

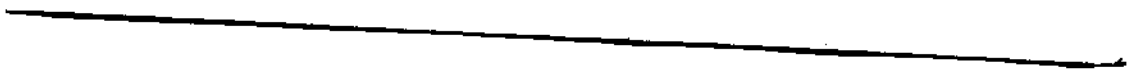
Fourteenth Kerala Legislative Assembly

Bill No. 89

**THE KERALA INVESTMENT PROMOTION AND
FACILITATION (No.2) BILL, 2018**

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2018

KERALA NIYAMASABHA PRINTING PRESS.



Published on 22-01-18

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[Translation in English of "2018-ലെ കേരള നിക്ഷേപം പ്രോത്സാഹിപ്പിക്കലും സുഗമമാക്കലും (2-ാം നമ്പർ) ബിൽ" published under the authority of the Governor.]

THE KERALA INVESTMENT PROMOTION AND
FACILITATION (No.2) BILL, 2018

A

BILL

to give effect to certain proposals of the Government of Kerala to avoid delay in granting various licences, permissions, approvals, clearances required under various enactments and to provide for other matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to give effect to certain proposals of the Government of Kerala to avoid delay in granting various licences, permissions, approvals, clearances required under various enactments and to provide for other matters connected therewith or incidental thereto;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Investment Promotion and Facilitation (No. 2) Act, 2018.

(2) It shall be deemed to have come into force on the 20th day of October, 2017.

2. *Amendment of Act 13 of 1994.*—In the Kerala Panchayat Raj Act, 1994 (13 of 1994).—

(1) in section 232,—

(a) for the heading "DANGEROUS AND OFFENSIVE TRADES AND FACTORIES " before the said section, the heading "FACTORIES, TRADES, ENTREPRENEURSHIP ACTIVITIES AND OTHER SERVICES" shall be substituted;

(b) in sub-section (1), the words "being purposes which in the opinion of Government is likely to be offensive or dangerous to human life or health or property" shall be omitted;

(2) in section 233,—

(a) in sub-section (2), after the word "Secretary", the words "or officer authorized by the Secretary" shall be inserted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Secretary or officer authorized by him shall, issue an acknowledgement to the applicant, on receipt of application along with the supporting documents in the form, as may be prescribed, and shall verify the application and all supporting documents on the spot itself, and if any supporting document is not found attached along with the application, the Secretary or officer authorized by him shall, immediately inform the applicant, the list of missing documents, and allow the applicant to submit the missing documents as early as possible, but not later than five days from the date of receipt of application.";

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) the Secretary or the officer authorised by him shall, as soon as may be, after the receipt of the application enquire and report to the Village panchayat as to whether the establishment of the factory, workshop or workplace or other installation of machinery or manufacturing plant for which permission is applied for is objectionable by reason of density of population in the neighbourhood and possibility to cause nuisance or pollution and the village panchayat, after having considered the application and the reports of the Secretary and of such other authorities as specified in sub-section (4) may, as expeditiously as possible, at any rate within thirty days, grant the permission either absolutely or subject to such conditions as it thinks fit to impose.";

(d) in sub-section (4),—

(i) after the words "before granting", the words "or refusing" shall be omitted;

(ii) for the words "Village Panchayat", the word "Secretary" shall be substituted;

(iii) in clause (b), after the words "a report of the District Medical Officer", the words "in case the applicant is a hospital, clinic, para-medical institution, clinical laboratories or other healthcare institution," shall be inserted;

(e) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) If any order, on an application for permission under this section is not communicated to the applicant within fifteen days from the date of receipt of application by the Secretary, the application shall be deemed to have been allowed for the period required in the application subject to the Act, rules and bye laws and all conditions which would have been imposed and if any violation is noticed later, the Secretary shall have the power to cancel the licence after giving a show cause notice to the applicant stating the reason for such cancellation and after examining the submission if any, made within the time specified in the said notice and on such cancellation the Secretary may impose a penalty on the applicant for an amount not exceeding rupees five lakhs.";

(3) in section 233A,—

(a) in sub-section (1), for the words "Village Panchayat" the word "Secretary" shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Secretary may obtain expert opinion from the departments concerned, with regard to the determination of the nuisance or its abatement, at the cost of the owner or person in charge of the factory, workshop, workplace or machinery concerned and such report shall be furnished, as soon as possible, but not later than fifteen days of reporting of such nuisance."

3. *Amendment of Act 20 of 1994.*—In the Kerala Municipality Act, 1994 (20 of 1994),—

(1) in section 447,—

(a) for the heading "INDUSTRIES, FACTORIES AND OTHER TRADES" before the said section, the heading "INDUSTRIES, FACTORIES, TRADES, ENTREPRENEURSHIP ACTIVITIES AND OTHER SERVICES" shall be substituted;

(b) in sub-section (2), after the word "Secretary", the words "or officer authorised by the him" shall be inserted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Secretary or the officer authorized by him shall, issue an acknowledgement to the applicant on receipt of application along with the supporting document in such form, as may be prescribed, and shall verify the application and all supporting documents immediately on receipt, and if any supporting document required is not attached with the application the Secretary or the officer authorized by him shall immediately bring to the notice of the applicant the missing document, if any, and allow the applicant to submit the missing document at the earliest but not later than five days from the date of receipt of application." ;

(d) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Secretary or the Officer authorized by him shall, within five days from the date of receipt of all supporting documents along with the prescribed clearance from other departments or authorities, by order and subject to such terms and conditions, as he deems fit, grant the licence for use of the place for conducting any industries, factories, trades, entrepreneurship activities or other services, as the case may be.";

(e) sub-section (3A) shall be omitted;

(f) in sub-section (4), for the words "three years", the words "five years" shall be substituted;

(g) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) The licence once granted under this section shall remain in force for a period of five years and shall be renewed automatically on payment of the prescribed fee, thirty days before the end of validity of the licence for a further period of five years.";

(2) in section 448,—

(a) in sub-section (1), after the word "Secretary", the words "or officer authorised by him" shall be inserted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Secretary or the officer authorized by him shall issue an acknowledgement to the applicant for the receipt of application along with the supporting document in such form, as may be prescribed, and the Secretary or the officer authorized by him shall, verify the application and all supporting documents on the spot, and if any supporting document required is not attached with the application the Secretary or the officer authorized by him shall immediately bring to the notice of the applicant, the missing document, if any, and allow the applicant to submit the missing document at the earliest but not later than five days from the date of receipt of application.”;

(c) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Secretary, or the officer authorised by him shall, as soon as may be, after the receipt of application, report to the Council if the establishment of the factory or workshop or workplace or the installation of the machinery or manufacturing plant, for which the permission is applied for is objectionable by reason of causing nuisance, pollution due to the density of population in the neighbourhood and Council shall, after having considered the application and report of the Secretary and of such other authorities specified in sub-section (4) and as far as possible, within a maximum period of thirty days from the date of receipt of application grant the permission applied for absolutely or subject to such conditions as it deems fit.”;

(d) in sub-section (4), in clause (b), after the words “report of the District medical officer of health”, the words “if the applicant is a hospital, clinic, para medical institutions, clinical laboratory or other healthcare institution” shall be inserted;

(e) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) If any order on an application for permission under this section is not communicated to the applicant within thirty days from the date of receipt of application, by the Secretary, the application shall be deemed to have been allowed for the period required in the application subject to the Act, rules and bye laws and all conditions which would have been imposed:

Provided that if any violation is noticed later, the Secretary with the approval of the Council, may cancel the licence after giving a show cause notice to the applicant stating the reason for such cancellation and after examining the submission, if any, made within the time specified in the said notice:

Provided further that on such cancellation, the Secretary may impose a penalty on the applicant for an amount not exceeding rupees five lakh.”;

(3) in section 449,—

(a) in sub-section (1), for the word ‘Council’, the word ‘Secretary’ shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Secretary may obtain expert opinion from the departments concerned, with regard to the determination of the nuisance or its abatement, at the cost of the owner or person in charge of the factory, workshop, workplace or machinery concerned, and such report shall be furnished, as soon as may be, but not later than fifteen days of reporting of such nuisance.”;

(4) in section 450,—

(a) after item (i), the following item shall be inserted, namely:—

“(j) Industrial units certified by the Kerala State Pollution Control Board as Green and White Category.”;

(b) in the proviso, for the words, letters and brackets “item (h) and (i)” the words, letters and brackets “items (h), (i) and (j)” shall be substituted.

4. *Amendment of Act 5 of 2000.*—In the Kerala Industrial Single Window Clearance Boards And Industrial Township Area Development Act, 1999 (5 of 2000),—

(1) in the long title, for the words “required for setting up of industrial undertakings”, the words “including renewal thereof required for setting up and for expansion, diversification and modernisation of enterprises” shall be substituted;

(2) in the preamble,—

(i) after the word “industries” the words “and enterprises” shall be inserted;

(ii) for the portion beginning with “AND WHEREAS, for the speedy issue of various licences” and ending with “industrial area level” the following shall be substituted, namely:—

“AND WHEREAS, for the speedy issue of various licences clearances and certificate required for setting up and running of enterprises and for issue of clearances for expansion, diversification, modernisation and renewal of licences

for all enterprises in the State of Kerala and for that purpose it is necessary to establish Single Window Clearance Boards at the State, District and Industrial Area level”;

(3) in section 2,—

(a) in clause (a),—

(i) after the word “Municipality”, the words “any statutory bodies or service providers” shall be inserted;

(ii) after the word “permits”, the words “or consents or renewal thereof” shall be inserted;

(iii) for the words “industrial undertaking”, the word “enterprises” shall be substituted;

(b) after clause (b), the following clause shall be inserted, namely:—

“(ba) “Clearances” means various clearances including licences, certificates, permits or consents required under various Central or State enactments and rules made thereunder, and for providing utility services and renewal thereof from, time to time, for setting up and running of any enterprise in the State of Kerala;”;

(c) after clause (d), the following clause shall be inserted, namely:—

“(da) “Enterprise” means any undertaking or factory or workshop or workplace or any other establishment or industry engaged in manufacturing or processing or providing services or any commercial activities including trade or investment in infrastructure;”;

(d) clause (j) shall be omitted;

(4) in section 3,—

(a) in sub-section (1), for the words “setting up of industrial undertakings”, the words “setting up and running of enterprises” shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The State Board shall consist of the following members, namely:—

(a) Chief Secretary to the Government;

(b) The Secretaries to the Government in charge of Industries, Finance, Labour, Local Self Government, Revenue, Taxes, Water Resources, Power, Forests, Environment, Tourism, Health, Investment Promotion and Public Works departments;

(c) Managing Director, Kerala State Industrial Development Corporation;

(d) Director of Industries and Commerce, Government of Kerala;

(e) Chairman and Managing Director, Kerala State Electricity Board Limited;

(f) Chief Town Planner;

(g) Chairman, Kerala State Pollution Control Board;

(h) Chief Electrical Inspector;

(i) Director of Factories and Boilers;

(j) Director of Mining and Geology;

(k) Director General, Fire and Rescue Services Department.”;

(c) in sub-section (5), for the words “at such times” the words “at such intervals not exceeding thirty days” shall be substituted;

(5) in section 4,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every District Single Window Clearance Board shall consist of the following members, namely:—

(a) District Collector concerned;

(b) General Manager, District Industries Centre;

(c) The President of the Village Panchayat concerned or Chairperson of the Municipality / Mayor of the Corporation concerned in cases where licence is required from local bodies;

(d) The District officer of the Kerala State Pollution Control Board or any other officer of the said Board nominated by the Chairman, Kerala State Pollution Control Board;

(e) The District officer of the Electrical Inspectorate or any other officer nominated by the Chief Electrical Inspector;

(f) The District officer of the Town and Country planning department or any other officer nominated by the Chief Town Planner;

(g) District Medical officer;

(h) The Deputy Chief Engineer of the Electrical Circle of Kerala State Electricity Board Limited having jurisdiction over the district;

(i) District Officer, Factories and Boilers;

(j) Divisional Officer, Fire and Rescue services;

(k) Divisional Forest officer;

(l) District Labour officer;

(m) Secretary, Urban Development Authority or Secretary, District Panchayat;

(n) Deputy Commissioner, State Taxes;

(o) An officer of the Kerala Water Authority not below the rank of Executive Engineer nominated by the Managing Director, Kerala Water Authority;

(p) An officer of the Tourism Department nominated by Director (Tourism);

(q) An officer of the Public Works Department not below the rank of Executive Engineer nominated by the Secretary, Public Works Department;

(r) District Officer of the Department of Mining and Geology.”;

(b) in sub-section (5), for the words “at such times” the words “at such intervals not exceeding twenty days” shall be substituted;

(6) in section 5,—

(a) in sub-section (1), for the words, “setting up of small scale industrial undertaking or industrial undertakings” the words, “setting up and running of enterprises” shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every Industrial Area Single Window Clearance Board shall consist of the following members, namely:—

(a) Principal Secretary to Government, Industries Department or his nominee;

(b) District Collector;
 (c) Chief Executive of the Agency owning or managing the industrial area;

(d) Designated Authority of industrial area concerned;
 (e) District Officer of the State Pollution Control Board;
 (f) District Officer of the Electrical Inspectorate;
 (g) District Officer of the Town and Country Planning Department;
 (h) District Medical Officer;
 (i) Deputy Chief Engineer of the Kerala State Electricity Board Limited;

(j) District Officer, Factories and Boilers;
 (k) Divisional Officer, Department of Fire and Rescue services;
 (l) Divisional Forest Officer;
 (m) District Labour Officer;
 (n) Deputy Commissioner, State Taxes;
 (o) Executive Engineer, Kerala Water Authority;
 (p) Secretary District Tourism Promotion Council;
 (q) General Manager, District Industries Centre;
 (r) Designated authority of Industrial Area concerned and in case of private park, General Manager, District Industries Centre of the district concerned.”;

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

“(4) District Collector shall be its Chairman and the Designated Authority of the industrial area concerned or in the case of private park, General Manager, District Industries Centre of the district concerned shall be the Convener of the Industrial Area Board.”;

(7) in section 6,—

(a) for the words “all industrial undertakings being established or proposed to be established”, the words “all enterprises being established or proposed to be established or operating” shall be substituted;

(b) after the words "for the construction of the building", the words "including expansion, diversification, modernisation and issue of trade licences" shall be inserted;

(8) in section 7,—

(a) in sub-section (1),—

(i) for the words "an industrial undertaking or small scale industrial undertaking", the word "enterprises" shall be substituted;

(ii) after the word "certificates" the words "or renewal of licences" shall be inserted;

(b) in sub-section (2),—

(i) the word "as" after the word "decision" shall be omitted;

(ii) in clause (a), for the words "to recommend to the authority concerned, the issue of the licence", the words "to issue the licence" shall be substituted;

(c) in sub-section (3), after the words "designated authority of the Industrial Area Board", the words "if no communication is received by the applicant within thirty days from the date of submission of application to the Board, the permission applied for shall be deemed to have been granted by the Board for such period requested for in the application" shall be inserted;

(9) in section 8,—

(a) in sub-section (1), for the words "small scale industrial undertaking having capital investment of more than two lakh", the words "enterprises having capital investment upto fifteen crores" shall be substituted;

(b) in sub-section (2),—

(i) for the words "sixty days", the words "thirty days" shall be substituted;

(ii) the word "as" after the word "decision" shall be omitted;

(iii) in clause (a), for the words "to recommend to the authority concerned the issue of the licence", the words "to issue the licence" shall be substituted;

(c) in sub-section (3), after the words "Convener of the District Board", the words "and the same shall be binding on the authority concerned, and if no clearance, licence or certificate or renewals thereof, as the case may

be, is issued within thirty days from date of submission of application to the Board, the clearance, licence or certificate or renewals thereof applied for, shall be deemed to have been issued after the expiry of said period of thirty days" shall be inserted;

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

"(4) Notwithstanding anything contained in any other law for the time being in force, the application for clearance, licence or certificate or any renewal thereof, submitted before the District Board concerned for establishing or running of an enterprise having a capital investment of less than fifteen crore rupees is rejected or granted with conditions, the person aggrieved may file an appeal before the State Board against such order of refusal or grant of license with conditions within thirty days from the receipt of order from the District Board, in the manner prescribed, and appeal shall be disposed of by the State Board within twenty days from the date of receipt of the appeal.";

(10) in section 9,—

(a) in sub-section (1),—

(i) for the words "industrial undertaking other than a small scale undertaking", the words "enterprise having total investment above fifteen crore rupees" shall be substituted;

(ii) after the word "certificates", the words "or renewals thereof" shall be inserted;

(b) in sub-section (2),—

(i) for the words "forty five days", the words, "thirty days" shall be substituted;

(ii) the word "as" after the word "decision" shall be omitted;

(iii) in clause (a), for the words "to recommend to the authority concerned the issue of the licence", the words "to issue the licence" shall be substituted;

(c) in sub-section (3), after the words "Convener of the State Board", the words "and the same shall be binding on the authorities concerned and if no clearance, licence, certificate or renewals thereof, as the case may be, is issued within thirty days from date of submission of application to the Board, the clearance, licence, certificate or renewals thereof applied for shall be deemed to have been issued after the expiry of said period of thirty days" shall be inserted;

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

“(4) The State Board is also empowered to recommend to the Government on policy matters concerning various issues and problems faced by any entrepreneur in establishing any enterprise or for the development or implementation or operation or running of such enterprises in the State and suggest remedial measures to address such issues and problems in good industrial practice to promote investment opportunity in the State.”;

(11) for section 10, the following section shall be substituted, namely:-

“10. *Issuing of clearances, licences, certificates or renewal thereof.*— Notwithstanding anything contained in any other law for the time being in force or any other provisions of this Act, the State Board, District Boards or Industrial Area Board shall issue the clearance, license, certificate or renewal thereof, as the case may be, within thirty working days from the date of receipt of the application by the Board concerned, and if no clearance, licences, certificates or renewal thereof, as the case may be, is issued or the said application is not rejected within the said time limit, the clearance, licence, certificate or renewal thereof, as the case may be, shall be deemed to have been issued after the expiry of said period of thirty days.”;

(12) in section 11,—

(a) in sub-section (1),—

(i) for the words “recommended with modification”, the words “issued with such conditions” shall be substituted;

(ii) for the words “such refusal or recommendations”, the words “issued with such conditions” shall be substituted;

(b) in sub-section (2), for the words “thirty days”, the words “twenty days” shall be substituted;

(c) after section 11, following section shall be inserted, namely:—

“11A. *Overriding powers of the State Board, District Boards and Industrial Area Boards.*—(1) Notwithstanding anything contained in any other law for the time being in force, or other provisions of the Act, the State Board, the District Boards or the Industrial Area Boards, as the case may be, on receipt of composite application prescribed under rules along with recommendations of the departments concerned, shall issue a composite licence to the applicant in the form prescribed for establishing and running an

enterprise in the State and such composite licence issued by the respective Board shall be binding on all authorities concerned and shall be valid for a period of five years from the date of its issue:

Provided that if an enterprise is being established on a rented or leased premises the validity of the composite licence shall expire on the expiry of the lease or rental period or five years whichever is earlier and such authorities shall not cancel such license without the consent of the respective Board.

(2) The authorities concerned, shall have the right to conduct inspection of the enterprise periodically, but not exceeding one year at a time, and enquire whether the enterprise has violated any provisions of the Act or rules made thereunder, and if any violation is noticed by the authorities concerned or the information given in the application for the grant of composite licence is found to be false, the authority concerned may recommend to the Board concerned to cancel the composite licence for non-compliance of any conditions imposed on issue of such licences or violation of any provisions of Act or rules, and on receipt of such recommendation, the Board concerned shall cancel the composite licence and may impose a penalty, as may be prescribed, on such enterprises after issue of a show cause notice and after considering any submission, if any, made by such enterprises.

(3) All composite licences issued under this section shall be renewed for a period of five years at a time on submission of an application along with the prescribed fee, within seven days from the date of receipt of such application.”.

5. *Amendment of Act 19 of 2002.*—In the Kerala Ground Water (Control and Regulation) Act, 2002 (19 of 2002),—

(1) in section 7,—

(a) to sub-section (1), the following proviso and explanation shall be added, namely:—

“Provided that no permit shall be required for extracting groundwater below the level specified by the Ground Water Authority, from time to time, for various zones in this State, based on the availability of ground water in each zone.

Explanation:—The quantum of ground water to be drawn shall be as specified in the self-certification of the applicant in the prescribed form along with the fee prescribed.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in any other Act or rules made thereunder, permit shall be issued in all other cases by the District level officers of the district concerned, within a period of thirty days, wherever eligible:

Provided that if permits are not issued within the time specified above, and no reasons are communicated within fifteen days, the permit shall be deemed to have been issued:

Provided further that in case of violation of the terms of the permit a penalty may be imposed for an amount not exceeding rupees five lakh.”;

(2) after section 10, the following section shall be inserted, namely:—

“10A. *Recycling and reusing of waste water.*— Any person extracting ground water shall make special provision for treating and recycling and reusing used groundwater for industrial, commercial or residential purposes in such manner as may be prescribed.”.

6. *Amendment of Act 18 of 2013.*—In the Kerala Lifts and Escalators Act, 2013 (18 of 2013),—

(1) in section 4,—

(a) in sub-section (5),—

(i) for the words “one year”, the words “three years” shall be substituted;

(ii) the words “after an inspection” shall be omitted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Electrical Inspector may, conduct an inspection every year and during the inspection any violation of any of the provisions of Act, rules or any of the terms and conditions of the licence is noticed, he shall have the power to proceed under section 7 of the Act.”.

7. *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 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 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.

8. *Repeal and saving.*—(1) The Kerala Investment Promotion and Facilitation Ordinance, 2017 (35 of 2017) except sections 1, 2, 3, 4 and 6 and the Kerala Investment Promotion and Facilitation (No.2) Ordinance, 2017 (36 of 2017) are 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 Kerala Panchayat Raj Act, 1994 (13 of 1994), the Kerala Municipality Act, 1994 (20 of 1994), the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 (5 of 2000), the Kerala Ground Water Control and Regulation Act, 2002 (19 of 2002), the Kerala Lifts and Escalators Act, 2013 (18 of 2013), as amended by the said Ordinances, shall be deemed to have been done or taken under the said Acts as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Government have decided to amend certain provisions regarding the issue of various licences, permissions, approvals and clearances under the Kerala Shops and Commercial Establishments Act, 1960, the Kerala Head Load Workers Act, 1978, the Kerala Panchayat Raj Act, 1994, the Kerala Municipality Act, 1994, the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999, the Kerala Ground Water (Control and Regulation) Act, 2002 and the Kerala Lifts and Escalators Act, 2013 in order to avoid delay in granting various licences, permissions, approvals and clearances under the above said enactments and decided to bring a legislation for the above purpose.

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 Investment Promotion and Facilitation Ordinance, 2017 (22 of 2017) was promulgated by the Governor of Kerala on the 20th day of October, 2017 and the same was published in the Kerala Gazette Extraordinary No. 2242 dated 20th October, 2017.

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 during its session which convened on the 9th day of November, 2017.

As the provisions of the said Ordinance are to be kept alive, the Kerala Investment Promotion and Facilitation Ordinance, 2017 (35 of 2017) and the Kerala Investment Promotion and Facilitation (No.2) Ordinance, 2017 (36 of 2017) were promulgated by the Governor of Kerala on the 20th day of December, 2017 and published in the Kerala Gazette Extraordinary Nos. 2779 and 2782 dated 20th day of December, 2017 respectively.

The Bill seeks to replace the provision contained in section 5 of Ordinance No. 35 and Ordinance No. 36 of 2017.

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 (2A) of section 233 of the Kerala Panchayat Raj Act, 1994 proposed to be inserted by item (b) of sub-clause (ii) of clause 2 of the Bill seeks to empower the Government to prescribe the form of acknowledgement to be issued to the applicant by the Secretary or the officer authorized by him on receipt of application along with the supporting documents.

2. Sub-section (2) of section 447 of the Kerala Municipality Act, 1994 proposed to be inserted by item (c) of sub-clause (i) of clause 3 of the Bill seeks to empower the Government to prescribe the form of acknowledgement to be issued to the applicant by the Secretary or the officer authorized by him on receipt of application along with the supporting documents.

3. Section 5A of the Kerala Municipality Act, 1994 proposed to be inserted by item (g) of sub-clause (i) of clause 3 of the Bill seeks to empower the Government to prescribe the fees to be given for granting renewal of licence without application.

4. Sub-section (1A) of section 448 of the Kerala Municipality Act, 1994 proposed to be inserted by item (b) of sub-clause (ii) of clause 3 of the Bill seeks to empower the Government to prescribe the form of acknowledgement to be issued to the applicant by the Secretary or the officer authorized by him on receipt of application along with the supporting documents.

5. Sub-section (4) of section 8 of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 proposed to be inserted by item (d) of sub-clause (9) of Clause 4 of the Bill seeks to empower the Government to prescribe the manner of filing appeal to the State Board.

6. Sub-sections (1), (2) and (3) of section 11A of the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 proposed to be inserted by item (c) of sub-clause (12) of clause 4 of the Bill seeks to empower the Government to prescribe the form of granting composite licence for establishing and running enterprises, the fine to be imposed for the non-compliance of any conditions imposed in the licence and to fix the fees to be paid for granting renewal of composite licence respectively.

7. Explanation to sub-section (1) of section 7 of the Kerala Ground Water (Control and Regulation) Act, 2002 proposed to be inserted by item (a) of sub-clause (1) of Clause 5 of the Bill seeks to empower the Government to prescribe the form and fees of self certification to be given by the applicant.

8. Section 10A of the Kerala Ground Water (Control and Regulation) Act, 2002 proposed to be inserted by sub-clause (2) of Clause 5 of the Bill seeks to empower the Government to prescribe special provisions for treating, recycling and reusing of used ground water.

9. Sub-clause (1) of Clause 7 of the Bill seeks to empower the Government to make rules, by notification in the gazette, either prospectively or retrospectively for carrying out the provisions of the Act.

The matters in respect of which rules may be made are matters of procedure and are of routine or administrative nature. Further, the rules, after they are made, are subject to scrutiny by the Legislative Assembly. The delegation of legislative power is thus, of a normal character.

A. C. MOIDEEN

EXTRACT FROM THE KERALA PANCHAYAT RAJ ACT, 1994
(13 OF 1994)

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DANGEROUS AND OFFENSIVE TRADES AND FACTORIES

232. *Purpose for which places may not be used without a licence.*—(1) The Village Panchayat may notify that no place in the Panchayat area shall be used for any of the purposes specified in the rules made in this behalf being purposes which in the opinion of Government, are likely to be offensive or dangerous to human life or health or property without a licence issued by the [Secretary] and except in accordance with the conditions specified in such licence:

Provided that no such notification shall take effect until the expiry of thirty days from the date of its publication.

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233. *Permission for the construction of factories and the installation of machinery.*—(1) No person shall, without the permission of the Village Panchayat and except in accordance with the conditions specified in such permission,—

(a) construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or of other mechanical power or electrical power; or

(b) install in any premises any machinery or manufacturing plant driven by any power as aforesaid, not being machinery or manufacturing plant exempted by the provisions of this Act or the rules made thereunder.

(2) An application for permission under sub-section (1) shall be submitted to the Village Panchayat addressed to the Secretary in such form and with such details as prescribed.

(3) The Secretary shall, as soon as may be after the receipt of the application, enquire and report to the Village Panchayat as to whether the establishment of the factory, workshop or workplace or other installation of machinery or manufacturing plant for which permission is applied for is objectionable by reason of density of population in the neighbourhood and the possibility to cause nuisance or pollution and the Village Panchayat after having considered the application and the reports of the Secretary, and of such other authorities as specified in sub-section (4) may as expeditiously as possible, at any rate within sixty days,—

be deemed to have been extended taking into account the delay for the same. Information regarding such unavoidable delay shall be intimated to the applicant by the Secretary in time.

(3A) All applications for licences for trades and services except those to be considered by the Council under sub-section (3) and those to be considered by the Council among the licences for running trade or for providing services in such manner as may be prescribed, shall be disposed of by the Secretary by an order in writing granting the licence or rejecting the same in public interest and on reasonable grounds, within thirty days from the date of receipt of the same. In cases where additional information has to be collected from the applicant or other authorities, before granting or rejecting the licence, the period for granting the licence shall be deemed to have been extended for a period equivalent to the period required for the same and information regarding such unavoidable delay shall be intimated to the applicant by the Secretary.

(4) The period of licence granted under sub-section (3) and (3A) or a licence deemed to have been granted under sub-section (6) shall, unless a date is specified therein, expire on completion of three years from the date of its issue.

(5) Every application for any licence or permission or for its renewal under this Act or the rules or bye-laws made thereunder, shall be made not less than thirty days and not more than ninety days before the earliest day on which such licence or permission is required or the licence expires

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[448. *Licence for the construction of industry, factory or other work place and to use steam power or any other power therein or to install other machineries.*—(1) Any person who intends,—

(a) to use a place to construct an industrial plant, factory or other work place or to construct or establish an industrial plant or factory in that place or to use steam power, water power, other mechanical power or electrical power therein; or

(b) to install in any premises of the said place other machinery or manufacturing plant run by steam power, water power, other mechanical power

or electrical power, not being exempted by this Act or the rules made thereunder, shall apply for a licence of the Municipality under Section 447 to use the said place for the said purpose and before constructing an industrial plant or factory or work place or installing machinery or plant, shall submit an application to the Secretary of the Municipality in such form as may be prescribed, for permission to take up and carry out the proposed work.]

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(3) The Secretary shall, as soon as may be, after the receipt of the application, report to the Council if the establishment of the factory or workshop or workplace or the installation of the machinery or manufacturing plant, for which permission is applied for, is objectionable by reason of causing nuisance or pollution due to the density of population in the neighbourhood and the Council shall after having considered the application and the reports of the Secretary, and of such other authorities specified in sub-section (4) and as far as possible, any how, within a maximum period of 45 days from the date of receipt of the application,—

(a) grant the permission applied for absolutely or subject to such conditions as it deems fit; or

(b) refuse the permission for reasons to be recorded;

(4) The Council shall, before granting or refusing the permission under sub-section (3), obtain and consider,—

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(b) If the connected load of the machinery proposed to be installed exceeds twenty-five horse power or the machinery and other institutions are of the nature that there is possibility to cause nuisance or pollution or the said industry is the one as specified in the seventh schedule, a report of the District, Medical Officer of Health, regarding the possibility to cause nuisance or pollution; and

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(5) More than nine workers shall not be employed on any day in any factory, workshop, workplace or premises unless the permission granted in respect thereof under sub-section (3) authorises such employment, or unless fresh permission under the said sub-section authorising such employment has been obtained.

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449. *Abatement of nuisance from factory, workshop etc.*— (1) Where any factory, workshops, workplace or machinery causes nuisance, which in the opinion of the Council is by reason of a particular kind of fuel being used or by reason of the noise or vibration created, or discharge of poisonous gas or emission, of foul odour or smoke or dust, the Secretary may direct the person in charge of such factory or workshop or workplace or machinery for the abatement of such nuisance within a reasonable time.

(2) The Council may, if required, obtain expert opinion regarding the assessment of nuisance or its abatement at the cost of the owner of the concerned factory or workshop or workplace or the person in charge of them.

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450. *Exemption.*— Notwithstanding anything contained in Section 448 no permission of the Municipality shall be required for the installation of the following machinery or manufacturing units or industrial units, as the case may be, namely:—

(a) Electrical and non-electrical appliances and machinery intended to be used for domestic or personal purposes;

(b) Electrical and non-electrical appliances installed for agricultural purposes;

(i) Industrial units in the area declared by the Government or the Government controlled agency as an Industrial Estate, Industrial Development Area, Industrial Development Plot, Industrial Growth Centre, Export Processing Zone or Industrial Park:

Provided that the owner of any industrial unit specified under item (h) and (i) shall register the unit in the Municipality by remitting the prescribed fee.

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EXTRACT FROM THE KERALA INDUSTRIAL SINGLE WINDOW
CLEARANCE BOARDS AND INDUSTRIAL TOWNSHIP AREA
DEVELOPMENT ACT, 1999
(5 OF 2000)

THE KERALA INDUSTRIAL SINGLE WINDOW CLEARANCE
BOARDS AND INDUSTRIAL TOWNSHIP AREA
DEVELOPMENT ACT, 1999
(ACT 5 OF 2000)

AN

ACT

to provide special provision for speedy issue of various licences, clearances and certificates required for setting up of industrial undertakings in the State of Kerala and for the Constitution of Industrial Township Area Development Authorities and for matter connected therewith.

Preamble.—WHEREAS, it is necessary to make special provision to promote and assist the orderly establishment, and rapid growth and development of industries in the State;

AND, WHEREAS, for the speedy issue of various licences, clearances and certificates required for setting up of industrial undertakings in the State it is necessary to establish Single Window Clearance Boards at the State, District and Industrial area level;

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

(a) “Authority” means any Department of Government or Government agencies or Grama Panchayat or Municipality which are required to issue clearances or licences or certificates or permits for setting up an industrial undertaking in the State;

(b) "Bye-laws" means bye-laws made by the State Board under this Act;

(c) "District Board" means the District Single Window Clearance Board constituted under sub-section (1) of section 4 of this Act;

(d) "designated Authority of Industrial Area" means the Managing Director of the Industrial Area or any other Officer appointed by the Government for purposes of promoting and maintaining the industrial area concerned;

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(j) "Industrial undertaking" means a factory, workshop or work place where steam power, water power, mechanical power or electrical power is used or any premises where any machinery or manufacturing plant driven by any power as aforesaid is installed or any industrial undertaking where ten or more workers are employed with or without the aid of power;

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3. *State Board.*—(1) For the purpose of speedy issue of various licences, clearances, certificates required under various State enactments for setting up of industrial undertakings in the State, the Government may, by notification, constitute Single Window Clearance Board for the State to be called the Kerala State Single Window Clearance Board.

(2) The Kerala State Single Window Clearance Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal.

(3) The State Board shall consist of the following members, namely:—

(a) Chief Secretary to Government;

(b) The Secretaries to Government in charge of Industries, Finance, Labour, Local Administration, Revenue, Taxes, Irrigation, Power and Forests departments;

(c) Executive Director, Bureau of Industrial Promotion, Kerala;

(d) Managing Director, Kerala State Industrial Development Corporation;

(e) Director of Industries and Commerce;

(f) Managing Director, Kerala State Industrial infrastructure Development Corporation;

(g) Chairman, Kerala State Electricity Board;

(h) Managing Director, Kerala Financial Corporation;

(i) Chief Town Planner;

(j) Chairman, Kerala State Pollution Control Board;

(k) Chief Electrical Inspector;

(l) Director of Factories and Boilers;

(m) Director of Mining and Geology;

(n) Director of Health Services.

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(5) The State Board shall meet at such times and places to be fixed by the Chairman of the State Board and shall observe such procedure in regard to its transaction of business as may be made in the bye-laws.

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4. *District Boards*.—(1) For the purpose of speedy issue of various licences, clearances or certificates required under the various State enactments for setting up of small scale industrial undertakings having capital investment of more than two lakhs rupees in each district of the State, the Government may, by notification, constitute a District Single Window Clearance Board for each district in the State.

(2) Every District Single Window Clearance Board shall be a body corporate by the name of the District for which it is constituted, having perpetual succession and a common seal.

(3) Every District Single Window Clearance Board shall consist of the following members, namely:—

(a) Collector of the District;

(b) General Manager, District Industries Centre of the district concerned;

(c) The President of the Grama Panchayat concerned or Chairperson of the Municipality concerned in cases where licence is required from the local bodies;

(d) The District Officer of the Kerala Pollution Control Board or any other officer of the Board nominated by the Chairman, Kerala State Pollution Control Board;

(e) The District Officer of the Electrical Inspectorate or any other officer nominated by the Chief Electrical Inspector;

(f) The District Officer of the Town Planning Department or any other officer nominated by the Chief Town Planner;

(g) District Medical Officer;

(h) An Officer of the Kerala State Electricity Board not below the rank of Executive Engineer nominated by the Chairman, Kerala State Electricity Board;

(i) District Officer, Factories and Boilers Inspectorate;

(j) Divisional Fire Force Officer;

(k) Divisional Forest Officer;

(l) District Labour Officer;

(m) Secretary, Urban Development Authority or Secretary, District Panchayat;

(n) Deputy Commissioner, Sales Tax and Agricultural Income Tax;

(o) An Officer of the Kerala Water Authority not below the rank of Executive Engineer nominated by the Managing Director, Kerala Water Authority.

(4) The Collector of the District shall be the Chairman and the General Manger, District Industries Centre shall be the Convenor of the District Board.

(5) The District Board shall meet at such time and place to be fixed by the Chairman of the District Board and shall observe such procedure in regard to its transaction of business as may be made in the bye-laws.

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5. *Industrial Area Boards.*—(1) For the purpose of speedy issue of various licences, clearances or certificates required under the various State enactments for setting up of small scale industrial undertakings or industrial undertakings in the various industrial areas of the State, the Government may, by notification constitute Single Window Clearance Borads for every industrial areas in the State to be called Industrial Area Single Window Clearance Borad.

(2) Every Industrial Area Single Window Clearance Board shall be a body corporate by name of the Industrial Area for which it is constituted, having perpetual succession and a common seal.

(3) Every Industrial Area Single Window Clearance Board shall consist of the following members, nameley,—

(a) Principal Secretary to Government Industries Department or his nominee;

(b) Collector of the District;

(c) Chief Executive of the Agency owning or managing the industrial area;

(d) Designated Authority of Industrial area concerned;

(e) District Officer of the State Pollution Control Board;