1940 for the better administration of certain local areas to be constituted as Towns. The same has not been repealed by the Municipal Laws passed by the legislature from time to time.

Now the subject matter of the Act, has been covered by the Kerala Municipalities Act, 1994, there is no need to keep alive this Act in the Statute Book. Therefore, the Cochin Town Councils Act (Act XXVI of 1115) can be repealed.

**26. The Cochin Port Roads Control Act , X of 1117**

This Act was passed by His Highness Sree Kerala Varma Maharaja of Cochin on the 17<sup>th</sup> July 1942. It provides for the levy of special fees on carriage and carts entering the port roads and of terminal fees on goods carried by such roads and for regulation of traffic in such roads.

Now all the functions of the Cochin Port are being exercised under the provisions of the Indian Port Act, 1908 and the Major Port Trust Act, 1963. Hence there is no need to keep alive Cochin Port Roads Control Act (Act X of 1117) in the Statute Book and the same may be repealed.

**27 The Penalties (Enhancement) -Proclamation , XV of 1117**

The proclamation promulgated by His Highness Sree Kerala Varma, Maharaja of Cochin and published in the Cochin Government Gazette dated 26<sup>th</sup> Medam 1117 (9<sup>th</sup> May 1942) enhancing the penalties provided by Law for the punishment of certain offences, mainly under the Cochin Penal Code in respect of war crimes. As the Cochin Penal Code is not in force this proclamation has no relevance and may be removed from the statute book.

## **28 The Collective Fines -Proclamation , XXIII of 1117**

The proclamation was promulgated by His Highness Sree Kerala Varma, Maharaja of Cochin on the 29<sup>th</sup> day of June 1942 imposing collective fines in connection with offences prejudicially affecting the defence of Cochin or the efficient prosecution of war This proclamation has no applicability since the integration of states and hence the same may be removed from the Statute Book

## **29 Denial of value for the improvements – Proclamation , XVIII of 1117**

The said proclamation was promulgated by His Highness Sree Kerala Varma Maharaja of Cochin on the 11<sup>th</sup> day of July 1942 The proclamation provides that lessees shall not be entitled to claim value for the improvements effected by them during the period of the lease in respect of lands leased to them in pursuance of the scheme for Food Production. The scheme mentioned in the proclamation is not in existence for long years Further creation of lease after the coming into force of the Kerala Land Reforms Act is prohibited Therefore it is not necessary to retain the above proclamation in the statute book

## **30 The Cochin Village Courts Act, XII of 1118.**

This Act together with four other Acts, have been repealed by the Kerala Village Courts Act, 1960 (Act 6 of 1961) But the Kerala Village Court Act, 1960 was not brought into force and the repeal of the said un-enforced Act, necessitates the repeal of the Cochin Village Courts Act, XII of 1118, once again

## **31 The Devaswam Verumpattom (settlement) -Proclamation XXIII of 1118.**

This proclamation was promulgated by His Highness Sree Kerala Varma, Maharaja of Cochin on 26 7 1943 to confer certain special rights to pattadars of lands held on verumpattam under Devaswam and to fix in perpetuity, the rent payable by them Some of the provisions of the proclamation was subsequently amended by the Kerala Land reforms Act, 1963 ( 1 of 1964) and the special rights given to the pattadars were taken away Therefore there is no necessity to retain the said proclamation in the statute book The same may be deleted

## **32. Cultivable Lands Left Uncultivated Penalizing of -Proclamation XXIX of 1118.**

The said proclamation was promulgated by His Highness Sree Kerala Varma Maharaja of Cochin on the 15<sup>th</sup> May 1943 The said regulation applied in Cochin area only The said proclamation directed that all lands fit for the raising of food crops should be brought under cultivation and discourage planting of sugar cane in paddy fields After the coming into force of the Land Utilisation Order, 1967 the said proclamation became

ineffective. Therefore it is necessary to delete the above proclamation from the statute book.

### **33. The Chittur Cess Recovery Act, II of 1123**

The said Act was passed by His Highness the Maharaja of Cochin in the 6<sup>th</sup> day of September 1947. The said Act provides temporarily for the recovery by coercive process of the water cess due to Government for the water supplied from the private irrigation systems in Chittur taluk requisitioned by Government under the Defense of India Rules. The said Act has been impliedly repealed by passing of Travancore Cochin Irrigation Act 1956. Therefore it is necessary to delete the above Act from the statute book.

### **34. The Cochin Statistics Act, XXXIV of 1124**

The Cochin Statistics Act was passed by His Highness the Maharaja of Cochin on 22.6.1949, to facilitate the collection of statistics relating to agriculture, livestock, trade, prices etc. It applies only to erstwhile Cochin area. After the application of the Collection of Statistics Act, 1953 (Central Act 32 of 1953) Cochin Statistics Act now have relevance only in the matter of collection of Statistics about agriculture, livestock and other non-commercial things and that too only in the Cochin area. There are separate schemes for periodic collection of agriculture, livestock and other census for the whole state. Since this Act is now inoperative, there is no need to retain it in the statute book.

### **35. The Travancore - Cochin Vehicles Taxation Act, 1950 (Act XIV of 1950)**

The Travancore Cochin Vehicles Taxation Act, 1950 (Act XIV of 1950) is deemed to have come into force on 1.4.1950. It provided for the levy of a tax on vehicles (both vehicles other than Motor and Motor Vehicles) in the State of Travancore - Cochin. By the enactment of the Kerala Motor Vehicles Act, 1963, by section 26 thereof, the provisions of the Travancore-Cochin Vehicles Taxation Act, 1950 in so far as they relate to taxation and licensing of motor vehicles were repealed. The remaining provisions relate to taxation of vehicles other than motor vehicles and are not implemented by the Government for a number of years now. There is no need to retain this Act in the statute book.

### **36. The Travancore Cochin Drugs (Control) Act, 1950 (Act XXIII of 1950)**

This Act was enacted to provide for the control of the sale, supply and distribution of drugs in the state of Travancore-Cochin and the same was published in the Gazette dated 6.6.1950. Subsequent to this, chapter IV of the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940) was made applicable to the Travancore-Cochin area with effect from 1.12.1953. Chapter IV of that Act deals with manufacture, sale and distribution of drugs and cosmetics. By virtue of the extension of the Central Act, the Travancore - Cochin Act became ineffective since 1.12.1953.

Certain Siddha Vaidyans and the All India siddha Vaidya federation have represented to the committee that section 2(b) of the Travancore-Cochin Drugs (Control) Act, 1950 exempted the manufacture of traditional drugs from the purview of the Act and as such the repeal of the said Act will adversely affect the medical practitioners in preparing the traditional medicines. The definition of "drug" as defined in 2(b) will not cover the traditional ayurveda and unani preparations as such. The said traditional preparations are not covered under the Central Act also. Further the provisions of the Central Act as such are being followed throughout the state for a number of years now. The exclusion of traditional medicines from the purview of the law on drugs will not in any way be affected by the repeal of an Act which became inoperative nearly five decades ago.

### **37. The Travancore – Cochin Sale of Khaddar Act, 1951 ( Act XX of 1951)**

The Act came into force by Notification dated 9<sup>th</sup> May 1952 and published in the Gazette dated 20<sup>th</sup> May 1952, which is intended to regulate the sale of Khaddar or Khadi in the State of Travancore-Cochin. Now the licenses to shops are being issued by Local Authorities under the Kerala Panchayat Raj Act, 1994 and the Municipalities Act, 1994. There is no necessity to have a special legislation for this purpose. Hence there is no need to keep alive this Act in the Statute book.

### **38. The Travancore – Cochin Village Court Act, 1953 (VII of 1954).**

This Act, together with 4 other Acts, have been repealed by section 113 of the Kerala Village Courts Act, 1960 (Act 6 of 1961). But the Kerala Village Court Act, 1960 is not brought into force and repeal of the said un-enforced Act, necessitates the repeal of the Travancore – Cochin Village Court Act, 1953 (VII of 1954).

### **39. The Travancore -Cochin Transfer of Property (Agricultural Lands) Act 1955. (Act XI of 1955).**

This is an Act to define and amend the law relating to transfer of agricultural lands by act of parties.

The Act was introduced with a view to extend the provisions of T P Act 1882 to whole of the State of Travancore-Cochin and came into force on 1 7 1955. Subsequently the Transfer of property Act, 1882 had been adapted by the Adaptation of Laws order (No.2) 1956. Therefore the Travancore-Cochin Transfer of property (Agricultural Lands) Act, 1955 has no application at present and hence could be repealed.

### **40. The Municipal (Temporary Provisions) Amendment Act, 1956.**

This Amendment Act was published in the Gazette Extraordinary on 12 3 1956 and was to extend the term of Office of the Mayor, the Chairman of Standing Committees and the Councilors of the Corporation of the city of Trivandrum and of the Chairman and Members of all the Municipal Councils constituted under the Travancore District

Municipalities Act, 1116 (111 of 1116) and the Cochin Municipal Act, XVIII of 1113, holding office at the commencement of the Municipal (Temporary Provisions) Amendment Act, 1953 up to 15 3 1956. The said Act was impliedly repealed by the Kerala Municipalities Act, 1960 (Act 14 of 1961) and the Kerala Municipal Corporation Act, 1961 (Act 30 of 1961) At present, the Kerala Municipalities Act 1994 is in force throughout the State, repealing the above two Acts. Hence the 1956 Act is to be deleted from the statute book

**41. The Indian Civil Service Madras Loans Prohibition Regulation, 1802 (XIX of 1802)**

This regulation was for prohibiting Covenanted Civil Servants of the Government employed in the administration of Justice or the Collection of Public revenue, lending money to Zamindars, independent Taluqdars or other actual proprietors of land or dependant Talugdars or farmers of land, holding farms immediately of the Government. This Act was published on 21.2 1962 and brought into force on 1 4.1962

There are no covenanted civil servants in service The provisions of the Central All India Services Act, 1951 and the Government Servants conduct Rules, 1960 are sufficient enough to deal with the objective of the said Regulation Hence there is no need to retain this Act in the Statute Book and it can be repealed

**42 The Madras Land Registration Regulation, 1802**

The Madras Land Registration Regulation, 1802 was issued for governing the registration of landed estates paying revenue to the Government in the territories subject to the presidency of Fort St George

The existing provisions of this regulation authorises the Collectors to keep registers of revenue paying lands and transfer of land and it declares the unregistered transfers of land as invalid. It applies to the Malabar area

Now the registration of properties is regulated by the provisions of the Registration Act, 1908 and mutation of land in the revenue records are made immediately after the registration of the documents. Hence there is no need to keep alive the Madras Land Registration Regulation, 1802 in the Statute Book and it can be repealed

**43. The Madras Village Police Regulation ( XI of 1816).**

This Regulation was published in the Fort St. George Gazette on 13 9 1816 for the establishment a general system of police through the territories subject to the Government of Fort St George. Through the Kerala Adaptation of Laws order, 1956, this regulation was made applicable to the Malabar area, by omitting section 7 thereof The provision in the Kerala Police Act, 1960 and in the Cr P.C are sufficient to meet the objectives of the provisions of this Regulation. Hence there is no need to retain the regulation in the statute book.

#### **44 The Madras Village Lands Disputes Regulation (XII of 1816)**

The Madras Village Lands Disputes Regulation was enacted for authorizing Collectors to refer claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary as also certain disputes respecting the occupying, cultivating and irrigating of land, to be tried and determined by Village and District Panchayats. The Kerala Survey and Boundaries Act contains provision for settlement of disputed boundary. Further there is provision in the Criminal Procedure Code empowering the collector to settle the disputes regarding occupancy, cultivation etc of lands. The above Act has no relevance now. The same may be deleted from the statute book.

#### **45 The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.**

The above said regulation was issued on 9 12 1817, for regulating the procedure where the estate of an officer or soldier in the Madras command become liable to sale for arrear of revenue. The Madras Command ceased to exist long ago. Therefore, there is no necessity to retain such a regulation. Hence the same may be repealed.

#### **46 The Madras Hindu Wills Regulation (V of 1829)**

This Regulation was issued for modifying section 16, Regulation III of 1802 and for declaring legal force of wills left by Hindus in conformity with Hindu law according to authorities prevalent in the respective provinces.

The Indian Succession Act, 1925 (Act 39 of 1925) was an enactment to consolidate the law relating to intestate and testamentary succession. According to Section 30 of the Hindu Succession Act, 1956, any Hindu may dispose of by will or testamentary disposition of any property which is capable of being disposed by him in accordance with the provision of Indian Succession Act, 1925 or any other law for the time being in force. The provisions of Part VI of the Indian Succession Act shall apply to all wills and codicils made by any Hindu, Buddhist, Sikh or Jains on or after first day of 1927.

In view of the existence of this Central enactment dealing with testamentary succession, there is no need to retain the Act in the Statute book.

#### **47. The Madras Sale of Minor's Estates Regulation, 1831.**

This is a regulation intended to prohibit the sale of estates belonging to minors not under the charge of Court of wards and to extend the provisions of section 20, Regulation V, 1804 to property of every description not subject to the jurisdiction of that Court. The said Act is applicable only in the Malabar area. The Guardians and Wards Act, 1890 and the Hindu Minority and Guardianship Act, 1956 were later enacted for the protection of minors estates. The said Laws cover the matters mentioned in the 1831 regulation. Hence there is no need to retain this Regulation in the statute book.

**48. Madras District Limits Act, 1865 1878 (Act 1 of 1865).**

This is an Act to provide for alteration of the limits of Districts or Zilas in the Madras Presidency. This Act was subsequently amended and adopted by Adoption Laws 1937 and 1950. This Act is now applicable to the erstwhile Malabar area of the Kerala State only.

According to the Article 2 A of the constitution the power of formation of States are being exercised by the Parliament and within the State, formation of districts and taluks is being done by Government exercising powers conferred by the State laws.

The Act empowered alteration of the limits of the districts in Malabar area. Similar law is not available in Travancore Cochin area. In Travancore Cochin area it was done by executive orders. Further there is no proposal to alter the existing limits of the districts in the State. Therefore the Madras Act can be repealed.

**49. The Madras Coffee – Stealing Prevention Act (VIII of 1878)**

This Act was published in the Fort St. George Gazette dated 28 10 1878 to make special provision to prevent thefts of coffee, and to repress and punish the offence of receiving and disposing of stolen coffee in the neighborhood of coffee plantations or estates.

The offences like theft, receiving of stolen properties etc. are defined in the Indian Penal Code and the provisions of the said code are sufficient to cover the objectives. A special legislation as the Madras Coffee-stealing Prevention Act is not necessary. Therefore, the said Act may be removed from the statute book.

**50. The Madras Ports Police Act, 1881 (1 of 1881)**

This Act was published in Fort St. George Gazette on 29 1 1881 to provide for the maintenance of a Special Police Force in the ports of the Presidency of Fort St. George.

The purpose of this Act was to make special provision for the security of the traffic between the shore and shipping in the ports of Presidency of Fort St. George. This Act only applies to the ports of Malabar area. Now the matters of security etc. of each port are being carried out by the port authorities, under the provisions of Indian Ports Act, 1908. Hence this Act became redundant and there is no need to retain this Act in the Statute Book.

**51. Railway Protection Act, 1886 (IV of 1886.)**

The purpose of the Legislation as stated in the preamble is to provide for the prevention of injury to Railways from the escape or over flow of water from irrigation works situated upon the lands of Zamindars and other landholders. The field is now



occupied by the Indian Railways Act, 1890, which contains provision to protect all properties of Railways. The State Act has no relevance and has to be repealed.

#### **52 The Madras Village Courts Act, 1888 (1 of 1889).**

This Act, together with 4 other Acts, have been repealed by section 113 of this Kerala Village Courts Act, 1960 (Act 6 of 1961) But the Kerala Village Court Act, 1960 is not brought into force and repeal of the said un-enforced Act, necessitates the repeal of this Madras Village Courts Act, 1888 (1 of 1889)

#### **53 The Madras Town Nuisance Act 1889 (III of 1889)**

This Act was brought into force on 1<sup>st</sup> July 1891 by Notification No.236 Judicial 11<sup>th</sup> May 1891. This is an Act to consolidate and improve the law relating to nuisances in places outside the town of Madras All the provisions contained in the Act are now covered by the Central and the State Acts, the Indian penal code 1860, the M V Act 1988, the Municipalities Act 1994, and the Panchayat Raj Act 1994 Therefore this Act has no relevance now and may be repealed.

#### **54 Malabar Land Registration Act, 1895 (Madras Act .III of 1896)**

This Act intends to make better provision for the registration of properties of estates subject to the payment of revenue direct to Government in Malabar This Act was adopted to Malabar Area by the Adoption of Laws Order, 1956 By section 4 of this Act the District Collector shall fix for each Taluk or such other local area, the date before which the proprietors of the estates situated therein may apply to have their names registered The proviso to the section stipulates that such date or altered date shall not be more than four months from the date of the publication of the same in the District Gazette

Since this is an Act of 1896, and the period of implementation was over long ago and there is no need to retain this Act in the statute book Therefore, the Malabar Land Registration Act, 1896 can be repealed.

#### **55 The Malabar Wills Act 1898 (V of 1898)**

This Act received the assent of the Governor General and was published in the Fort St George Gazette dated 16.8 1898 and came into force on 2 9 1898 by Notification No.421 dated 2 9.1898. It intended to declare the testamentary power to persons governed by the Marumakkathayam or the Aliyasanthana law of inheritance and to provide rules for the execution, attestation, revocation and revival of the wills of such persons.

As per section 30 of the Hindu Succession Act, any Hindu may dispose by will or testament disposition property, which is capable of being so disposed of by him, in accordance with the Indian Succession Act, 1925, or any other law for the time being in force and applicable to Hindus. Also, the law relating to testamentary disposition by

Mappillas governed by the Marumakkathayam or the Aliyasanthana Law of inheritance is defined in the Mappila Wills Act (VII of 1928). It provides that the testamentary disposition to which the Act applies shall be governed by the Muhammadan Law relating to wills and not by the Malabar Wills Act, 1898

Hence there is no need to retain the Malabar Wills Act, 1898, in the Statute Book  
Therefore this Act can be repealed

**56. The Madras Limited Proprietors Act, 1911 (IV of 1911).**

This Act was published in the Fort St George Gazette on 18 7 1911 The purpose of the Act was that certain person who are not proprietors as defined in the Madras Proprietary Estate's Village Service Act, 1894, the Madras Hereditary Village Office Act, 1895 and the Madras Survey and Boundary Act, 1897 should be enabled to exercise the powers and discharge the duties of proprietors under the said Acts, and to make provision for the recovery of arrears of revenue from such persons

But the hereditary Village Offices and the emoluments appertaining thereto in the State of Kerala were abolished by the Kerala Hereditary Village Offices (Abolition) Act 1961 (Act 33 of 1961) And also, Madras Survey and Boundaries Act, 1897 applicable to Malabar area was also repealed by the Kerala Survey and Boundaries Act, 1961 (3 of 1961)

Hence the Madras Limited Proprietors Act has no relevance now and the said Act can be repealed from the statute book

**57 The Madras Commercial Crops Markets Act ,1933 (XX of 1933)**

This Act was enacted to provide for better regulation of commercial crops in the presidency of Madras and the establishment of markets for commercial crops in the presidency of Madras This Act is applicable only to the erstwhile Malabar area of the State

Regulated markets under a Market Committee were functioning in the Malabar area for arecanut and coconut, under the above Act. When the term of elected members of the Market Committee expired in 1959 the Market Committee has been functioning only in a technical sense under the Chairmanship of the District Collector, Kozhikode Over the years, the Market Committee and the four regulated markets have virtually come to a standstill in view of a number of writ petitions filed in the High Court challenging the constitutional validity of the 1933 Act and the fact that other parts of state – the Travancore Cochin area – are not covered by such regulation The Hon High Court has now held that the provisions of the aforesaid Act are unconstitutional and has struck down the actions taken by the Market Committee Therefore, the Act has to be removed from the statute book

The Law Reforms Committee has received representations from the employees and their associations stating that the Malabar Market Committee has assets consisting of land and buildings at different places in Malabar area and also certain liabilities towards its employees. There fore they have requested that the proposal to repeal the Madras Commercial Crops Markets Act may be deferred until the affairs of the Malabar Market Committee, its employees and pensioners are finally and fully sttled by Government as per rules

As per the provisions of the Act once the committee is dissolved its assets and liabilities will vest with Government. In this case the assets and liabilities are now vested with the Government and the employees have also approached the court for setting their liabilities. The liabilities of the emplyees can be settled by Government or on the basis of the verdict of the court. The same will not stand in the way of repealing the afore said Act

#### **58 The Madras Debtors Protection Act, 1934 (Act VII of 1934).**

This Act was enacted for the protection of certain classes of debtors in the presidency of Madras and for regulating the keeping of Accounts by certain classes of creditors. This Act extends to the erstwhile Malabar was published in Fort St George Gazette on 26 3 1935 and was brought into force with effect from 15 1 1936. At present, the Banking Regulation Act, 1949 regulates banking in India. Moreover Banking institutions working under this Central Act are subject to the control of Reserve Bank of India. A Banking company shall be bound to abide by the banking policy issued by Reserve Bank or Central Government. In the case of pawnbrokers and moneylenders, the provision in the Kerala Money Lenders Act, 1958 are sufficient to protect the interest of the debtors

Hence the provisions in the Banking Regulation Act 1949, the Reserve Bank of India Act, 1934 and Kerala Money Lenders Act, 1958 are sufficient to meet the requirement under the Madras debtors protection Act, 1934. Therefore it may be repealed from the Statue Book

#### **59 The Madras Betting Tax Act, 1935 (XX of 1935)**

This is an Act, which provides for the levy of tax on certain forms of betting in the erstwhile presidency of Madras and the same was published in the Fort St George Gazette dated 19<sup>th</sup> November 1935. The Act provides for the levy of totalizator tax and of tax on bets made with bookmakers. No tax is being levied in Malabar area by invoking the provision of the said Act forthwith. Kerala Gaming Act, 1960 had been passed to make better provision for the punishment of gaming and the keeping of common gaming houses in the State of Kerala. As per the Kerala Gaming Act, 1960, gaming includes betting and wagering. Hence there is no necessity to retain the Madras Betting Tax Act in the statute book.

**60. The Madras Debt Conciliation Act, 1936 (XI of 1936).**

The Madras Debt conciliation Act is enacted to relieve agriculturists from indebtedness by amicable settlement between them and their creditors by constituting Boards, at district level. As per the provision of the Act the period of filing application for settlement of dispute has already been over and there is no such board is functioning now. Therefore there is no necessity to retain the said Act in the statute book. The same may be deleted from the statute book.

**61. Madras Traffic Control Act, 1938 (V of 1938).**

This Act was introduced to enable the provincial Government to make provision for the control of traffic in public places in the province. Now the Central Act, the Motor Vehicles Act, 1988 is in force in all States and all the Acts corresponding to the M V Act immediately preceding in force was repealed as per section 217 of the M V Act 1988.

Hence the Madras Traffic Control Act may be removed from the Statute Book.

**62. Removal of Disabilities Act, 1938 (XXI of 1938)**

This enactment was for the removal of civil disabilities which are imposed by social customs and usages on certain classes of Hindus community known as Harijans, untouchables or depressed classes and are repugnant to modern conditions and ideas of justice and social solidarity. This Act was published in St. George Gazette dated 24 1 1939, and it extends to the area of erstwhile Malabar only.

Untouchability and its practice in all forms have been abolished by Article 17 of the Constitution. In the absence of a Central Law on the subject, the Protection of Civil Rights Act, 1955 (Act No 22 of 1955) was enacted by parliament to prescribe punishment for preaching and practice of untouchability and for enforcement of any disability arising therefrom and for matters connected therewith.

As constitutional remedies and the Protection of Civil Rights Act, 1955 covering the objectives of the Removal of Civil Disabilities Act, 1932 are available, there is no necessity in keeping this Act in the Statute book and it can be repealed.

**63. The Madras Aided Institutions (Prohibition of Transfers of Property) Act, 1948 (XIV of 1948).**

This Act was enacted to prohibit transfers of certain lands and buildings by Managers of the Educational Institutions in the State of Madras. This Act is applicable only to the erstwhile Malabar area and was published in the Fort St. George Gazette on 15 6 1948.

Now grants to the aided institutions such as schools and colleges are being granted on the basis of the provisions contained in the Kerala Education Act and the

Rules made thereunder and direct payment agreement Hence there is no need to retain this Act in the statute book and it can be repealed

#### **64 The Madras Jute Goods Control Act, 1949 (XXVIII of 1949)**

This Act was enacted for the regulation of the production, supply and distribution of Jute goods in the province of Madras and published in the Fort St George Gazette dated 14.12.1949. This Act is applicable only in Malabar area and was adapted by K A L O. 1956 The Essential Commodities Act, 1955, a Central Act has been enacted for the control of the production, supply and distribution of and trade and commerce in certain commodities and is extended to the whole of India. The term Essential Commodity has been defined in Section 2 (a) of the Act wherein Jute is defined as an essential commodity Section 16 of the said Act makes provision for the repeal of any other law in force in any State immediately before the commencement of this Act in so far as such law controls and authorizes the control of the production, supply and distribution of, and trade and commerce in, any essential commodity Hence the Madras Jute Goods Control Act, 1949 has been impliedly repealed by section 16 of the Essential Commodities Act, 1956 Hence it is not necessary to retain this Act in the statute book

#### **65 The Madras Drugs (Control) Act ,1949 (XXX of 1949)**

This Act was enacted to provide for the control of the sale, supply and distribution of drugs in the erstwhile State of Madras The assent of the governor General was received on 13 12 1949 and the Act was published in the Fort St George Gazette (Extra ordinary) on 15 12 1949 By the Kerala Adaptation of Laws Order, 1956, this Act was made applicable for the erstwhile Malabar area

At present, the provisions of the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940) are being followed by the Drugs Control Department for the Malabar area Hence there is no need to keep alive this Act in the statute book Therefore the Madras Drugs (Control) Act, 1949 (XXX of 1949) may be repealed

#### **66. The Madras Cotton (Trade Stocks) Census Act, 1949 (XLVII of 1949)**

This Act was first published in the Fort St George Gazette on 24 1.1950, and was enacted to provide for the collection of Statistics relating to stocks of Indian raw cotton held by traders and owners of ginning and processing factories in the province of Madras This Act was adapted by the K A L O 1956 for the erstwhile Malabar area

The Collection of Statistics-Act, 1953 (32 of 1953) is a Central Act in this subject matter now applicable to the whole State and which covers all the provisions of the Madras Act, 1949

Hence there is no need to retain the Madras Cotton (Trade Stocks) Census Act, 1949 in the Statute book and therefore may be repealed.

**67. The Madras Educational Institutions (Temporary Control of Property) Act, 1949 ( XLVIII of 1949).**

This Act was enacted for taking over for a temporary period, control of property use for educational purposes and certain other matters where recognition is withdrawn or closed before the last day of the academic year. Similar provision is available in the Kerala Education Act, 1958. The Madras Act can be repealed.

**68 The Madras Jute (Control of Price and Sales) Act, 1950 ( V of 1950).**

This Act was published in the Fort St George Gazette on 25.4.1950 and was adapted by K A L O. 1956. This Act is applicable only in the Malabar area. The objective of the Act was controlling the prices and sales of Jute in the State of Madras. The Essential Commodities Act, 1955, a Central Act has been enacted for the control of the production, supply and distribution of and trade and Commerce in certain commodities and extended to the whole of India. The term "Essential Commodity" has been defined in section 2(a) of the Act, wherein Jute is defined as an essential commodity. Section 16 of the said Act makes provision for the repeal of any other law in force in any state immediately before the commencement of this Act in so far as such law controls or authorises the control of the production, supply and distribution of, and trade and commerce in, any essential commodity. Hence the Madras Jute (Control of Prices and Sales) Act, 1950 has been impliedly repealed by section 16 of the Essential Commodities Act, 1955. It is not necessary to retain this Act in the Statute Book.

**69. The Madras Village Panchayat Act, 1950 (X of 1950) (Section 132 only).**

The Madras Village Panchayat Act, 1950 (X of 1950) except Section 132 thereof, was repealed by the Kerala Panchayat Act, 1960. The remaining section i.e. section 132 was also repealed by section 113 of the Kerala Village Court Act 1960 (Art 6 of 1961). But the Kerala Village Courts Act, 1960 is not brought into force and the proposed repeal of this said un-enforced Act, necessitates the repeal of section 132 of the Madras Village Panchayat Act, 1950 (X of 1950).

**70 The Madras Cotton Control Act, 1952 ( XV of 1952)**

This Act was published in the Fort St George Gazette on 31<sup>st</sup> December 1952 and was adapted by K A L O. 1956. This was applicable only in the Malabar area. The objective of the Act is for regulating or prohibiting the cultivation of any specified variety of cotton, the mixing of any specified variety of cotton with any other variety of cotton and possession or use of, or trade in any specified variety of cotton in certain areas in the State of Madras.

The Essential Commodities Act, 1955, a central Act, has been enacted for the control of the production, supply and distribution of, and trade and commerce, in certain commodities, and is extended to the whole India. The term "Essential Commodity" has been defined in Section 2 (a) of the Act, wherein cotton is defined as an essential

commodity. Section 16 of the said Act makes provision of the repeal of any other law in force in any State immediately before the commencement of this Act in so far as such law controls or authorises the control of the production, supply and distribution of, and trade and commerce in, any essential commodity. Hence, the Madras Cotton Control Act, 1952 was impliedly repealed by section 16 of the Essential Commodities Act, 1955. Hence it is not necessary to retain the name of the Act in the statute book.

**71 The Madras Installation of Oil Engines (Temporary Permission) Act, 1954.(XXIII of 1954)**

This Act was enacted to provide for and validate the grant of temporary permission for the installation of oil engine in areas within the jurisdiction of local authorities in the State of Madras by the respective Municipal Laws. The Municipal Laws mentioned in the said Act were already repealed. There are specific powers in the present Municipal Act to grant permission for installation of oil engines etc. Therefore there is no necessity to retain the above Act in the statute book.

**72 The Madras Hill Stations (Preservation of Trees) Act, 1955 (XVII of 1955).**

The Act was published in the Fort St. George Gazette Extra Ordinary dated 2<sup>nd</sup> September 1955 for the regulation of the cutting of trees and the cultivation of land in hill stations in the State of Madras. The Kerala preservation of Trees Act, 1986 is an act to provide for the preservation of trees in the State of Kerala which is now in force in the entire state and there is no necessity in keeping the Madras Hill Stations (Preservation of Trees) Act, 1955 in the Statute Book and the same may be repealed to the extent applicable to the State.

**73. Madras Silkworm Seed (Production, Supply and Distribution) Act, 1956 (XXIII of 1956).**

This Act was published in the Fort St. George Gazette dated 31.10.1956. By the formation of the State of Kerala, it became applicable to the erstwhile Malabar Area. It provides for the regulation of production, supply and distribution of silkworm seed in the State of Madras. It seems that this Act was not enforced in the Malabar Area.

As per the order issued by the Central Government dated 26.9.1959, under the Essential Commodities Act, 1955, the field is now occupied by the Central Act and thus this Act became redundant and may be repealed.

**74 The Judicial Proceeding (Validation) Act, 1958 (Act 33 of 1958)**

The Act was enacted to validate acts and proceedings of certain Courts during the period between 1<sup>st</sup> day of November 1956 to the 6<sup>th</sup> day of November 1956 even though the said Courts were abolished w.e.f. 1.1.1956. The purpose of the Act is over. There is no necessity to retain the same in the Statute Book.

**75 The Kerala Weights and Measures (Enforcement) Act, 1958 ( Act 45 of 1958)**

This Act was enacted for providing for the enforcement of standard weights and measures and for matters connected therewith. This was published in the Kerala Gazette (Extra ordinary No 144) on 27 12 1958. A new Central Act "The Standards of Weights and Measures Act, 1976", enacted with the view of modernizing the system of weights and measures in the country, has necessitated the revision of enforcement laws of the states. Accordingly, Parliament enacted the Standards of Weights and Measures (Enforcement) Act, 1985, the provisions of which ensure country wide uniformity, both in the procedures and in the scope of coverage of legal control of weights and measuring instruments. The said Act came into force in the whole State of Kerala on 24 7 1992 vide notification No.G O (Ms) 337/92/RD dated 24 7 1992 and that alone is being enforced now. Hence there is no need to retain the 1958 State Act on the statute book and it can be repealed.

**76 The State Transport Authority and the Regional Transport Authorities (Continuance of the term of office) Validation Act, 1960 (Act 26 of 1960)**

This Act was enacted for validating the continuance of the term of office of the State Transport Authority and Certain Regional Transport Authorities after the expiry of their terms of office. This Act was published in the Gazette on 1 11 1960. As the purpose of the Act has already been served there is no necessity to keep alive this Act. Hence it can be repealed.

**77 The Kerala Village Courts Act 1960 (Act 6 of 1961)**

The Kerala Village Courts Act, 1960, passed by the Kerala Legislative Assembly, obtained the assent of the President on 2 3 1961 and was published in the Kerala Gazette Extra Ordinary No 27 dated 11 3 1961. It was aimed to consolidate, amend and unify the laws relating to village Panchayat Courts and Village Courts in the State of Kerala. Section I (3) provides that the Act shall come into force on such date as the Government, may by notification in Gazette appoint. But till date it has not been brought into force. In the matter of Administration of Justice there has been reluctance allround to set up courts outside the independent judicial system. Hence the non enforcement of this law for over four decades. There is no point in retaining it in the statute book and it may be repealed.

The said Act also sought to repeal the following Acts, namely -

The Cochin Village Courts Act, XII of 1118, the Travancore Village Panchayat Courts Act, 1090 (1 of 1090), the Madras Village Courts Act, 1888 (1 of 1889), the Travancore Cochin Village Court Act, 1953 (7 of 1954) and Section 132 of the Madras Village Panchayat Act, 1950 (X of 1950). As a consequence of the repeal of the Kerala Village Courts Act the above mentioned Acts will have also to be repealed (Separately listed in this note)



**78 The Kerala Hereditary Village Offices (Abolition) Act, 1961 (Act 33 of 1961).**

This Act was enacted for the purpose of abolishing hereditary village offices in the State of Kerala. This Act was published in the Gazette on 24 11 1961. The duties attached to the abolished village offices are now being done by Revenue Department. Hence this Act may be removed from the Statute Book.

**79 The Kerala Land Acquisition Act, 1961 (Act 21 of 1962)**

This Act was enacted to unify and amend the law for acquisition of land for public purposes in the State of Kerala. This Act was published in the Gazette Extra Ordinary dated 6 9 1962.

The Land Acquisition Act, 1894, a Central Act, dealing the same subject matter is in force in the State at present. During 1984, the Parliament made major modifications to the Central Act. As a result the provisions contained in the State Act became repugnant to those in the Central Act and the provisions in the State Act became inoperative. The Government is now invoking the provisions contained in the Central Act for all acquisition proceedings. Therefore the State Act can be repealed.

**80 The Kerala University ( Validation of Proceeding of Vice Chancellor) Act, 1963. (Act 5 of 1963)**

The main object of the Act is to validate certain acts done, orders passed and sanctions given by the Vice-Chancellor of the University of Kerala, during the period between 2 6 1961 and 23 10 1961 which under the provisions of University Act or statute or ordinance thereunder. Since the action of the Vice Chancellor with respect to the aforesaid period has already been validated there is no necessity to keep alive the Kerala University (validation of proceedings of Vice-Chancellor) Act 1963. This may be repealed.

**81 The Luxury Tax on Tobacco (Validation) Act, 1964 (Act 9 of 1964)**

This Act was enacted for a specific period beginning with the 17<sup>th</sup> day of August, 1950 and ending on the 31<sup>st</sup> December 1957 and was for levy of luxury tax on tobacco and for the validation of the levy and collection of fees for licenses for the vend and stocking of tobacco for the said period. This Act has no relevance after 1957 except for deciding proceedings, if any, pending. It can be repealed.

**82. The Kerala Agriculturists Debt Relief Act, 1970. (ACT II of 1970)**

The Kerala Agriculturists Debt Relief Act, 1970 provides for some relief to agriculturists in the grants of the debt incurred by them before 14.7.1970. The moratorium period and the period of repayment of debt by the agriculturist under the said Act were already expired. The provision of the Act have no relevance now. The same can be repealed.

**83 The Kerala Essential Articles Control (Temporary Powers) Continuance Act, 1970 (Act 1 of 1971).**

The Act was published in Kerala Gazette Extra Ordinary dated 16<sup>th</sup> January 1971, for the purpose of giving continuance to the Kerala Essential Articles Control (Temporary Powers) continuance Act, 1970. As the period of Continuance is over there is no purpose to be served by retaining this Act in the Statute Book.

**84 The Madras General Sales Tax (Revival and Special Provisions) Act, 1971 (Act 14 of 1971).**

This Act was published in the Gazette Extra Ordinary dated 22<sup>nd</sup> May 1971 for the purpose of reviving the Madras General Sales Tax Act, 1939 and to make certain special provisions for the levy of tax on the sales of tea and rubber made in the Malabar district during the period commencing on and from the 1<sup>st</sup> day of April 1951 and ending with the 30<sup>th</sup> day September 1957. Since the period specified is over there is no purpose in keeping this enactment alive and hence it may be removed from the Statute Book.

**85 The Judicial Proceeding (Validation) Act, 1971 (Act 24 of 1971)**

The Act published in the Kerala Gazette Extra Ordinary No 189 dated 5<sup>th</sup> August 1971 was enacted for the purpose of validating certain proceedings, decrees, orders and acts of the Court of District Judges in the State of Kerala in respect of certain land acquisition reference, which the District Court had entertained though without jurisdiction. The enactment was extended for this limited purpose and since the purpose is over there is no necessity to keep the Act in the Statute Book.

**86 The Kerala Places of Public Resorts (Validation of levy and collection of license fee) Act, 1971 (Act 27 of 1971)**

This Act was published in the Kerala Gazette Extra ordinary No 365 dated 24.8.1971. The purpose of this Act was to validate the levy and collection of certain licence fee under the Kerala Places of Public Resorts Act, 1963, during the period from 1.8.1965 to 10.2.1969.

As the purpose has been served there is no necessity to retain the Act in the Statute Book. Therefore, the Act can be repealed.

**87 The Travancore – Cochin Electricity Supply Surcharge (Repeal) Act, 1971 (Act 37 of 1971).**

The Act was published in the Gazette Extra ordinary No 488, dated 9<sup>th</sup> November 1947 repealing the Travancore – Cochin Electricity Supply Surcharge Act, 1955 Since the enactment was made to repeal the Travancore – Cochin Electricity Supply Act and to collect all arrears accrued under the said Act before 1 4.1968 and credited to the K S E B The object of the Act has already been achieved There is no necessity to retain the same in the Statute Book

**88 The Kerala Essential Articles Control (Temporary Powers) Continuance Act, 1972 (Act 1 of 1973)**

The Act was published in the Gazette Extra Ordinary No 47 dated 15 1 1973 for the continuance of the Kerala Essential Articles Control (Temporary Powers) Act, 1961 for a further period (3 years more) Since the specified period is over there is no necessity in keeping this Act in the Statute Book

**89 The Trivandrum Municipal Corporation (Dissolution) Act 1976. (Act 8 of 1976)**

The Trivandrum Municipal Corporation (Dissolution) Act, 1976 was enacted to dissolve the Council of Corporation of the City of Trivandrum The purpose of this Act has been achieved and the provisions of the said Act has no relevance and the same can be repealed

**90 The S.K.V.A. Co-operative Pharmacy and Stores (Acquisition and Transfer of Undertaking) Act, 1976 (Act 29 of 1976)**

This Act received the assent of the President on 5 7 1976 and was published in the Kerala Gazette Extra Ordinary No 410 dated 10 7 1976

It provides for the acquisition of the undertaking of the S K V A Co-operative Pharmacy and Stores and the transfer of the undertaking to the Pharmaceutical Corporation (Indian Medicines) Kerala Ltd

As the purpose of the Act is over, there is no necessity to retain the same in the Statute Book

**91 The Chalakudy and Malappuram Municipal Council (Extension of Term of Office of Councilors) Act, 1976 (Act 5 of 1977)**

The Chalakudy and Malappuram Municipal Councils (Extension of term of office of Councilors) Act, 1976 is for the extension of the term of office of the Councilors of the Chalakudy and Malappuram Municipalities As the purpose of the Act is over and has no relevance at present, there is no necessity to retain the Chalakudy and Malappuram Municipal Councils (Extension of term of office of Councilors) Act, 1976.

**92 The Kerala Debt Relief Act, 1977 (Act 17 of 1977)**

This Act received the assent of the President and was published in the Kerala Gazette Extra Ordinary No 474 dated 12 8 1977

This Act provides relief from indebtedness to certain persons in the State of Kerala. Section 2 (3) defines "debt" The relief is only to such debt as or before the date of commencement of the Act Now the purpose of this Act has been achieved and there is no need to retain the Act in the statute Book Therefore, this Act may be repealed

**93 The Engineering Technicians' Co-operative Societies (Acquisition and Transfer of Undertaking) Act, 1977 (Act 20 of 1977)**

This Act received the assent of the President and was published in the Kerala Gazette Extra ordinary No 477 dated 12 8 1977

It provides for the acquisition of the undertakings of the Kerala State Engineering Technicians (Workshop) Industrial Co-operative Society Ltd S Ind (St) No I and the Societies promoted by it and for matters connected therewith

Since the object of the Act has been achieved, there is no need to retain the Act in the Statute Book Therefore the Act can be repealed

**94. The Kerala Municipal Councils (Extension of Term of Office of Councillors) Act, 1978 (Act 9 of 1978).**

This Act published in the Kerala Gazette Extraordinary No 187 dated 18 3 1978 It provides for the further extension of the term of office of the Councillors of Municipalities other than the Changanacherry and Tirur Municipalities

As this is a temporary enactment and the purpose of this Act is already over, there is no need to retain this name of the Act in the Statute Book Therefore this Act can be repealed.

**95 The Tirur Municipal Council (Extension of Term of Office of Councillors) Act, 1979 (Act 12 of 1979)**

This Act was enacted to provide for the further extension of the term of office of the councilors of Tirur Municipality By this Act, the term of office of municipal councilors of Tirur Municipality was extended up to 1 10 1979 This was in view of election of Municipal councilors, proposed to be held in the month of May 1979, in the state. The purpose of the Act had been achieved The provision of the said Act has no

relevance now. So, the Tirur Municipal Council (Extension of Term of Office of Councillors) Act, 1979 can be repealed

**96. The Kerala Payment of Arrears of Rent in Instalments Act, 1979 (Act 29 of 1979)**

The Act was published in the Kerala Gazette Extra Ordinary No 789 dated 3<sup>rd</sup> November 1979 to provide for instalment facility for the payment of arrears of rent and for matters incidental thereto. Purpose of the Act is to discharge the arrears of rent accrued before 1 1 1970 by payment of the same in six half yearly instalments. The time allowed to the tenant to discharge their liabilities as per the said Act is over. Therefore there is no necessity to retain the same in the Statute Book. The same may be repealed.

**97. The Kottayam Electricity Supply Agency (Undertaking) Acquisition Act, 1980 (Act 3 of 1980)**

This Act received the assent of the President on 27 3 1980 and published in the Kerala Gazette Extraordinary No 224, dated 27 3 1980. It provides for the acquisition of the undertaking of the Kottayam Electric Supply Agency. As the purpose of this Act has been achieved, there is no need to keep alive the Act in the Statute Book. Therefore, the Act can be repealed.

**98. The Kerala Raw Cashew nuts (Procurement and Distribution) Act, 1981 (Act 14 of 1981)**

This Act published in the Kerala Gazette Extra Ordinary No 266 dated 2 4 1981. It provides for the trade in raw cashew nuts by the State to the exclusion of all others by the procurement and sale thereof at fair prices.

Since the Hon High Court of Kerala have struck down the major portions of this Act, it became inoperative. So there is no necessity to retain this Act in the Statute Book. Therefore, it can be repealed.

**99. The Kerala State Backward Classes (Reservation of Appointments or Posts in the services under the State) Act 1995 (Act 16 of 1995)**

This Act was enacted to provide for the continuance of the existing systems of reservation of appointment or posts in the services under the State for Backward Classes of citizens in the State of Kerala. In Indra Swahney II Vs Union of India reported in 2000 (I) SCC 168 it was held by the Hon Supreme Court that sections 3,4 and 6 of the said Act were unconstitutional and the Court struck down the said sections.

The Committee has received a few representations from the members of the backward classes of citizens for retaining the aforesaid Act as such. The major provisions of the Act have already been struck down by the Court. The only section remains in the said Act is section 5. The said section empowers commission for backward

classes constituted by the Government to examine from time to time the backwardness of the backward classes and to report to the legislative assembly. The Commission for Backward Classes is a permanent commission constituted by the Government as per the provisions of the Kerala Backward Classes Commission Act, 1993. The said Commission has the power to advise the Government about the communities to be incorporated as a backward community or not. Further, continuance of reservation to backward communities in the State has already been upheld by the Supreme Court in Indra Sawhney's case and the only thing is to fix a criteria to eliminate the creamy layer from the backward communities. This has been done by the Government by appointing Justice Narendran Commission. Therefore the 1995 Act has not relevancy now. The same may be deleted from the statute book.

#### **100 The Sivagiri Mutt (Emergency Provisions) Act, 1997 (Act 17 of 1997).**

The Sivagiri Mutt (Emergency Provisions) Act, 1997 was enacted to provide for the taking over of the management of the "Sree Narayana Dharma Sanghom Trust", in the public interest. Section 8 (1) of the Act provides that if at anytime, it appears to the Government that the purpose for which the management of the Trust had been taken over has been fulfilled or for any other reason, it may relinquish the management with effect from such date as specified in the order.

Now vide S R O No 1011/2001, dated 13 11 2001, Government has relinquished the management of the SND Sanghom Trust with effect from 16 11 2001. Therefore the purpose of the Act is fulfilled. There is no necessity to retain the same in the statute book. The same may be deleted from the statute book.

#### **101 The Kerala Stay of Eviction Proceedings Act, 1998 (Act 5 of 1998)**

This Act was published in the Kerala Gazette Extraordinary No 809 dated 29 5 1998. The objective of the enactment was to provide for the Stay of eviction of certain cultivating tenants and small holders from lands purchased by them and which are subsequently found as excess land to be surrendered under the provision of the Kerala Land Reforms Act, 1963. The Act was in force from 30 9 1998 to 30 3 1999. This Act was impliedly repealed by Act 26 of 1999. Hence this Act may also be repealed from the Statute Book.

#### **102 The Kerala Stay of Eviction Proceeding Act, 1999 (Act 26 of 1999)**

This Act, passed by the Kerala Legislative Assembly were published in the Kerala Gazette Extraordinary dated 11 10 1999. The objective of the enactment was for providing temporary protection to certain cultivating tenants and small holders who are under the threat of eviction from lands purchased by them and which are subsequently found as excess land to be surrendered under the provisions of the Land Reforms Act, 1963. This Act was in force for a period of 3 years from 31.03 1999 to 30 03 2001. As this enactment ceased to operate from 31/03/2001, there is no need to retain this Act in the Statute Book.

DRAFT**THE KERALA REPEALING AND AMENDING BILL, 2002****A  
BILL**

to repeal certain other enactments and to amend certain other enactments

**BE** it enacted in the Fifty-third Year of the Republic of India as follows.-

**1. Short title and commencement.-** (1) This Act may be called the Kerala Repealing and Amending Act, 2002

(2) It shall come into force at once

**2. Repeal of certain enactments.-** The enactments specified in the Schedule are here by repealed

**3. Amendment of certain enactments.-** Notwithstanding the the repeal of the Kerala Land Acquisition Act (1961, Act 21 of 1962) any reference of the said Act in any existing enactments in force in the State of Kerala shall be construed as the Land Acquisition Act, 1894 (Central Act 1 of 1894) and the said enactments are by virtue of this section amended accordingly

**4 Savings.-** (1) The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to, and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing,

nor shall this Act affect any principle or rule of law, or established jurisdiction, form of course of pleading, practice or procedure or existing usage, custom privilege, restriction, exemption, office or appointment, not withstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed,

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing in force

(2) The provisions of section 4 of the Kerala General Clauses Act, 1125 (Act VII of 1125) shall be applicable in respect of repeal of an enactment by this Act.

**SCHEDULE**  
( see Section 2 )

Sl. No (1)	Year & Act No (2)	Short title (3)
<u>Travancore- Acts</u>		
1	1044 --	Sirkar Relinquishing Claims to Property Descending on Convert Heirs of Hindus- Proclamation, 1044
2	1056 --	Metals and Minerals - Proclamation, 1056
3	1086 --	Tax on Lands granted for Coffee or Tea cultivation - Proclamation, 1086
4	1088 IV	The Tolls Recovery Act, 1088
5	1090 I	The Travancore Village Panchayat Courts Act, 1090
6	1092 II	The Christian Succession Regulation, 1092
7	1092 VII	The Travancore Markets Act, 1092
8	1122 XX	The Travancore Public Debt Act, 1122
<u>Cochin Acts</u>		
9	1082 V	The Cochun Forest Steam Tramway Act, 1082
10	1085 --	Devaswom Proclamation of 1085
11	1089 VII	The Cochun Rubber Theft Prevention Act, VII of 1089
12	1096 II	The Prevention of Juvenile Smoking Act ,II of 1096
13	1097 VI	The Cochun Christian succession Act, VI of 1097
14	1103 II	The Cochun Joint Land Registration Act, II of 1103
15	1109 --	Cochin Loans - Proclamation, 1109
16	1109 X	The Cochun Validating and Indemnity Act , X of 1109
17	1112 I	Proclamation (I of 1112)
18	1112 III	Kanams and Panayams - Proclamation III of 1112



Sl. No.	Year & Act No.	Short title
(1)	(2)	(3)
19	1112 V	Styling of Enactments as Acts – Proclamation V of 1112
20	1112 XVI	Cochin Carriers Act, XVI of 1112
21	1113 III	Landing and Shipping Fees – Proclamation III of 1113
22	1114 II	Naduvil Madhom -Provisions of Revenue Recovery Act made applicable – Proclamation II of 1114
23	1115 VII	Paliyara Muthalpidi Estate – Revenue Recovery Act made applicable – Proclamation VII of 1115
24	1115 IX	Koodalmanikkom – Proclamation IX of 1115
25	1115 XXVI	The Cochin Town Councils Act, XXVI of 1115
26	1117 X	The Cochin Port Road Control Act, X of 1117
27	1117 XV	The Penalties (enhancement) – Proclamation XV of 1117
28	1117 XXIII	The Collective Fines – Proclamation XXIII of 1117
29	1117 XVIII	Denial of Value for Improvements under Food Production Scheme – Proclamation XVIII of 1117
30	1118 XII	The Cochin Village Courts Act, 1118
31	1118 XXIII	Devaswom Verumpattom (settlement) – Proclamation XXIII of 1118
32	1118 XXIX	Cultivable lands left uncultivated - penalising of -Proclamation XXIX of 1118
33	1123 II	The Chittur Cess Recovery Act, II of 1123
34	1124 XXXIV	The Cochin Statistics Act, XXXIV of 1124

#### Travancore –Cochin Acts

35	1950 XIV	The Travancore-Cochin Vehicles Taxation Act, 1950
36	1950 XXIII	The Travancore -Cochin Drugs (Control) Act, 1950
37	1951 XX	The Travancore -Cochin sale of Khaddar Act, 1951.

Sl No. (1)	Year & Act No. (2)	Short title (3)
38	1954 VII	The Travancore-Cochin Village Courts Act, 1953
39	1955 XI	The Travancore -Cochin Transfer of Property (Agricultural Land) Act, 1955
40	1956 III	The Municipal (Temporary Provisions) Amendment Act, 1956

Madras Acts Applicable to Malabar Area

41	1802 XIX	The Indian Civil Service Madras Loans Prohibition Regulation, 1802
42	1802 XXVI	The Madras Land Registration Regulation, 1802
43	1816 XI	The Madras Village Police Regulation, 1816
44	1816 XII	The Madras Village Land Disputes Regulation, 1816
45	1817 VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817
46	1829 V	The Madras Hindu Wills Regulation, V of 1829
47	1831 --	The Sale of Minors' Estates Regulation 1831
48	1865 I	The Madras Districts Limits Act, 1865
49	1878 VIII	The Madras Coffee Stealing Prevention Act, 1878
50	1881 I	The Madras Ports Police Act, 1881
51	1886 IV	The Railway Protection Act, 1886
52	1889 I	The Madras Village Courts Act, 1888
53	1889 III	The Madras Town Nuisances Act, 1889
54	1896 III	The Malabar Land Registration Act, 1895
55	1898 V	The Malabar Wills Act, 1898
56	1911 IV	The Madras Limited Proprietors Act, 1911

Sl. No. (1)	Year & Act No (2)	Short title (3)
57	1933 XX	The Madras Commercial Crops Markets Act, 1933
58	1934 VII	The Madras Debtors Protection Act, 1934
59	1935 XX	The Madras Betting Tax Act, 1935
60	1936 XI	The Madras Debt Conciliation Act, 1936
61	1938 V	The Madras Traffic Control Act, 1938
62	1938 XXI	The Removal of Civil Disabilities Act, 1938
63	1948 XIV	The Madras Aided Institution (Prohibition of transfers of property) Act, 1948
64	1949 XXVIII	The Madras Jute Goods Control Act, 1949
65	1949 XXX	The Madras Drugs (Control) Act, 1949
66	1949 XLVII	The Madras Cotton (Trade Stock) Census Act, 1949
67	1949 XLVIII	The Madras Educational Institutions (Temporary Control of Property) Act, 1949.
68	1950 V	The Madras Jute (Control of Prices and Sales) Act, 1950
69	1950 X	The Madras Village Panchayat Act, 1950 (Section 132 only)
70	1952 XV	The Madras cotton Control Act, 1952
71	1954 XXIII	The Madras Installation of Oil Engines (Temporary Permission) Act, 1954
72	1955 XVII	The Madras Hill Stations (Preservations of tree) Act, 1955
73	1956 XXIII	The Madras Silkworm Seed (Production, Supply and Distribution) Act, 1956
<b>Kerala Acts</b>		
74	1958 33	The Judicial Proceedings (Validation) Act, 1958
75	1958 45	The Kerala Weights and Measures (Enforcement) Act, 1958

Sl. No.	Year	Act No	Short title
(1)	(2)	(3)	(3)
76	1960	26	The State Transport Authority and the Regional Transport Authorities (Continuance of the term of Office) Validation Act, 1960
77	1961	6	The Kerala Village Courts Act, 1960.
78	1961	33	The Hereditary Village Offices (Abolition) Act, 1961.
79	1962	21	The Kerala Land Acquisition Act, 1961
80	1963	5	The Kerala University (Validation of Proceedings of Vice Chancellor) Act, 1963
81	1964	9	The Luxury Tax on Tobacco (Validation) Act, 1964
82	1970	11	The Kerala Agriculturists Debt Relief Act, 1970
83	1971	1	The Kerala Essential Articles Control (Temporary Powers) Continuance Act, 1970
84	1971	14	The Madras General Sales Tax (Revival and Special Provisions) Act, 1971
85	1971	24	The Judicial Proceedings (Validation) Act, 1971
86	1971	27	The Kerala Places of Public Resort (Validation of levy and collection of Licences Fees) Act, 1971
87	1971	37	The Travancore-Cochin Electricity Supply Surcharges (Repeal) Act, 1971
88	1973	1	The Kerala Essential Articles Central (Temporary Powers) Continuance Act, 1972
89	1976	8	The Trivandrum Municipal Corporation (Dissolution) Act, 1976
90	1976	29	The S K.V A Co-operative Pharmacy and Stores (Acquisition and transfer of Undertakings) Act, 1976
91	1977	5	The Chalakudy and Malappuram Municipal Councils (Extension of term of office of Councillors) Act, 1976

Sl. No. (1)	Year (2)	Act No. (2)	Short title (3)
92	1977	17	The Kerala Debt Relief Act, 1977
93	1977	20	The Engineering Technician Co-operative Societies (Acquisition and Transfer of Undertakings) Act, 1977.
94	1978	9	The Kerala Municipal Councils (Extension of Terms of Office of Councillors) Act, 1978
95	1979	12	The Tirur Municipal Council (Extension of Term of Office of Councillors) Act, 1979
96	1979	29	The Kerala Payment of Arrears of Rent in instalment Act, 1979.
97	1980	3	The Kottayam Electricity Supply Agency (Undertaking) Acquisition Act, 1980
98	1981	14	The Kerala Raw Cashew Nuts Procurement and Distribution Act, 1981
99	1995	16	The Kerala State Backward Classes (Reservation of Appointments or posts in the services under the state) Act, 1995
100	1997	17	The Sivagiri Mutt (Emergency Provisions) Act, 1997
101	1998	5	The Kerala Stay of Eviction Proceedings Act, 1998
102	1999	26	The Kerala Stay of Eviction Proceedings Act, 1999

Sl. No.	Year & Act No	Short title
(1)	(2)	(3)
<b>Amendment Acts</b>		
103.	1956 III	The Municipal (Temporary Provisions) Amendment Act, 1956.
104	" IV	The Holdings (Stay of Execution Proceedings) Amendment Act, 1956
105.	" V	The Travancore-Cochin Payment of Salaries and Allowances (Amendment ) Act, 1956
106	" VI	The Travancore - Cochin Court Fees (Amendment) Act, 1956
107	" VIII	The Travancore-Cochin General Sales Tax (Amendment), Act, 1956.
108	" I	The Travancore - Cochin State Aid to Industries ( Amendment )Act, 1956
109.	" II	The Travancore - Cochin Agricultural Pests and Diseases (Amendment) Act, 1956
110	" IV	The Travancore- Cochin Land Conservancy (Amendment) Act, 1956.
111	" V	The Travancore - Cochin Police (Amendment) Act, 1956
112.	" VIII	The Travancore-Cochin Interpretation and General Clauses (Amendment) Act 1956
113	" IX	The Municipal (Amendment) Act, 1956
114.	1957 2	The Legislative Assembly (Removal of Disqualifications) Amendment Act, 1957
115	" 3	The Travancore-Cochin Interpretation and General Clauses (Amendment) Act, 1957
116	" 4	The Kerala Sales Tax Laws (Amendment) Act, 1957
117	" 5	The Code of Criminal Procedure (Kerala Amendment) Act, 1957
118	" 3	The Koodalmanickom Devaswom Proclamation (Amendment) Act, 1957
119	" 4	The Payment of Salaries and Allowances (Amendment) Act, 1957
120.	" 7	The Kerala Stay of Eviction Proceedings (Amendment) Act, 1957
121	" 8	The Travancore-Cochin Agricultural Income Tax (Amendment) Act, 1957
122	" 10	The Travancore-Cochin Land Tax (Amendment) Act, 1957
123	" 12	The Travancore-Cochin General Sales Tax (Amendment) Act, 1957
124.	" 13	The Code of Civil Procedure (Kerala Amendment) Act, 1957.
125.	" 16	The Travancore-Cochin Irrigation (Amendment) Act, 1957.

Sl No (1)	Year & Act No (2)	Short title (3)
126	" 18	The Travancore-Cochin Insolvency (Amendment) Act, 1957
127	1958 1	The Kerala Stay of Eviction Proceedings (Second Amendment) Act, 1957
128	" 2	The Agricultural Income Tax (Amendment) Act, 1957
129	" 3	The Travancore-Cochin Forest (Amendment) Act, 1957
130	" 4	The Madras District Board (Amendment) Act, 1957
131	" 5	The Madras Village Panchayats (Amendment) Act, 1957
132	" 7	The General Sales Tax (Amendment) Act, 1957
133	" 10	The Madras Preservation of Private Forest (Amendment) Act, 1957
134	" 12	The Madras Building (Lease and Rent Control) Amendment) Act, 1957
135	" 19	The Madras Buildings (Lease and Rent Control) Amendment Act, 1958
136	" 21	The General Sales Tax (Amendment) Act, 1958
137	" 22	The General Sales Tax (Second Amendment) Act, 1958
138	" 24	The Madras Essential Articles Control and Requisitioning (Temporary Powers) Amendment Act, 1958
139	" 25	The Payment of Salaries and Allowances (Amendment) Act, 1958
140	" 26	The Madras Marumakkattayam (Amendment) Act, 1958
141	" 30	The Kerala Stay of Eviction Proceedings (Amendment) Act, 1958
142	" 36	The Travancore-Cochin Hindu Religious Institutions (Amendment) Act, 1958
143	" 37	The Electricity Duty (Amendment) Act, 1958
144	" 40	The General Sales Tax (Third Amendment) Act, 1958
145	" 41	The Electricity Duty (Second Amendment) Act, 1958
146	" 44	The Madras District Municipalities (Amendment) Act, 1958
147	" 48	The Madras Preservation of Private Forests (Amendment) Act, 1958
148	1959 1	The Madras Buildings (Lease and Rent Control) Second Amendment Act, 1958
149	" 2	The Indian Registration (Kerala Amendment) Act, 1958
150	" 3	The Essential Articles Control and Requisitioning (Temporary Powers) Amendment Act, 1958
151	" 4	The Travancore-Cochin Requisition and Acquisition of Property (Amendment) Act, 1958
152	" 7	The Kerala Co-operative Societies Laws (Amendment) Act, 1958

Sl. No (1)	Year & Act No (2)	Short title (3)
153	" 9	The Madras District Municipalities (Amendment) Act, 1959
154	" 11	The Agricultural Income Tax (Amendment) Act, 1959
155	" 12	The Kerala Civil Courts (Amendment) Act, 1958
156	" 14	The General Sales Tax (Amendment) Act, 1959
157	" 15	The Kerala Stay of Eviction Proceedings (Amendment) Act, 1959
158	" 27	The Kerala Local Authorities Laws (Amendment) Act, 1959 (Central Act 27 of 1959)
159	" 42	The Travancore-Cochin Vehicles Taxation (Amendment and Validation) Act, 1959 (Central Act 42 of 1959)
160	1960 2	The Payment of Salaries and Allowances (Amendment) Act, 1960
161	" 3	The General Sales Tax (Amendment) Act, 1960
162	" 5	The Kerala Stay of Eviction Proceedings (Amendment) Act, 1960
163	" 7	The Kerala Weights and Measures (Enforcement) Amendment Act, 1960
164	" 8	The Kerala Education (Amendment) Act, 1960
165	" 11	The General Sales Tax (Second Amendment) Act, 1960
166	" 12	The Kerala Surcharge on Tax (Amendment) Act, 1960
167	" 13	The Agricultural Income-tax (Amendment) Act, 1960
168	" 15	The Kerala Khadi and Village Industries Board (Amendment) Act, 1960
169.	" 18	The Minimum Wages (Kerala Amendment) Act, 1960
170.	" 21	The Kerala Stay of Eviction Proceeding (Second Amendment) Act, 1960
171	" 22	The Kerala Cinemas (Regulation) Amendment Act, 1960
172.	" 23	The Kerala Municipal Laws (Amendment) Act, 1960
173	" 25	The Travancore-Cochin Prohibition (Amendment) Act, 1960
174	" 29	The Madras Preservation of Private Forest (Amendment) Act, 1960
175.	" 31	The Travancore Town Planning (Amendment) Act, 1960.
176	" 35	The Kerala Education (Second Amendment) Act, 1960
177	" 36	The Malabar Tenancy (Amendment) Act, 1960
178.	1961 2	The Kerala Agriculturists Debt Relief (Amendment) Act, 1960
179	" 9	The Agricultural Income Tax (Amendment) Act, 1961
180.	" 10	The Agricultural Income Tax (Second Amendment) Act, 1961
181.	" 11	The General Sales Tax (Second Amendment) Act, 1961
182	" 15	The Travancore-Cochin Nurses and Midwives (Amendment) Act, 1960



SI No. (1)	Year & (2)	Act No (3)	Short title
183	"	18	The Payment of Salaries and Allowances (Amendment) Act, 1961
184	"	28	The Industrial Disputes (Kerala Amendment) Act, 1961
185	"	29	The Kerala Building ( lease and Rent Control) Amendment Act, 1961
186	"	36	The Madras Preservation of Private Forests (Amendment) Act, 1961
187	"	38	The Calicut City Municipal (Amendment) Act, 1961
188	"	39	The Kerala Municipalities (Second Amendment) Act, 1961
189	"	40	The General Sales Tax (Second Amendment) Act, 1961
190	1962	1	The Requisitioning and Acquisition of Property (Amendment) Act, 1961
191	"	9	The General Sales Tax (Amendment and Validation) Act, 1962
192	"	10	The Kerala Enquiries and Summonses (Amendment) Act, 1962
193	"	12	The Kerala Buildings (Lease and Rent Control) Amendment Act, 1962
194	"	13	The General Sales Tax (Amendment) Act, 1962
195	"	14	The Kerala Agrarian Relations (Amendment) Act, 1962
196	"	15	The Kerala Local Authorities Laws (Amendment) Act, 1962
197	"	16	The General Sales Tax (Second Amendment and Validation) Act, 1962
198	"	19	The Kerala Panchayats (Amendment) Act, 1962
199	"	22	The Kerala Municipalities (Amendment) Act, 1962
200	"	26	The Kerala Agrarian Relations (Second )Amendment Act, 1962
201	"	27	The Kerala Criminal Law Amendment Act, 1962
202.	1963	1	The Kerala Contingency Fund (Amendment) Act, 1963
203.	"	3	The Kerala Police (Amendment) Act, 1963
204	"	8	The Kerala Land Relinquishment (Amendment) Act, 1963.
205,	"	10	The General Sales Tax (Amendment and Validation) Act, 1963
206.	"	11	The Code of criminal Procedure (Kerala Amendment) Act, 1963.
207	"	14	The Kerala Warehouses (Amendment) Act, 1963
208	"	16	The Opium (Kerala Amendment) Act, 1963
209.	"	19	The Kerala Stamp (Amendment) Act, 1963
210.	"	21	The Kerala General Sales Tax (Amendment) Act, 1963
211	"	26	The Kerala Agriculturists Debt Relief (Amendment) Act, 1962.
212	"	29	Kerala Municipalities (Amendment) Act, 1963

SI No (1)	Year & Act No (2)	Short title (3)
213	" 32	The Mappilla Marumakkathayam (Amendment) Act, 1963
214	" 33	The Kerala Money Lenders (Amendment) Act, 1963
215	" 35	The Travancore-Cochin irrigation (Amendment) Act 1963
216	" 36	The Madras Preservation of Private Forests (Amendment) Act, 1963
217	" 41	The Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1963
218	" 42	The Muslim Personal Law (Shariat) Application (Kerala Amendment) Act, 1963
219	1964 2	The Kerala Tenants and Kudikidappukars Protection (Amendments) Act, 1964
220	" 3	The Kerala Anatomy (Amendment) Act 1964
221	" 5	The Madras Commercial Crops Markets (Amendment and Validation) Act, 1964
222	" 6	The Trivandrum City Municipal (Amendment) Act, 1964
223	" 10	The Travancore Chitties (Amendment) Act, 1964
224	" 12	The Agricultural Income Tax (Amendment) Act, 1964
225	" 13	The Calicut City Municipal (Amendment) Act, 1964
226	" 14	The Nurses and Midwives (Amendment) Act, 1964
227	" 15	The Kerala Weights and Measures (Enforcement) Amendment Act, 1964
228	" 1	The Kerala Abkari Laws (Amendment and Validation) Act, 1964
229	" 2	The Kerala Revenue Recovery Laws (Amendment) Act, 1964
230	1965 5	The Kerala Khadi and Village Industries Board (Amendment) Act, 1965
231	1966 2	The Kerala Surcharge on Taxes (Amendment and Validation) Act, 1966
232	" 3	The Kerala University (Amendment) Act, 1966
233	" 4	The Kerala Land Acquisition (Amendment) Act, 1966
234	" 6	The Kerala High Court (Amendment) Act, 1966
235	" 7	The Kerala Buildings (Lease and Rent Control) Amendment Act, 1966
236	" 8	The Kerala Court Fees and Suits Valuation (Amendment) Act, 1966
237	" 11	The Kerala University (Amendment) Amendment Act, 1966
238	" 13	The Kerala Land Relinquishment (Amendment) Act, 1966.
239	1967 2	The Kerala University (Amendment) Amendment Act, 1967
240	" 5	The Kerala General Sales Tax (Amendment) Act, 1967
241	" 3	The Kerala Gift Goods (Unlawful Possession) Amendment Act, 1967
242	" 4	The Kerala Municipalities (Amendment) Act, 1967
243	" 5	The Prohibition (Amendment) Act, 1967
244	" 7	The Kerala University (Amendment) Act, 1967
245	" 10	The Cochin Abkari (Extension and Amendment) Act, 1967

Sl No.	Year & Act No.	Short title
(1)	(2)	(3)
246.	" 13	The Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1967
247.	" 16	The Kerala General Sales Tax (Second Amendment) Act, 1967
248.	" 17	The Kerala Stamp (Amendment) Act, 1967
249.	" 18	The Agricultural Income-tax (Amendment) Act, 1967
250.	" 19	The Kerala Plantations (Additional Tax) Amendment Act, 1967
251.	" 21	The Kerala Khadi and Village Industries Board (Amendment) Act, 1967
252.	" 22	The Kerala Panchayat (Amendment) Act, 1967
253.	" 24	The Kerala Motor Vehicles Taxation (Amendment) Act, 1967
254.	" 25	The Kerala Motor Vehicles (Taxation of Passengers and Goods) Amendment Act, 1967
255.	1968 2	The Payment of Salaries and Allowances (Amendment) Act, 1968
256.	" 3	The Kerala General Sales Tax (Amendment) Act, 1968
257.	" 4	The Kerala Municipal Laws (Amendment) Act, 1968
258.	" 5	The Madras Preservation of Private Forests (Amendment) Act, 1968
259.	" 6	The Requisitioning and Acquisition of Property (Amendment) Act, 1968
260.	" 7	The Indian Registration (Kerala Amendment) Act, 1968
261.	" 10	The Kerala Surcharge on Taxes (Amendment) Act, 1968
262.	" 12	The Madras Hindu Religious and Charitable Endowments (Amendment) Act, 1968
263.	" 13	The Kerala Cattle Trespass (Amendment) Act, 1968
264.	" 14	The Legislative Assembly (Removal of Disqualification) Amendment Act, 1968
265.	" 16	The Motor Vehicles (Kerala Amendment) Act, 1968
266.	" 18	The Kerala University (Amendment) Act, 1968
267.	" 21	The Town Planning Laws (Amendment) Act, 1968
268.	" 22	The Kerala Land Tax (Amendment) Act, 1968
269.	" 23	The Kerala Panchayats (Amendment) Act, 1968
270.	" 27	The Payment of Salaries and Allowances ( Second Amendment) Act, 1968
271..	" 28	The Kerala Live-Stock Improvement (Amendment) Act, 1968
272.	" 29	The Kerala Land Acquisition (Amendment and Validation) Act, 1968

Sl. No (1)	Year & Act No (2)	Short title (3)
273	1969	3 The Kerala Land Development (Amendment) Act, 1969
274	"	4 The Madras Preservation of Private Forests (Amendment) Act, 1969
275.	"	5 The Kerala Stay of Eviction Proceedings (Amendment) Act, 1969
276	"	8 The Kerala Industrial Establishments (National and Festival Holidays) Amendment Act, 1969
277.	"	12 The Kerala Court Fees and Suits Valuation (Amendment) Act, 1969
278.	"	13 The Kerala Panchayat (Amendment) Act, 1969
279	"	15 The Kerala General Sales Tax (Amendment) Act, 1969
280	"	16 The Abkan (Amendment) Act, 1969
281	"	18 The Kerala Sales tax (Levy and Validation) Amendment Act, 1969
282	"	23 The Kerala Irrigation Works (Execution by Joint Labour) Amendment Act, 1969
283	"	24 The Motor Vehicles (Kerala Amendment) Act, 1969.
284	"	25 The Plantations Labour (Kerala Amendment) Act, 1969
285	"	28 The Kerala Municipal Corporations (Amendment) Act, 1969
286	"	29 The Kerala Stamp (Amendment) Act, 1969
287	"	30 The Kerala Electricity Duty (Amendment) Act, 1969
288	"	31 The Kerala Education (Amendment) Act, 1969
289	"	32 The Kerala Shops and Commercial Establishments (Amendment) Act, 1969
290	"	33 The Kerala Local Authorities Entertainment Tax (Amendment) Act, 1969
291	"	34 The Payment of Wages (Kerala Amendment) Act, 1969
292	1970	1 The Kerala Municipal Corporations (Amendment) Act, 1970
293	"	4 The Kerala University (Amendment) Act, 1970
294	"	5 The Kerala Public Services (Amendment) Act, 1970
295	"	7 The Madras Preservation of Private Forests (Amendment) Act 1970
296.	"	12 The Calicut University (Amendment) Act, 1970
297	"	14 The Kerala General Sales tax Amendment) Act, 1970
298	"	15 The Agricultural Income-tax (Amendment) Act, 1970
299	"	16 The Kerala Surcharge on Taxes (Amendment) Act, 1970
300	1971	4 The Kerala Municipalities (Amendment) Act, 1971
301	"	8 The Public Wakfs (Extension of Limitation) Kerala Amendment Act, 1971
302	"	9 The Madras Preservation of Private Forests (Amendment) Act, 1971

Sl. No.	Year & Act No	Short title
(1)	(2)	(3)
303	" 10	The Madras Preservation of Private Forests (Second Amendment) Act, 1971
304	" 11	The Kerala Land Conservancy (Amendment) Act, 1971
305	" 12	The Agricultural Income-tax (Amendment) Act, 1971
306	" 13	The Kerala University (Amendment) Act, 1971
307	" 16	The Kerala Panchayat (Amendment) Act, 1971
308	" 18	The Kerala Motor Vehicles (Taxation of Passengers and Goods) Amendment Act, 1970
309	" 22	Agricultural Income-tax (Second Amendment) Act, 1971
310	" 28	The Kerala Plantation Tax (Amendment) Act, 1971
311	" 29	The Kerala General Sales tax (Amendment) Act, 1971
312	" 34	The Motor Vehicles (Kerala Third Amendment) Act, 1971
313	" 35	The Motor Vehicles (Kerala Second Amendment) Act, 1971
314	" 36	The Motor Vehicles (Kerala Amendment) Act, 1971
315	" 38	The Kerala Co-operative Societies (Amendment) Act, 1971
316	1972 1	The Calicut University (Amendment) Act, 1971
317	" 2	The Kerala University (Second Amendment) Act, 1971
318	" 3	The Kerala Cultivators and Tenants (Temporary Protection) Amendment Act, 1971.
319	" 4	The Kerala Court Fees and Suits Valuation (Amendment) Act, 1972
320	" 9	The Kerala Land Tax (Amendment) Act, 1972
321	" 10	The Kerala Agricultural University (Amendment) Act, 1972
322	" 11	The Kerala General Sales Tax (Amendment) Act, 1972
323	" 12	The Kerala Motor Vehicles Taxation (Amendment) Act, 1972
324	" 13	The Calicut University (Amendment) Act, 1972
325	" 14	The Kerala General Sales tax (Second Amendment) Act, 1972.
326	" 15	The Kerala Contingency Fund (Amendment) Act, 1972
327	" 18	The Wakf (Kerala Amendment) Act, 1972
328	" 20	The Kerala University (Amendment) Act, 1972
329	" 21	The Kerala Stamp (Second Amendment) Act, 1972
330	" 22	The Pattazhi Devaswom Lands (Vesting and Enfranchisement) Amendment Act, 1972.
331	" 23	The Kerala Survey and Boundaries (Amendment) Act, 1972
332	" 24	The Kerala Electricity Duty (Amendment) Act, 1972.
333	" 26	The Kerala Municipalities (Amendment) Act, 1972.
334	" 27	The Payment of Salaries and Allowances (Amendment) Act, 1972.
335	" 28	The Guruvayoor Devaswom (Amendment) Act, 1972
336	" 29	The Kerala Municipal Corporations (Amendment) Act, 1972
337	1973 2	The Kerala Buildings (Lease and Rent Control) Amendment Act, 1972

Sl. No.	Year & Act No	Short title
(1)	(2)	(3)
338	" 4	The Kerala Motor Vehicles (Taxation of Passengers and Goods) Amendment Act, 1972
339	" 7	The Kerala Stamp (Amendment) Act, 1973
340	" 8	The Kerala Additional Tax on Entertainment and Surcharge on Show Tax (Amendment) Act, 1973
341	" 9	The Kerala Municipalities (Amendment) Act, 1973
342	" 10	The Kerala Preservation of Private Forests (Amendment) Act, 1973
343	" 11	The Kerala Land Reforms (Amendment) Act, 1973
344	" 12	The Kerala Land Reforms (Amendment) Amending Act, 1973
345	" 13	The Kerala Agriculturists' Debt Relief (Amendment) Act, 1973
346	" 14	The Abkari (Amendment) Act, 1973
347	" 15	The Kerala Official Language (Legislation) Amendment Act, 1973
348	" 16	The Kerala Land Development (Amendment) Act, 1973
349	" 17	The Prohibition (Amendment) Act, 1973
350	" 18	The Kerala Agricultural University (Amendment) Act, 1973
351	" 20	The Payment of Salaries and Allowances (Amendment) Act, 1973
352	" 22	The Kerala civil Courts (Amendment) Act, 1973
353	" 24	The Kerala Gaming (Amendment) Act, 1973
354	" 25	The Indian Partnership (Kerala Amendment) Act, 1973
355	" 26	The Kerala Motor Vehicles Taxation (Amendment) Act, 1973.
356	" 28	The Kerala Forest (Amendment) Act, 1973
357	" 31	The Calicut University (Amendment) Act, 1973
358	1974 1	The Kerala General Sales Tax (Amendment) Act, 1974
359	" 2	The Cochin University (Amendment) Act, 1974
360	" 3	The Calicut University (Amendment) Act, 1974
361	" 4	The Kerala University (Amendment) Act, 1974
362	" 6	The Kerala Agricultural University (Amendment) Act, 1974
363	" 8	The Kerala Co-operative Societies (Amendment) Act, 1974
364	" 9	The Agricultural Income Tax (Amendment) Act, 1974
365	" 11	The Kerala Money Lenders (Amendment) Act, 1974
366	" 13	The Payment of salaries and allowances (Amendment) Act, 1974
367	" 16	The Kerala Buildings (Lease and Rent Control) Amendment Act, 1974
368	" 19	The Kerala General Sales Tax (Second Amendment) Act, 1974
369	" 20	The Travancore-Cochin Hindu Religious Institutions (Amendment) Act, 1974.
370	" 22	The Kerala General Sales Tax (Third Amendment) Act, 1974
371	" 23	The Kerala Forest (Amendment) Act, 1974
372	" 24	The Travancore-Cochin Irrigation (Amendment) Act, 1974
373	" 26	The Cochin University (Second Amendment) Act, 1974

Sl. No.	Year & Act No.	Short title
(1)	(2)	(3)
374.	" 27	The Kerala Land Reforms (Amendment) Act, 1974
375.	" 28	The Kerala Municipal Corporations (Amendment) Act, 1974
376.	1975 1	The Public Wakfs (Extension of Limitation) Kerala Amendment Act, 1974
377.	" 6	The Cochin University (Amendment) Act, 1975
378.	" 10	The Abkari (Amendment) Act, 1975
379.	" 11	The Kerala University (Amendment) Act, 1975
380.	" 12	The Kerala Plantation Tax (Amendment) Act, 1975
381.	" 13	The Kerala Electricity Duty (Amendment) Act, 1975
382.	" 14	The Kerala Municipal Corporations (Amendment) Act, 1975
383.	" 15	The Jenmikaram Payment (Abolition) Amendment Act, 1975
384.	" 16	The Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Act, 1975
385.	" 17	The Kerala Khadi and Village Industries Board (Amendment) Act, 1975
386.	" 18	The Kerala Cattle Trespass (Amendment) Act, 1975
387.	" 19	The Kerala Local Authorities Entertainment Tax (Amendment) Act, 1975
388.	" 20	The Additional Tax on Entertainment and Surcharge on Show Tax (Amendment) Act, 1975
389.	" 21	The Kerala Places of Public Resort (Amendment) Act, 1975
390.	" 22	The Kerala Cinemas Regulation (Amendment) Act, 1975
391.	" 24	The Abkari (Second Amendment) Act, 1975
392.	" 26	The Kerala Municipal Corporations (Second Amendment) Act, 1975
393.	" 27	The Cochin University (Second Amendment) Act, 1975
394.	" 28	The Kerala Forest (Amendment) Act, 1975
395.	1976 1	The Kerala University (Amendment) Act, 1976
396.	" 2	The Calicut University (Amendment) Act, 1976
397.	" 3	The Kerala Panchayats (Amendment) Act, 1976
398.	" 4	The Kerala Municipal Corporations (Amendment) Act, 1976
399.	" 6	The University Laws (Amendment) Act, 1976
400.	" 7	The Kerala Municipal Corporation (Second Amendment) Act 1976
401.	" 10	The Prisons Laws (Amendment) Act, 1976
402.	" 11	The Kerala General Sales Tax (Amendment) Act, 1976
403.	" 12	The Kerala General Sales Tax (Second Amendment) Act, 1976
404.	" 13	The Agricultural Income Tax (Amendment) Act, 1976
405.	" 18	The Town Planning Laws (Amendment) Act, 1976
406.	" 21	The Travancore Cochin Hindu Religious Institutions (Amendment) Act, 1976
407.	" 22	The Koodalmanickam Devaswam (Amendment) Act, 1976
408.	" 33	The Kerala Escheats and Forfeitures (Amendment) Act, 1976
409.	" 34	The Kerala Plantation Tax (Amendment) Act, 1976

Sl. No.	Year & Act No	Short title
(1)	(2)	(3)
410	" 35	The Kerala Municipal Corporations (Third Amendment) Act, 1976
411.	" 36	The Kerala Children (Amendment) Act, 1976
412.	" 38	The Kerala Court Fees and Suits Valuation (Amendment) Act, 1976
413	" 39	The Kerala Court Fees and Suits Valuation (Second Amendment) Act, 1976
414.	" 40	The Kerala Surcharge on Taxes (Amendment) Act, 1976
415	" 41	The Agricultural Income Tax (Second Amendment) Act, 1976
416	" 42	The Kerala Municipal Corporations (Fourth Amendment) Act, 1976
417	" 43	The Kerala Panchayat (Second Amendment) Act, 1976
418	" 44	The Kerala Panchayat (Third Amendment) Act, 1976
419	" 45	The Kerala General Sales Tax (Third Amendment) Act, 1976
420	" 47	The Kerala Land Development (Amendment) Act, 1976
421	1977 2	The Trivandrum Municipal Corporation (Dissolution) Amendment Act, 1976
422	" 4	The Kerala Municipal Corporations (Fifth Amendment) Act, 1976
423	" 7	The Motor Vehicles (Kerala Amendment) Act, 1976
424	" 14	The Calicut University (Amendment) Act, 1977
425	" 15	The Kerala Land Development Corporation Limited (Special Powers) Amendment Act, 1977
426	" 16	The Kerala Tax on Employment (Amendment) Act, 1977
427	" 18	The Sree Pandaravaka Lands ( Vesting and Enfranchisement) (Amendment) Act, 1977
428	" 21	The Kerala Electricity Duty (Amendment) Act, 1977
429	" 22	The Payment Salaries and Allowances (Amendment) Act, 1977
430	" 23	The University Laws (Amendment) Act, 1977
431	1978 2	The Kerala Contingency Fund (Amendment) Act, 1978
432	" 3	The Irrigation Laws (Amendment) Act, 1978
433	" 4	The Prohibition (Amendment) Act, 1978
434	" 6	The Kerala Panchayats (Amendment) Act, 1978
435	" 7	The Kerala Municipalities (Amendment) Act, 1978
436	" 8	The Kerala Co-operative Land Mortgage Banks (Amendment) Act, 1978
437.	" 10	The Trivandrum Municipal Corporation (Dissolution) Amendment Act, 1978
438.	" 11	The Calicut Municipal Corporation (Extension of Time for Re-constitution ) Amendment Act, 1978
439	" 12	The Kerala Municipal Corporations (Amendment) Act, 1978
440	" 15	The Valiamma Thampuram Kovilakam Estate and the Palace Fund (Partition) and the Kerala joint Hindu Family System (Abolition) Amendment Act, 1978
441	" 16	The Kerala Panchayats (Second Amendment) Act, 1978
442.	" 19	The Kerala Chitties (Amendment) Act, 1978
443	" 21	The Kerala General Sales Tax (Amendment) Act, 1978
444.	" 23	The University Laws (Amendment) Act, 1978 (Act 23 of 1978)



Sl No.	Year & Act No (1) (2)	Short title (3)
445	" 24	The Kerala Municipal Councils (Extension of Term of Office of Councilors) Amendment Act, 1978
446	" 25	The Trivandrum Municipal Corporation (Dissolution) Second Amendment Act, 1978
447.	" 26	The Calicut Municipal corporation (Extension of Time for Reconstitution) Second Amendment Act, 1978
448	" 27	The Kerala Municipal Corporations (Second Amendment) Act, 1978
449	" 28	The Local Authorities Laws (Amendment) Act, 1978
450	" 30	The Kerala Public Service Commission (Additional Functions as Respects the Services Under Local Authorities) Amendment Act, 1978
451	1979 1	The Kerala Payment of Subsistence Allowance (Amendment) Act, 1978
452	" 3	The Kerala Contingency Fund (Amendment) Act, 1979
453.	" 4	The Legislative Assembly (Removal of Disqualifications) Amendment Act, 1979
454	" 8	The Trivandrum Municipal Corporation (Dissolution) Amendment Act, 1979
455	" 9	The Calicut Municipal corporation (Extension of Time for Reconstitution) Amendment Act, 1979
456	" 10	The Kerala Municipal Corporations (Amendment) Act, 1979
457.	" 11	The Kerala Municipalities (Amendment) Act, 1979
458	" 13	The Kerala Municipalities (Second Amendment) Act, 1979
459	" 16	The Kerala Additional Sales Tax (Amendment) Act, 1979
460	" 17	The Payment of Salaries and Allowances (Amendment) Act, 1979
461	" 19	The University Laws (Amendment) Act, 1979
462	" 20	The Kerala Public Services (Amendment) Act, 1979
463	" 21	The Calicut University (Amendment) Act, 1979
464	" 22	The Payment of Salaries and Allowances (Second Amendment) Act, 1979
465	" 23	The University Laws (Second Amendment) Act, 1979
466	" 25	The Kanam Tenancy Abolition (Amendment) Act, 1979
467.	" 26	The Kanam Tenancy Abolition (Second Amendment) Act, 1979
468	" 28	The Kerala Debt Relief (Amendment) Act, 1979
469	" 30	The Industrial Disputes (Kerala Amendment) Act, 1979
470.	" 31	The Kerala Municipalities (Third Amendment) Act, 1979
471.	" 32	The Kerala Panchayat (Amendment) Act, 1979
472.	" 33	The Kerala Police (Amendment) Act, 1979
473	" 34	The Kerala Shops and Commercial Establishments (Amendment) Act, 1979

Sl No (1)	Year & Act No (2)	Short title (3)
474	" 35	The Kerala Industrial Establishments (National and Festival Holidays) Amendment Act, 1979
475	" 36	The Kerala Police (Second Amendment) Act, 1979
476	1980 2	The Kerala University (Amendment) Act, 1980
477	" 5	The Payment of Salaries & Allowances (Amendment) Act, 1980
478	" 6	The Calicut University (Amendment) Act, 1980
479	" 15	The Kerala Agricultural University (Amendment) Act, 1980
480	" 17	The Agricultural Income-tax (Amendment) Act, 1980
481	" 18	The Kerala Plantation Tax (Amendment) Act, 1980
482	" 19	The Kerala General Sales Tax (Amendment) Act, 1980
483	1981 2	The Madras Commercial Crops Markets (Amendment) Act, 1980
484	" 3	The Kerala Land Acquisition (Amendment) Act, 1980
485	" 4	The Kerala Municipalities (Amendment) Act, 1980
486	" 5	The Kerala Forest (Amendment) Act, 1980
487	" 6	The Kerala Building Tax (Amendment) Act, 1980
488	" 8	The Kanam Tenancy Abortion (Amendment) Act, 1980
489	" 9	The Kerala Relief undertakings (Special provisions) Amendment Act 1980
490	" 11	The Madras Hindu Religious and Charitable Endowments (Amendment) Act 1980
491	" 16	The payment of salaries and allowance (Amendment) Act, 1981
492	" 21	The Kerala State Housing Board (Amendment) Act, 1981
493	" 23	The Kerala General Sales Tax (Amendment) Act, 1981
494	" 25	The Kerala Plantation Tax (Amendment) Act, 1981
495	" 26	The Agricultural Income Tax (Amendment) Act, 1981
496	1982 2	The Payment of Salaries and Allowances (Amendment) Act, 1982
497	" 3	The Kerala Payment of Pension to Members of Legislature (Amendment) Act, 1982
498	1983 3	The Kerala General Sales Tax (Amendment) Act, 1983
499	" 4	The Agricultural Income Tax (Amendment) Act, 1983
500	" 5	The Kerala Raw Cashew nuts (Procurement and Distribution) Amendment Act, 1983
501	" 6	The Kerala Motor Vehicles Taxation (Amendment) Act, 1983
502	" 7	The Electricity (Supply) Kerala Amendment Act, 1983

S/No. (1)	Year & Act No (2)	Short title (3)
503	" 8	The Kerala Co-operative Land Mortgage Banks (Amendment) Act, 1983.
504	" 18	The Kerala Contingency Fund (Amendment) Act, 1983
505	1984 1	The Legislative Assembly (Removal of Disqualification) Amendment Act, 1983
506	" 4	The Kerala Public Service (Amendment) Act, 1983
507	" 21	The Abkari (Amendment) Act, 1984
508	1985 8	The Kerala Fishermen Welfare Societies (Amendment) Act 1985
509	" 9	The Kerala Education (Amendment) Act, 1985
510	" 11	The Kerala Municipalities (Amendment) Act, 1985
511	" 13	The Kerala Revenue Recovery (Amendment) Act, 1985
512	" 22	The Kerala State Co-operative Agricultural Development Banks (Amendment) Act, 1985
513	" 24	The Payment of Salaries and Allowances (Amendment) Act, 1985
514	" 25	The Kerala Cashew factories (Acquisition) Amendment Act, 1985
515	" 26	The Kerala Cashew Factories (Requisitioning) Amendment Act, 1985
516	" 28	The Land Acquisition (Kerala Amendment) Act, 1985
517	" 29	The University Laws (Amendment) Act, 1985
518	1986 8	The Kerala Marine Fishing Regulation (Amendment) Act, 1986
519	" 15	The Kerala Grandhasala Sangham (Taking Over of Management) Amendment Act, 1986
520	" 16	The Payment of Salaries and Allowances (Amendment) Act, 1986
521	" 18	The Kerala Survey and Boundaries (Amendment) Act, 1986
522	" 19	The Kerala Public Buildings (Eviction of Unauthorised Occupants) Amendment Act, 1986
523	" 20	The Kerala Forest (Amendment) Act, 1986
524	" 21	The Kerala General Sales Tax (Amendment) Act, 1986
525	" 22	The Gandhiji University (Amendment) Act, 1986
526	" 23	The Gandhiji University (Second Amendment) Act, 1986
527	" 24	The University Laws (Amendment) Act, 1986
528	" 25	The Kerala Motor Vehicles Taxation (Amendment) Act, 1986
529	" 26	The Kerala Fishermen Welfare Societies (Amendment) Act, 1986
530	" 27	The Kerala Agricultural University (Amendment) Act, 1986.
531,	" 28	The Kerala Marine Fishing Regulation (Second Amendment) Act, 1986
532	" 29	The Kerala Co-operative Societies (Amendment) Act, 1986
533	" 30	The Kerala Money Lenders (Amendment) Act, 1986

Sl No (1)	Year & Act No. (2)	Short title (3)
534	" 32	The Kerala Advocates' Welfare Fund (Amendment) Act, 1986
535	" 33	The Kerala Civil Courts (Amendment) Act, 1986
536	" 34	The Kerala Tolls (Amendment) Act, 1986
537	" 36	The Kerala Private Forests (Vesting and Assignment) Amendment Act, 1986
538	1987 1	The Kerala Labour Welfare Fund (Amendment) Act, 1986
539	" 2	The Kerala Municipalities (Amendment) Act, 1986
540	" 3	The Town Planning Laws (Amendment) Act, 1986
541	" 4	The Kerala Municipal Corporations (Amendment) Act, 1986
542	" 5	The Kerala Municipalities (Second Amendment) Act, 1986
543	" 6	The Kerala Payment of Pension to Members of Legislature (Amendment) Act, 1986
544	" 7	The Kerala Payment of Pension to Members of Legislature (Second Amendment) Act, 1986
545	" 10	The Kerala Municipalities (Amendment) Act, 1987
546	" 11	The Kerala Municipal laws (Amendment) Amending Act, 1987
547	" 13	The Gandhiji University (Amendment) Act, 1987
548	" 14	The Local Authorities Laws (Amendment) Act, 1987
549	" 15	The Kerala Fishermen's Welfare Fund Amendment Act 1987
550	" 16	The Kerala Money-lenders (Amendment) Act, 1987
551	" 19	The Kerala Co-operative Societies (Amendment) Act, 1987
552	" 20	The Kerala High Court (Amendment) Act, 1987
553	" 21	The Code of Criminal Procedure (Kerala Amendment) Act, 1987
554	" 22	The Kerala Panchayat (Amendment) Act, 1987
555	" 23	The Kerala Municipalities (Second Amendment) Act 1987
556	" 24	The Kerala Municipal Corporations (Amendment) Act, 1987
557	" 25	The Kerala Municipal Laws Amendment (Second Amending) Act, 1987

Sl No (1)	Year & Act No (2)	Short title (3)
558	" 33	The Payment of Salaries and Allowances (Amendment) Act, 1987
559	1988 1	The Code of Civil Procedure (Kerala Amendment) Act, 1987
560	" 2	The Kerala Cashew Workers Relief and Welfare Fund (Amendment) Act, 1987
561	" 5	The Kerala Raw Cashew nuts (Marketing and Transport and Fixation of Minimum Price) Amendment Act, 1988/
562	" 6	The Kerala General Sales Tax (Amendment) Act, 1988
563	" 7	The Kerala Co-operative Societies (Amendment) Act, 1988
564	" 8	The Local Authorities Laws (Amendment) Act, 1988
565	" 9	The Kerala Municipal Laws Amendment (Amending) Act, 1988
566	" 10	The Kerala State Housing Board (Amendment) Act, 1988
567	" 11	The Gandhiji University (Amendment and Special Provisions) Act, 1988
568	" 12	The Mahatma Gandhi University (Amendment) Act, 1988
569	" 14	The Kerala Stamp (Amendment) Act, 1988
570	" 15	The Kerala Public Service commission (Additional functions as respects the services under Local Authorities) Amendment Act, 1988
571	" 16	The Kerala Public Service Commission (Additional functions as respects certain corporations and Companies) Amendment Act, 1988
572	" 19	The Kerala Motor Transport Workers' Payment of Fair Wages (Amendment) Act, 1988
573	" 20	The Kerala Grandhasala Sangham (Taking Over of Management) Amendment Act, 1988
574	" 21	The Kerala Corneal Grafting (Amendment) Act, 1988
575	" 23	The Kerala Anatomy (Amendment) Act, 1988
576	1989 3	The Kerala Motor Vehicles Taxation (Amendment) Act, 1989
577	" 4	The Local Authorities Laws(Amendment) Act, 1989
578	" 5	The Cochin University of Science and Technology (Amendment) Act, 1989
579	" 6	The Kerala Agricultural University (Amendment) Act, 1989
580.	" 7	The Kerala Public Men's Corruption (Investigations and Inquiries) Amendment Act, 1989
581	" 8	The Kerala Forest(Amendment)Act, 1989
582.	" 9	The Kerala Forest Produce (Fixation of Selling Price) Amendment Act, 1989.
583.	" 10	The Kerala Electricity Duty (Amendment) Act, 1989
584.	" 11	The Kerala General Sales Tax(Amendment) Act, 1989.
585	" 17	The University Laws (Amendment) Act, 1989

Sl No (1)	Year & Act No (2)	Short title (3)
586	" 18	The Kerala State Rural Development Board (Amendment) Act, 1989
587	" 21	The Kerala Advocates Welfare Fund (Amendment) Act, 1989
588	" 33	The Payment of Salaries and Allowances (Amendment) Act, 1989
589	" 34	The Kerala Payment of Pension to Members of Legislature (Amendment) Act, 1989
590	" 35	The Kerala District Administration (Amendment) Act, 1989
591	" 36	The Kerala High Court (Amendment) Act, 1989
592	1990 3	The Kerala General Sales Tax (Amendment) Act, 1990
593	" 5	The Kerala Tolls (Amendment) Act, 1990
594	" 6	The Kerala Agricultural workers (Amendment) Act, 1960
595	" 7	The Kerala Civil Courts (Amendment) Act, 1990
596	" 8	The Kerala Small Cause Courts (Amendment) Act, 1990
597	" 9	The Kerala Cashew Workers Relief and Welfare Fund (Amendment) Act, 1990
598	" 10	The Kerala Sick Textile Undertakings (Acquisition and Transfer of Undertakings) Amendment Act, 1990
599	" 13	The Kerala Public Service Commission (Additional Functions as Respects the Kerala State Road Transport Corporation) Amendment Act, 1990
600	" 14	The Travancore Cochin Hindu Religious Institutions (Amendment) Act 1990
601	" 15	The Travancore-Cochin Hindu Religious Institutions (Second Amendment) Act, 1990.
602	" 16	The University Laws (Amendment) Act, 1990
603	" 17	The Cochin University of Science and Technology (Amendment) Act, 1990
604	" 18	The Kerala District Administration (Amendment) Act, 1990
605	" 19	The Kerala State Co-operative Agricultural Development Banks (Amendment) Act, 1990
606	" 20	The Travancore-Cochin Hindu Religious Institutions (Third Amendment) Act, 1990
607	" 24	The Kerala Industrial Establishments (National and Festival Holidays) Amendment Act, 1990
608	" 25	The Kerala Relief Undertakings (Special Provisions) Amendment Act, 1990.
609	1991 1	The Kerala Building Tax (Amendment) Act, 1990
610	" 2	The Payment of Salaries and Allowances (Amendment) Act, 1990
611	" 3	The Travancore-Cochin Hindu Religious Institutions (Fourth Amendment) Act, 1990
612	" 4	The Kerala State Housing Board (Amendment) Act, 1990

Sl. No	Year & Act No.	Short title
(1)	(2)	(3)
613	" 5	The Kerala Public Men's Corruption (Investigations and Inquiries) Amendment Act, 1990
614	" 6	The Kerala Court Fees and Suits Valuation (Amendment) Act, 1991
615	" 16	The Kerala Stamp (Amendment) Act, 1991
616	" 19	The Kerala Provisional Collection of Revenues (Amendment) Act, 1991
617	" 21	The Kerala District Administration (Amendment) Act 1991
618	" 22	The Kerala Panchayats (Amendment) Act, 1991
619	" 25	The Kerala Payment of Pension to Members of Legislature (Amendment) Act, 1991
620	" 26	The Payment of Salaries and Allowances (Second Amendment) Act, 1991
621	" 27	The Kerala Public Libraries (Kerala Granthasala Sanghom) Amendment Act, 1991
622	1992 3	The Kerala Building Tax(Amendment) Act, 1992.
623	" 4	The Kerala Publicmen Corruption (Investigations and Enquiries) Amendment Act, 1992
624	" 5	The Kerala Co-operative Societies (Amendment) Act, 1992
625	" 9	The Payment of salaries and Allowances (Amendment) Act, 1992
626	1993 2	The Kerala Forest (Amendment) Act, 1993
627	" 4	The Kerala Municipalities (Amendment) Act, 1993
628	" 5	The Kerala Municipal Corporations (Amendment) Act, 1993
629	" 6	The Kerala Water Supply and Sewerage (Amendment) Act,1993
630	" 7	The Kerala Motor Vehicles Taxation (amendment) Act, 1993.
631.	" 8	The Kerala Advocate's Welfare Fund (Amendment) Act, 1993
632	" 12	The Motor Vehicles (Kerala Amendment) Act, 1993
633	" 16	The Kerala Co-operative Societies (Amendment) Act, 1993
634	1994 2	The University Laws (Amendment) Act, 1994
635	" 3	The Travancore-Cochin Hindu Religious Institutions (Amendment) Act, 1994
636	" 7	The Kerala Labour Welfare Fund (Amendment) Act, 1994
637	" 8	The Kerala Headload Workers (Amendment) Act, 1994
638	" 11	The Payment of Salaries and Allowances (Amendment) Act, 1994
639	" 12	The Kerala Payment of Pension to Members of Legislature (Amendment) Act, 1994
640.	" 17	The Kerala Contingency Fund (Amendment) act, 1994
641	" 22	The Kerala Survey and Boundaries (Amendment) Act, 1994.
642	1995 3.	The Kerala Agricultural University (Amendment ) Act, 1995.
643	" 6.	The Kerala Co-operative Societies (Amendment ) Act, 1995.
644	" 9.	The University Laws (Amendment ) Act, 1995

SI No (1)	Year & (2)	Act No (2)	Short title (3)
645	"	10	The Travancore-Cochin Hindu Religious Institutions (Amendment) Act, 1995
646	"	11	The Kerala General Sales Tax (Amendment) Act, 1995
647	"	12	The Abkari (Amendment) Act, 1995
648	"	14	The Kerala Cashew Factories (Acquisition) Amendment Act, 1995
649	"	15	The Kerala Advocates Welfare Fund (Amendment) Act, 1995
650	1996	3	The Kerala Toddy Worker's Welfare Fund (Amendment) Act, 1996
651	"	4	The Abkari (Amendment) Act, 1996
652	"	6	The Kerala Civil Courts (Amendment) Act, 1996
653	"	7	The Kerala Panchayat Raj (Amendment) Act, 1996
654	"	8	The Kerala Municipality (Amendment) Act, 1996
655	1997	1	The Indian Succession (Kerala Amendment) Act, 1996
656	"	4	The Payment of Salaries and Allowances (Amendment) Act, 1997
657	"	5	The Kerala Motor Transport Workers Payment of fair wages (Amendment) Act, 1997
658	"	7	The Kerala Agricultural University (Amendment) Act, 1997
659	"	8	The Kerala Payment of Pension to Members of Legislature (Amendment) Act, 1997
660	"	9	The Kerala Co-operative Societies (Amendment) Act, 1997
661	"	15	The Kerala Co-operative Societies (Second Amendment) Act, 1997
662	"	16	The Abkari (Amendment) Act, 1997
663	1998	1.	The Kerala Public Libraries (Kerala Grandhasala Sangham) Amendment Act, 1997
664	"	2	The Calicut University (Amendment) Act, 1997
665	"	7	The Guruvayoor Devaswom (Amendment) Act, 1998
666	"	8	The Kerala Panchayat Raj (Amendment) Act, 1998
667	"	9	The Kerala Coir Workers' Welfare Fund (Amendment) Act, 1998
668	"	11	The Kannur University (Amendment) Act, 1998
669	"	18	The Kerala State Rural Development Board (Amendment) Act, 1998
670	"	19	The Calicut University (Amendment) Amending Act, 1998,
671	"	20	The Kerala Public Libraries (Kerala Grandhasala Sangham) Amendment Act, 1998
672	"	21	The Registration (Kerala Amendment) Act, 1998
673	1999	1	The Plantations Labour (Kerala Amendment) Act, 1998
674	"	9	The Travancore-Cochin Hindu Religious Institutions (Amendment) Act, 1999
675	"	10	The Kerala General Sales Tax (Amendment) Act, 1999
676	"	13	The Kerala Panchayat Raj (Amendment) Act, 1999
677	"	14	The Kerala Municipality (Amendment) Act, 1999



Sl. No (1)	Year & Act No. (2)	Short title (3)
678	" 17	The Kerala Fishermen's Welfare Fund (Amendment) Act, 1999
679	" 18	The Kerala State Co-operative Agricultural and Rural Development Banks (Amendment) Act, 1999
680	" 25	The Payment of Salaries and Allowances (Amendment) Act, 1999
681	2000 1	The Kerala Co-operative Societies (Amendment) Act, 1999
682	" 2	The Kerala Lok Ayukta (Amendment) Act, 1999
683	" 7	The Kerala Police (Amendment) Act, 2000
684	" 8	The Kerala General Sales Tax (Amendment) Act, 2000
685	" 9	The Kerala Surcharge on Taxes (Amendment) Act, 2000
686	" 10	The Kerala State Commission for Backward Classes (Amendment) Act, 2000
687	" 13	The Kerala Panchayat Raj (Amendment) Act, 2000
688	" 14	The Kerala Municipality (Amendment) Act, 2000
689	" 15	The Kerala Payment of Pension to Members of Legislature (Amendment) Act, 2000
690	" 17	The Kerala Command Area Development (Amendment) Act, 2000
691	2001 8	The Kerala Advocates Welfare Fund (Amendment) Act, 2001
692	" 9	The University Laws (Amendment) Act, 2001
693	" 12	The Kerala Panchayat Raj (Amendment) Act, 2001
694	" 14	The Kannur University (Amendment) Act, 2001
695	" 16	The Kerala Agricultural University (Amendment) Act, 2001
696	" 17	The Kerala Handloom Workers Welfare Fund (Amendment) Act, 2001
697	" 20	The Guruvayoor Devaswam (Amendment) Act, 2001

## **STATEMENTS OF OBJECTS AND REASONS**

The periodical repealing of Acts help to remove from the Statute Book those laws which are obsolete or are no longer needed. Expired enactments having been limited to endure only for specified period or purpose or which had merely enacted for the continuance of previous temporary enactments need not be kept alive in the Statute Book. Obsolete enactments which are no longer capable of being put into force or exhausted its operation by the accomplishment of the objects also can be removed from the Statute Book.

Amendment Acts are not necessary to be retained in the Statute Book as separate acts, since they became part of their parent acts.

The Bill seeks to achieve the above object.

## **FINANCIAL MEMORANDUM**

The Bill, if enacted and brought into operation, could not involve any expenditure from the consolidated fund of the State.