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Fourteenth Kerala Legislative Assembly

Bill No. 149

**THE KERALA CONSERVATION OF PADDY LAND AND
WETLAND (AMENDMENT) BILL, 2018**

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WETLAND (AMENDMENT) BILL, 2018**

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[Translation in English of the “2018-ലെ കേരള നെൽവയൽ-തണ്ണീർത്തട സംരക്ഷണ (ഭേദഗതി) ബിൽ” published under the authority of the Governor.]

THE KERALA CONSERVATION OF PADDY LAND AND
WETLAND (AMENDMENT) BILL, 2018

A

BILL

further to amend the Kerala Conservation of Paddy Land and Wetland Act, 2008.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Conservation of Paddy Land and Wetland Act, 2008 (28 of 2008) for the purposes hereinafter appearing;

BE it enacted in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 30th day of December, 2017.

2. *Amendment of section 2.*—In the Kerala Conservation of Paddy Land and Wetland Act, 2008 (28 of 2008) (hereinafter referred to as the principal Act), in section 2,—

(i) clause (i) shall be renumbered as clause (iA) and before clause (iA) as so renumbered, the following clause shall be inserted, namely:—

“(i) “Change of nature of unnotified land” means such act or series of acts whereby the nature of an unnotified land is changed or has been changed irreversibly and in such a manner that it cannot be reverted back to the original condition by ordinary means;”;

(ii) in clause (vi), after the words "paddy land", the words "or unnotified land" may be inserted;

(iii) after clause (vi), the following clauses shall be inserted, namely:—

"(viA) "fair value" means the fair value of the land fixed under section 28A of the Kerala Stamp Act, 1959 (17 of 1959) or where the fair value of the land has not been fixed, the fair value of the land fixed for similar and similarly situated land;

(viB) "fund" means the Development Fund constituted under Section 27D;"

(iv) in clause (xiv), for the words "for the schemes" the words "for the schemes and projects" shall be substituted and for the words "statutory bodies and other schemes" the words "statutory bodies or other schemes and projects" shall be substituted;

(v) after clause (xvii), the following clauses shall be inserted, namely:—

"(xviiA) "unnotified land" means the lands within the area of jurisdiction of the Committee which have been included as paddy land or wetland in the basic tax register maintained in Village Offices, but are not notified as paddy land or wetland under sub-section (4) of section 5;

(xviiB) "water conservancy measures" means and includes covered or uncovered rain water harvesting structures, surface or underground, including tanks, reservoirs, pits, trenches, ponds or any other structure suitable for collection of rain water or water flowing through paddy land or unnotified land without causing hindrance to the free flow of water to neighbouring paddy lands and drainage channels;"

3. *Amendment of section 5.*—In section 5 of the principal Act,—

(1) in sub-section (3), for item (i), the following items shall be substituted, namely:—

"(i) subject to the provisions of this Act, to recommend to the District Level Authorised Committee for the reclamation of paddy land, for construction of residential building for the owner of the paddy land:

Provided that the Committee shall not recommend for filling of paddy land of more than ten cents in a Panchayat or five cents in a Municipality/ Corporation, as the case may be, for the construction of residential building for the owner of the paddy land;

(iA) subject to the provisions of this Act, to report to the State Level Committee for the reclamation of paddy lands for public purpose, within one month from the date of receipt of the application:

Provided that the report shall contain the effect of such reclamation on the cultivation in adjoining paddy lands, the measures to be adopted to ensure free flow of water to the adjoining paddy lands, if any, and suitable water conservancy measures to be adopted, wherever necessary, and the area where such measures are to be adopted by the applicant;

(iB) the Committee shall not recommend or report under item (i) and (iA) of sub-section (3) unless the application is accompanied by a sketch of the land proposed to be reclaimed, duly prepared by a qualified surveyor or Village Officer, indicating the extent of land in each survey number for which sanction for filling up the paddy land has been sought;”;

(2) in sub-section (4), item (iv) shall be omitted.

4. *Amendment of section 8.*—In section 8 of the principal Act, for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) The State Level Committee shall scrutinize each report from the Committee for filling up or reclamation of paddy land for public purpose and shall examine in detail the effect of such reclamation on the cultivation in the adjoining paddy lands, the measures to be adopted to ensure free flow of water to the adjoining paddy lands and submit a report to Government with recommendations on suitable water conservancy measures and the area where such measures are to be adopted by the applicant, within two months from the date of receipt of the report of the Committee.

(4) The order issued by the Government granting sanction for reclamation of paddy land on receipt of the report of the State Level Committee, shall clearly indicate the survey number and the extent of land in each survey number for which sanction has been accorded, the survey number and the extent of land in which water conservancy measures are to be adopted by the applicant and a sketch of such land indicating the aforementioned details shall be appended to the order.”.

5. *Amendment of section 9.*—In section 9 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) The order issued by the District Level Authorised Committee under sub-section (5) or the District Collector under sub-section (7) shall clearly indicate the survey number and the extent of the land in each survey number for which sanction has been accorded and a sketch of such land indicating the aforementioned details shall be appended to the order.”

6. *Substitution of new section for section 10.*—In the principal Act, for section 10, the following section shall be substituted, namely:—

“10. *Power of Government to grant exemption.*—(1) Notwithstanding anything contained in section 3, the Government may grant exemption from the provisions of this Act, if such conversion or reclamation is essential for any public purpose and shall notify in the Official Gazette.

(2) The Government may grant such exemption after considering the report of the State Level Committee, if in its opinion, such conversion or reclamation will not adversely affect the cultivation of paddy in the adjoining paddy lands, if any, and free flow of water thereto:

Provided that the Government shall ensure suitable water conservancy measures, as required, are adopted by the applicant within the extent for which exemption is granted:

Provided further that, if the area of such parcel of land where the exemption is granted is more than 20.2 ares, ten per cent of such land shall be set apart for water conservancy measures.

(3) The decision of the Government shall clearly indicate the survey number and the extent of land in each survey number for which exemption is granted, the survey number and the extent of land in which water conservancy measures are to be adopted by the applicant and a sketch of such land indicating the aforementioned details shall be appended to the order.

(4) The Government may, in case of non-receipt of report from the State Level Committee within the time specified in sub-section (3) of section 8, call for a report from such other authority as may be prescribed, and proceed to make an order in writing for grant or refusal of exemption.

(5) The Government may either *suo motu* or on application from any aggrieved party cancel any order issued under this section if the conditions specified in the order of exemption are not complied by the applicant, either fully or partially.

(6) No order of cancellation under sub-section (5) shall be made by the Government unless the applicant thereof has been given an opportunity of being heard in the matter.”.

7. *Amendment of section 12.*—In section 12 of the principal Act, in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

“(c) seize any vessel, vehicle or other conveyance or any implements used or purported to be used in contravention of the provisions of this Act or seize any clay, sand, earth etc. used for filling up or removed from the paddy land or wetland in contravention of the provisions of this Act and send a report to the Collector for initiating proceedings for their confiscation;”.

8. *Amendment of section 13.*—In section 13 of the principal Act,—

(i) the existing provision shall be numbered as sub-section (1) of that section and in that sub-section, for the word “Collector” the words “District Collector” shall be substituted;

(ii) after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) Where the decision is to restore the original position of paddy land or wetland, the District Collector may take any action in such manner, as may be prescribed, to dispose clay, sand, earth etc. removed from the paddy land or wetland in the process of such restoration and cause to remit the sums collected to the Fund.”.

9. *Amendment of section 14.*—In section 14 of the principal Act, after the words “a wetland”, the words “or an unnotified land” shall be inserted.

10. *Amendment of section 16.*—In section 16 of the principal Act,—

(1) for sub-section (2), the following sub-section shall be inserted, namely:—

“(2) On receipt of a letter under sub-section (1), the holder of paddy land shall give a reply in writing either granting or denying permission within fifteen days from the date of receipt of such letter.”;

(2) in sub-section (3), for the words "get it cultivated for a fixed period", the words "get it cultivated for a period not exceeding two years at a time" shall be substituted;

(3) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(3A) If the holder of the paddy land does not permit or does not reply to the direction under section 15 or to the request under sub-section (1), the Committee may again request the holder of the paddy land to cultivate it by himself or through any other person of his choice or to grant permission to cause to cultivate the said paddy land through the Panchayat concerned.

(3B) On receipt of a letter under sub-section (3A), the holder of paddy land shall give a reply in writing either granting or denying permission within fifteen days from the date of receipt of such letter.

(3C) If the holder of paddy land fails to give a reply in writing within the period specified in sub-section (3B), it shall be deemed that the holder of the paddy land has granted permission and the Committee shall proceed under sub-section (3H).

(3D) If the holder of the paddy land grants permission, the Committee may proceed as provided in sub-section (3).

(3E) If the holder of the paddy land denies permission, the Committee shall refer the matter to the Revenue Divisional Officer.

(3F) The Revenue Divisional Officer shall, on receipt of such reference, hear the parties concerned and dispose of the matter in thirty days and in so deciding the matter, the Revenue Divisional Officer shall take into consideration whether cultivation in such paddy land is indispensable for the cultivation of adjoining paddy land or for augmenting the paddy cultivation in the State or for such other reasons.

(3G) The decision of the Revenue Divisional Officer shall be communicated to the parties concerned with reasons thereof and the order, denying or granting permission to the Committee for cultivation in such paddy land, shall be appealable before the District Court having jurisdiction as provided in sections 104 and 107 read with Order XLIII of the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(3H) If the Revenue Divisional Officer grants permission under sub-section (3F) or in the case of a deemed permission under sub-section (3C), the Committee may inform the Panchayat/Municipality/Corporation, as the case may be, in writing and the Panchayat/Municipality/Corporation may, by an order, entrust the right to cultivate the said paddy land, by auction or otherwise, for a maximum period of two years at a time and make arrangement for such cultivation as per sub-section (4):

Provided that where such cultivation is ordered under sub-section (3H), out of the amount realized from such paddy cultivation, the revenue due on the land and other dues to Government, if any, and expenses of paddy cultivation shall be first adjusted and out of the balance, ten per cent of the amount realized shall be defrayed for the agency entrusted with cultivation under sub-section (4) and the balance shall be paid to the holder of the paddy land:

Provided further that, if any dispute arises relating to the amount payable to any of the parties concerned in respect of cultivation, or such other matter, it shall be adjudicated by a Civil Court having jurisdiction and if the holder of the paddy land does not accept his share as provided, such share shall be deposited in a Government account maintained by the Secretary of the Panchayat/Municipality/Corporation, as the case may be, till such time a claim is made by the holder of the paddy land or his legal heirs.

(3I) Whenever a claim is made by the holder of the paddy land or his legal heirs, as the case may be, the Secretary of the Panchayat/ Municipality/ Corporation shall, in compliance of the judgment of the Civil Court, make payment.

(3J) If the holder of the paddy land expresses his willingness to cultivate paddy in his land, at any time after entrusting the right to cultivate to any agency, the Committee shall ensure that the paddy land is restored to the holder on completion of the cultivation operations in progress, if any:

Provided that, if any dispute arises regarding the date on which the cultivation process is completed or will be completed, the Committee shall obtain a report from the Agricultural Officer and shall decide the date of completion of such cultivation process and such decision shall be final.”;

(4) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) If the Panchayat/Municipality/Corporation is not directly cultivating the paddy land entrusted to it under sub-section (3) or (3D) or (3G), it may make an order not inconsistent with the conditions of the agreement executed under sub-section (3), wherever applicable, entrusting the right to cultivate the said paddy land by auction or otherwise, for a maximum period of two years at a time and make arrangement for the same.”;

(5) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) While entrusting the right to cultivate the said paddy land under sub-section (4), otherwise than by auction, the following order of priority of agencies shall be followed, namely:—

(i) Padasekhara Samithis or Joint Farmers Societies;

(ii) Self Help Groups;

(iii) the Kudumbasree Units functioning in the Village Panchayat/Municipality/Corporation where the paddy land is situated;

(iv) any other person:

Provided that where such right is entrusted through an auction, any of the agencies specified above may participate in such auction.”;

(6) in sub-section (6), for the words “person getting the right”, the words “agency entrusted with the right” shall be substituted;

(7) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) The agency entrusted with the right to cultivate the paddy land under sub-section (4) shall, wherever the holder of the paddy land grants permission to cultivate the said paddy land, pay in advance, the remuneration as per the agreement, to the holder of the paddy land and such sum shall form part of the cost of cultivation.”;

(8) after sub-section (8), the following sub-sections shall be inserted, namely:—

“(9) The holder of the paddy land whose paddy land has been entrusted for cultivation by the Panchayat/Municipality/Corporation with an agency under sub-section (4) shall be deemed to be a licensor and the agency entrusted with such cultivation shall be deemed to be a licensee as envisaged in the Indian Easements Act, 1882 (Central Act V of 1882) and the provisions of the said Act, *mutatis mutandis*, shall apply to the disputes between the holder of the paddy land and the agency entrusted with cultivation:

Provided that in the event of the licensor alienating the paddy land by way of a sale, gift, mortgage or otherwise, during the period for which the cultivation is arranged by the Panchayat/Municipality/Corporation, the new holder of the paddy land shall be deemed to be the licensor for the remaining period of cultivation.

(10) The agency to whom the cultivation of paddy land is entrusted under sub-section (4) shall,—

(i) be entitled to an undisturbed right to cultivate paddy for the period for which the cultivation is entrusted;

(ii) be entitled to obtain crop insurance, relief from Disaster Response Fund or any other benefits or facilities provided to farmers by the State Government during the period for which the cultivation is entrusted;

(iii) not cause any damage to the paddy land and shall be liable to the holder of the paddy land for damage caused, if any;

(iv) not disturb the boundary of the land and survey stones during the period for which the cultivation is entrusted;

(v) not extract sand or any minerals from the paddy land;

(vi) not build permanent structures or fixtures on the paddy land without the written permission of the landowner:

Provided that the permission granted to build permanent structures or fixtures shall not make the licence irrevocable.

(11) On the expiry of the period for which the paddy land is entrusted to the agency for cultivation, the licence arrangement shall be deemed to have been terminated.

(12) The cultivation by the Panchayat/Municipality/Corporation or the cultivation through auction or by an entrusted agency under sub-section (4) shall be subject to the condition that the paddy land is cultivated with paddy and on failure to do so, the Panchayat/Municipality/Corporation or the agency entrusted to cultivate shall be liable to be evicted summarily by the Revenue Divisional Officer, on application by the holder of the paddy land or the Committee or the Panchayat/Municipality/Corporation or upon his own knowledge, before the expiry of the period for which the cultivation is entrusted and such Panchayat/Municipality/Corporation or agency, as the case may be, shall also be liable for any loss arising out of such omission to cultivate:

Provided that before such eviction, the Panchayat/Municipality/Corporation or the agency entrusted to cultivate shall be given an opportunity of being heard.”

11. *Amendment of section 19.*—In sub-section (1) of section 19 of the principal Act, after the word “conveyance”, the words “or any clay, sand, earth etc. removed from the paddy land or wetland” shall be inserted.

12. *Amendment of section 20.*—In sub-section (1) of section 20 of the principal Act,—

(i) for the word “Collector” the words “District Collector” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the District Collector may take any action, in such manner as may be prescribed, to dispose the seized clay, sand, earth etc. and cause to remit the sums collected to the Fund.”

13. *Amendment of section 23.*—In section 23 of the principal Act, for the words “two years”, the words “three years” shall be substituted.

14. *Omission of section 25.*—Section 25 of the principal Act shall be omitted.

15. *Insertion of new sections 27A to 27D.*—After section 27 of the principal Act, the following sections shall be inserted, namely:—

“27A. *Change of nature of unnotified land.*—(1) If any owner of an unnotified land desires to utilise such land for residential or commercial or for other purpose, he shall apply to the Revenue Divisional Officer for permission in such manner as may be prescribed.

(2) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal or any other authority, the Revenue Divisional Officer may, after considering the reports of the Village Officer concerned, pass such orders as deems fit and proper on such applications, ensuring that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary:

Provided that, if the area of such parcel of land where the application is allowed is more than 20.2 ares, ten per cent of such land shall be set apart for water conservancy measures.

(3) If the application is allowed, the applicant shall be liable to pay a fee at the rate of fifty per cent of the fair value of such parcel of land, for effecting changes in revenue records.

(4) If the application is allowed, the Revenue Divisional Officer shall ensure that the reclamation in the unnotified land shall not adversely affect the cultivation of paddy or any other crops, if any, in the adjoining land and shall specify such water conservancy measures as is necessary to ensure such cultivation:

Provided that in specifying such water conservancy measures, the Revenue Divisional Officer may, if he deems fit, refer to satellite maps of the area maintained by Government agencies.

(5) No permission under this section shall be necessary where the purpose for which the unnotified land is converted or attempted to be converted or utilized or attempted to be utilized is for paddy cultivation.

(6) No permission under this section shall be necessary for constructing a residential building having a maximum area of 120 square meters situated in a maximum extent of 4.04 ares of land or a commercial building having a maximum area of 40 square meters situated in a maximum extent of 2.02 ares of land:

Provided that the construction of a housing complex or complexes or flats or multi-storied residential complexes shall not come within the meaning of residential building specified in this sub-section:

Provided further that this exemption shall be granted only once.

(7) The exemption under sub-section (6) shall be applicable only to owners of unnotified lands as on the date of commencement of this Act:

Provided that if the area of the residential building or commercial building exempted under sub-section (6) is subsequently increased by new extension, the exemption under sub-section (6) shall cease to have effect and the owner of the land as on the date of detection of the new extension shall be liable to pay fee as per sub-section (3).

(8) Where conversion of an unnotified land is required for any public purpose, the Revenue Divisional Officer shall submit a report to the Government outlining the measures to be adopted to ensure that the reclamation shall not disrupt the free flow of water to the neighbouring paddy lands, if any, and shall suggest such water conservancy measures as is necessary to ensure this.

(9) Government may, on receipt of a report under sub-section (8), issue permission to reclaim unnotified land for public purpose:

Provided that where permission is granted, the Government may make necessary modifications to the recommendations of the Revenue Divisional Officer as deemed fit:

Provided further that, if the area of such parcel of land where the application is allowed is more than 20.2 ares, ten per cent of such land shall be set apart for water conservancy measures.

(10) The order issued under sub-section (2) and (9) shall clearly indicate the survey number of the lands and the extent of the land in each survey number for which sanction has been accorded, the extent of the land in which water conservancy measures are to be adopted by the applicant and a sketch of such land indicating the aforementioned details shall be appended to the order.

(11) The Revenue Divisional Officer may, either *suo motu* or on the application of any aggrieved party, cancel any order issued under sub-section (2) if the conditions specified in the order issued therein are not complied by the applicant, either fully or partially.

(12) No order of cancellation under sub-section (11) shall be made by the Revenue Divisional Officer unless the applicant thereof has been given an opportunity of being heard in the matter.

27B. Appeal.—(1) Any person aggrieved by an order of the Revenue Divisional Officer under sub-section (2) of section 27A may prefer an appeal to the District Collector within thirty days from the date of receipt of the order.

(2) Every appeal preferred under sub-section (1) shall be accompanied by a certified copy of the order appealed against and an appeal fee of rupees five thousand.

(3) The District Collector may, after giving an opportunity to the appellant to be heard, dispose of the appeal as expeditiously as possible.

(4) The order in appeal shall be final and shall not be challenged in any Civil Court.

27C. Changes in records.—(1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any Court, Tribunal or any other Authority, wherever a part of a survey number or subdivision is permitted to be converted under sections 8, 9, 10 or 27A of this Act, a new sub-division shall be created for the extent for which such orders for conversion are issued.

(2) Where the paddy land or unnotified land is duly converted as per the provisions of this Act, the Tahsildar shall re-assess the land tax under Section 6A of the Kerala Land Tax Act, 1961 (13 of 1961) and make necessary entries in revenue records relating to such lands.

(3) Where such changes are recorded in revenue records, the number and date of the order and the authority granting sanction, the survey number of the lands for which sanction has been accorded, extent of the land in each survey number for which sanction has been accorded and the revised land tax shall be clearly recorded ensuring that the old entries are legible.

(4) Tahsildar shall conduct periodical checks to ensure that changes in revenue records are in accordance with sub-section (3).

(5) No attempt shall be made to alter or change or modify the revenue records relating to the paddy land or wetland or unnotified land otherwise than in accordance with sub-section (3).

27D. *Establishment of a Development Fund.*—(1) There shall be established a Development Fund, referred to as “the fund”, for the purposes of this Act.

(2) All sums realized under this Act shall be deposited in the fund.

(3) The fund shall be utilized for the expenditure necessary to,—

(i) undertake development schemes in the State;

(ii) restore a paddy land or wetland or unnotified land to its original position;

(iii) audit accounts, under sub-section (4);

(iv) meet any other expense incurred by the Collector for the purposes of this Act;

(v) meet any other expenses as the Government may order in public interest.

(4) The management of the fund shall be vested with a State Level Officer designated by the Government, and shall be audited annually by a Chartered Accountant and also liable to be audited by the Accountant General.

(5) The collection, management and utilization of the Fund shall be in such manner as may be prescribed.”.

16. *Repeal and Saving.*—(1) The Kerala Conservation of Paddy Land and Wetland (Amendment) Ordinance, 2018 (30 of 2018) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 5 of the Kerala Conservation of Paddy Land and Wetland Act, 2008 provides for the constitution of Local Level Monitoring Committee and powers and functions of the said Committee, section 8 of the said Act provides for the constitution of State Level Committee and specifies the functions of the said Committee. Section 9 of the said Act provides for the constitution and functions of the District Level Authorised Committee and section 10 of the said Act provides for the power of Government to grant exemption from the provisions of the Act. Section 13 of the said Act enumerates the powers of the

District Collector and section 16 provides for the cultivation of the fallow paddy land through Panchayats. Section 19 of the said Act provides for the power of entry and seizure. Section 20 of the Act provides for the confiscation of vessel, vehicle, etc. Section 23 of the Act provides for the penalty and section 25 of the Act provides for the cognizance of offence.

2. For the smooth implementation of major Government projects and also in public interest, the Government have decided to amend sections 2, 5, 8, 9, 12, 13, 14, 16, 19, 20, 23, 25 and to insert new sections 27A to 27D in the Kerala Conservation of Paddy Land and Wetland Act, 2008.

3. As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala Conservation of Paddy Land and Wetland (Amendment) Ordinance, 2017 was promulgated by the Governor of Kerala on the 30th day of December, 2017 and the same was published as Ordinance No.41 of 2017 in the Kerala Gazette Extraordinary No.2903 dated 30th December, 2017.

4. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala in its session which commenced on the 22nd day of January, 2018 and ended on the 7th day of February, 2018.

5. As the Legislative Assembly of the State of Kerala was not in session and the provisions of the said Ordinance are to be kept alive, the Governor of Kerala has promulgated the Kerala Conservation of Paddy Land and Wetland (Amendment) Ordinance, 2018 on the 12th day of February, 2018 and the same was published as Ordinance No. 13 of 2018 in the Kerala Gazette ExtraOrdinary No. 348 dated 12th February, 2018.

6. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 122 of the Fourteenth Kerala Legislative Assembly, the same could not be introduce in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 26th day of February, 2018 and ended on the 4th day of April, 2018.

7. As the Kerala Legislative Assembly was not in session and the provisions of the said Ordinance are to be kept alive, the Governor of Kerala has promulgated the Kerala Conservation of Paddy Land and Wetland (Amendment) Ordinance, 2018 on the 7th day of April, 2018 and the same was published as Ordinance No. 30 of 2018 in the Kerala Gazette Extraordinary No. 919 dated 7th April, 2018.

8. The Bill seeks to replace Ordinance No. 30 of 2018 by an Act of the State Legislature.

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-section (1) of section 10 proposed to be inserted in the principal Act by clause 6 of the Bill seeks to empower the Government to grant exemption from the provisions of the Act, if conversion or reclamation of paddy land is essential for public purpose, by notification in the Official Gazette.

2. Sub-section (4) of section 10 proposed to be inserted in the principal Act by clause 6 of the Bill seeks to empower the Government to prescribe the authority from which a report may be called for in case of non-receipt of report from the State Level Committee within the time specified in sub-section (3) of section 8.

3. Sub-section (2) of section 13 proposed to be inserted in the principal Act by clause 8 of the Bill seeks to empower the Government to prescribe the manner in which action may be taken by the District Collector to dispose clay, sand, earth etc. removed from the paddy land or wetland in the process of restoration of paddy land or wetland to the original position.

4. Proviso to sub-section (1) of section 20 proposed to be inserted in the principal Act by clause 12 of the Bill seeks to empower the Government to prescribe the manner in which action may be taken by the District Collector to dispose the seized clay, sand, earth etc.

5. Sub-section (1) of section 27A proposed to be inserted in the principal Act by clause 15 of the Bill seeks to empower the Government to prescribe the manner in which any owner who desires to utilize unnotified land for residential or commercial or other purpose, apply for permission to the Revenue Divisional Officer.

6. Sub-section (5) of section 27D proposed to be inserted in the principal Act by clause 15 of the Bill seeks to empower the Government to prescribe the manner of collection, management and utilization of the Fund.

7. The matters in respect of which rules are to be made or notifications are to be issued are matters of procedure and are of routine or administrative in nature. Further, such rules and notifications are subject to the scrutiny of the Legislative Assembly. Hence, the delegation of legislative power is of a normal character.

E. CHANDRASEKHARAN.

EXTRACT FROM THE KERALA CONSERVATION OF
PADDY LAND AND WETLAND ACT, 2008

[28 OF 2008]

** ** ** **

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

- (i) “Collector” means the Collector of the district and includes any other officer appointed or authorized by the Government to perform the functions of the Collector;
- (ii) “Committee” means the Local Level Monitoring Committee constituted under section 5;

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- (vi) “drainage channel” means the inlets or outlets for the flow of water to or from a paddy land;

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- (xiv) “public purpose” means purposes for the schemes undertaken or financed by the Centre-State Governments, Government-Quasi-Government Institutions, Local Self Government Institutions, Statutory Bodies and other schemes as may be specified by the Government from time to time;

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- (xvii) “State Level Committee” means the State Level Committee Constituted under section 8.

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5. *Constitution of Local Level Monitoring Committee.*—(1) There shall be a Local Level Monitoring Committee in each Panchayat or Municipality, consisting of the members specified in sub-section (2), for the purpose of monitoring the implementation of the provisions of this Act.

(2) The composition of the Committee shall be as follows:—

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|---------------------------------------------------------------------------------------------------------------------------------------|------------------|
| (i) The President or Chairperson/Mayor of the Grama Panchayat or the Municipality or the Corporation, as the case may be; | } Chairman |
| (ii) The Agricultural Officer/Officers having jurisdiction in the Grama Panchayat or Municipality/Corporation; | } Member/Members |
| (iii) Village Officer/Officers having jurisdiction in the said area; | } Member/Members |
| (iv) Three representatives of farmers in the Panchayat/Municipality/Corporation to be nominated in such manner, as may be prescribed. | } Member/Members |

The Agricultural Officer shall be the Convenor of the Committee.

(3) The Committee shall have the following powers, namely:—

(i) Subject to the provisions of this Act, to recommend to the State Level Committee or District Level Authorised Committee, as the case may be, for the reclamation of paddy land, for public purpose or for construction of residential building for the owner of the paddy land:

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(4) The Committee shall perform the following functions, namely:—

(i) to prepare the data-bank with the details of the cultivable paddy land and wetland, within the area of jurisdiction of the Committee, with the help of the map prepared or to be prepared by the State Land Use Board or Centre-State Science and Technology Institutions on the basis of satellite pictures by incorporating the survey numbers and extent in the data-bank and get it notified by the concerned Panchayat/Municipality/Corporation, in such manner as may be prescribed, and exhibit the same for the information of the public, in the respective Panchayat/Municipality/Corporation Office and in the Village Office/Offices;

(ii) to make alternate arrangements under section 16 where a paddy land is left fallow without taking steps in spite of the instructions given by the Committee under item (iv) of sub-section (3);

(iii) to prepare detailed guidelines for the protection of the paddy lands/wetlands in the areas under the jurisdiction of the Committee;

(iv) to collect the details of the paddy land within the area of jurisdiction of the Committee, reclaimed in contravention of the provision of any law for the time being in force, before the date of commencement of this Act and to give the report to the Revenue Divisional Officer;

(v) to perform such other functions, as may be prescribed from time to time.

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8. *Constitution of State Level Committee.*—(1) The Government shall, constitute a State Level Committee for furnishing report to Government after the detailed scrutiny of the applications recommended by the Committee regarding the filling of paddy land for public purposes.

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(3) The State Level Committee shall scrutinize each application recommended by the Local Level Monitoring Committee for filling up or reclamation of paddy land for public purpose and shall examine in detail whether any alternate land, other than paddy land, is available in that area and the ecological changes that may occur due to such filling up of paddy land and submit a report to Government.

9. *Constitution of District Level Authorised Committee.*—(1) Notwithstanding anything contained in section 3, each Collector shall constitute in the District, District Level Authorised Committee for considering the applications for reclamation of paddy land for the construction of residential building to the owner of paddy land and for taking suitable decision:

Provided that the District Level Authorised Committee shall not take any decision granting permission for the filling up of paddy land for the construction of residential building exceeding ten cents in a Panchayat and five cents in a Municipality/Corporation, as the case may be.

** ** ** **

(8) Notwithstanding anything contained in sub-section (1), no application shall be considered by the District Level Authorised Committee, unless the Local Level Monitoring Committee has recommended that,—

(i) such reclamation shall not adversely affect the ecological condition and the cultivation in the adjoining paddy land;

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(iv) such paddy land is not situated surrounded by other paddy lands.

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10. *Power of Government to grant exemption.*—(1) Notwithstanding anything contained in section 3, the Government may grant exemption from the provisions of this Act, if such conversion or reclamation is essential for any public purpose.

(2) No exemption under sub-section (1) shall be granted by the Government unless the Local Level Monitoring Committee has recommended the conversion or reclamation and the Government are satisfied on the basis of the report submitted by the State Level Committee, that no alternate land is available and such conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land and also the ecological conditions in that area.

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12. *Appointment of Authorized Officers and their Powers.*—(1) The Government may, by notification in the official Gazette, appoint Such officers of the Revenue Department not below the rank of Village Officer as authorised Officers and may determine the area of jurisdiction within which they shall exercise their powers under this Act.

(2) The Authorized Officer may, for the purpose of inspecting whether any of the provisions of this Act have been violated, or to prevent the commission of any of the offences under this Act,—

(a) enter any premises or any place connected therewith with such preparation as he thinks necessary for the inspection or investigation into the alleged offence under this Act;

(b) require any person to stop any act in contravention of section 3 or section 11;

(c) seize any vessel, vehicle or other conveyance or any implements used or purported to be used in contravention of the provisions of this Act and send a report to the Collector for initiating proceedings for their confiscation;

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13. *Power of the District Collector.*—Notwithstanding anything contained in this Act, the Collector may take such action, as he deems fit, without prejudice to the prosecution proceedings taken under the Act, to restore the original position of any paddy land or wetland reclaimed violating the provisions of this Act, and realize the cost incurred in this regard from the holder or occupier of the said paddy land or wetland, as the case may be, so reclaimed after giving him a reasonable opportunity of being heard.

14. *Refusal of licence by the Local Authority.*—Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act, 1994 (20 of 1994) no Local Authority shall grant any licence or permit under the said Act for carrying out any activity or construction in a paddy land or a wetland converted or reclaimed in contravention of the provisions of this Act.

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16. *Fallow paddy land to be got cultivated.*—(1) If the Committee is satisfied, on the basis of the reply furnished by the holder of the paddy land, that it was due to practical difficulties that he could not comply with the direction given under section 15, the Committee may request him to grant permission in writing to cause to cultivate the said paddy land through the Panchayat.

(2) On receipt of a letter under sub-section (1), the holder of paddy land shall give a reply in writing, as early as possible, either granting or denying permission.

(3) If the holder of the paddy land grants permission to cultivate the said paddy land, the Committee may execute an agreement between the Panchayat and the holder of the paddy land, in such form and subject to such conditions as may be prescribed, entrusting the said paddy land to the Panchayat either to cultivate or to get it cultivated for a fixed period.

(4) If the Panchayat/Municipality/Corporation is not directly cultivating the paddy land entrusted to it under sub-section (3), it may make an order entrusting the right to cultivate the said paddy land, by auction or otherwise, not inconsistent with the conditions of the agreement executed under sub-section (3), for a maximum period of two years and make arrangement for the same.

(5) While entrusting the right to cultivate the said paddy land under sub-section (4) the following order of priority shall be followed, namely:—

(i) Padasekhara Samithis or Joint Farmers Societies;

(ii) Self Help Groups;

(iii) the Kudumbasree Units functioning in the Grama Panchayat/Municipality where the paddy land is situated.

(6) The person getting the right to cultivate the said paddy land under sub-sections (4) and (5), while returning the said paddy land shall neither cause any changes in the structure of the land making it unsuitable for cultivation nor convert or reclaim the same.

(7) The person who got the right to cultivate the paddy land under subsection (4) shall, pay in advance, the remuneration as per the agreement, to the holder of the paddy land and such sum shall form part of the cost of cultivation.

(8) Notwithstanding anything contained in this section, if an owner of paddy land is unable to cultivate his paddy land by himself, he may request the Committee if he so desires, to entrust his paddy land with the Panchayat for cultivation even without the receipt of a notice under this section.

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19. *Power of entry and seizure.*—(1) Any officer of the Revenue Department not below the rank of Village Officer or any Officer authorised by the Government in this behalf or any Police Officer not below the rank of a Sub-Inspector, with a view to ensure the compliance of the provisions of this Act, may enter and search any premises and seize any vessel, vehicle or any other conveyance or machinery used or deemed to have been used, for any activity in contravention of the provisions of this Act, and a report regarding such seizure, whether prosecution proceedings have been initiated or not, shall be given to the Collector having jurisdiction over that area within forty eight hours of such seizure.

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20. *Confiscation of vessel, vehicle, etc.*—(1) After obtaining a report regarding seizure under section 12 or section 19, the Collector may, if he thinks fit, order confiscation of the object seized:

Provided that the owner or the person in custody of the same, shall be given an option to pay, *in lieu* of its confiscation, a sum equal to one and a half times the value of the seized articles, as may be determined by the District Collector.

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23. *Penalty.*— Any person who in violation of the provisions of this Act converts or reclaims any paddy land or wetland notified under sub-section (4) of section 5, shall on conviction be punishable with imprisonment for a term which may extend to two years but shall not be less than six months and with fine which may extend to one lakh rupees but shall not be less than fifty thousand rupees.

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25. *Cognizance of offence.*—No court below the rank of Chief Judicial Magistrate Court shall take cognizance of any offence punishable under this Act except on a report in writing of the fact constituting such offence by an officer authorised under sub-section (1) of section 12.

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27. *Sums due recoverable as arrears of land revenue to Government.*— Any amount due to the Government under the provisions of this Act shall be deemed to be arrears of revenue due on land and shall, without prejudice to any other mode of recovery, be recoverable under the Revenue Recovery Act for the time being in force.
