

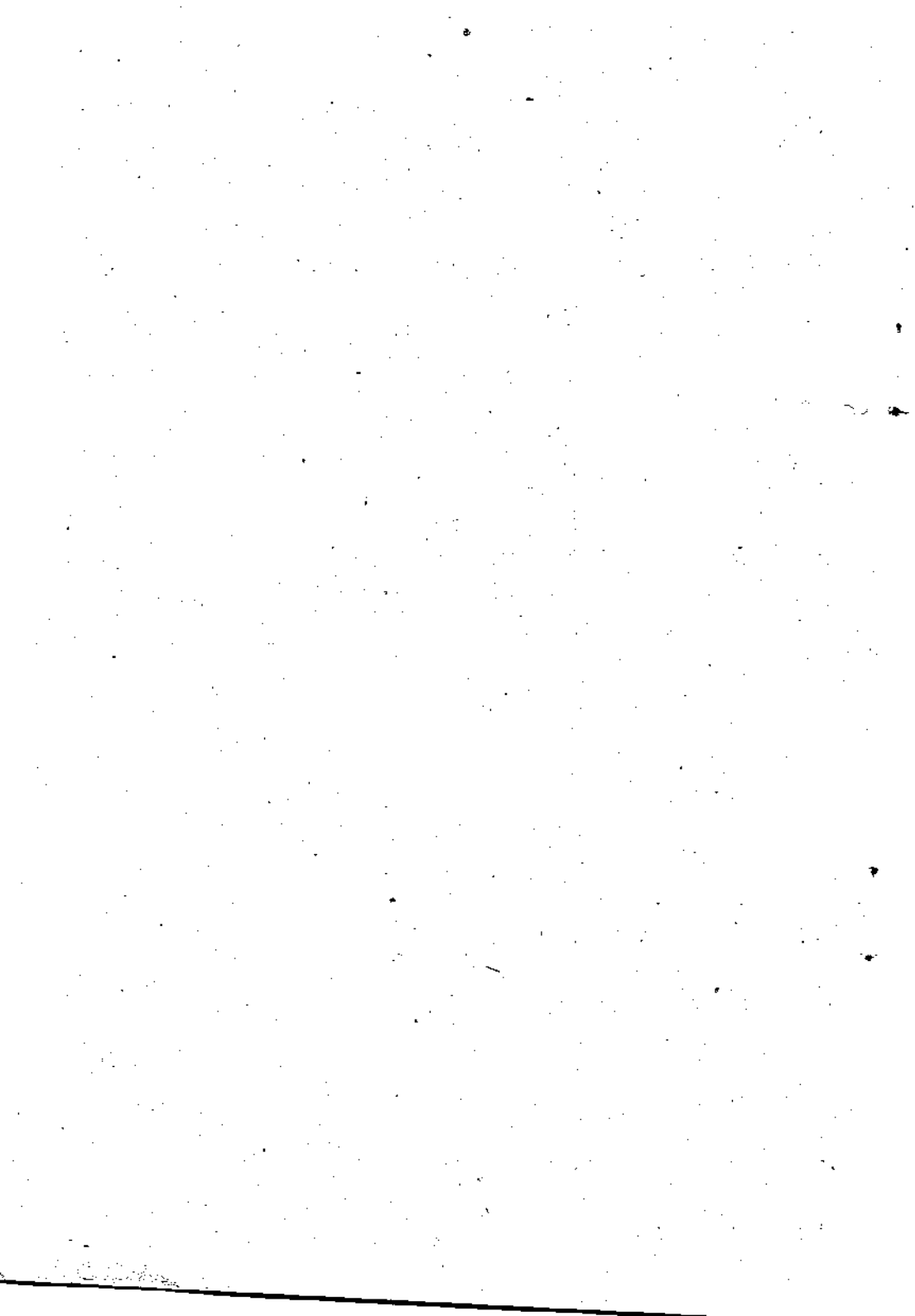
Fourteenth Kerala Legislative Assembly

Bill No. 125

THE KERALA FINANCE BILL, 2018

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A

BILL

to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2018 – 2019.

Preamble.—WHEREAS, it is expedient to give effect to certain financial proposals of the Government of Kerala for the Financial Year 2018 – 2019;

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 Finance Act, 2018.

(2) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 2018.

2. *Amendment of Act 1 of 1077.*— In the Abkari Act, 1077 (1 of 1077),—

(1) in section 3, after clause (13), the following clauses shall be inserted, namely:—

“(13A) “Foreign Made Foreign Liquor” means any liquor produced, manufactured or blended, compounded and bottled abroad and imported into India by land, air or sea;

(13B) “Indian Made Foreign Liquor” means any foreign liquor other than Foreign Made Foreign Liquor;”;

(2) in section 18,—

(a) in sub-section (2),—

(i) in item (i), for the words and brackets “Liquor (Indian Made)” the words “Indian Made Foreign Liquor” shall be substituted;

(ii) in the table, after item (i) and the entry against it, the following item and entry shall, respectively, be inserted, namely:—

“(ia) Duty of excise when levied in the form of special fees on Foreign Made Foreign Liquor.	Rs. 100 per proof litre”;
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(b) in sub-section (4),—

(i) for the words and brackets “Foreign Liquor (Indian Made)” wherever they occur, the words “Indian Made Foreign Liquor” shall be substituted;

(ii) for the words and brackets “Foreign Liquor (foreign made)”, the words “Foreign Made Foreign Liquor” shall be substituted;

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

“Provided further that the Government may, permit, the licensees who sell or serve Indian Made Foreign Liquor, to sell or serve Foreign Made Foreign Liquor also, without levying the fees specified in clause (c) above in such manner as may be prescribed.”;

(iv) The Explanation shall be omitted.

3. *Amendment of Act 11 of 1957.*— In the Kerala Surcharge on Taxes Act, 1957 (11 of 1957), section 3 shall be omitted.

4. *Amendment of Act 17 of 1959.*— In the Kerala Stamp Act, 1959 (17 of 1959),—

(1) in section 2, the existing clause (ff) shall be re-lettered as clause (fa) and after clause (fa) as so re-lettered, the following clauses shall be inserted, namely:—

“(fb) “family” means father, mother, grandfather, grandmother, husband, wife, son, daughter, grandchildren, brother and sister;

(fc) “flat” whether called apartment or by any other name, means a part of any property, together with its undivided interest in the land/common

areas/facilities, intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors or any part or parts thereof, in a multi-storied building to be used for residence or office or for the practice of any profession, or for carrying on any occupation, trade or business or for such other type of independent use, as may be described, in the instrument, and with a direct exit to a public street, road or highway, or to a common area leading to such street, road or highway, and includes any garage or room (whether or not adjacent to the multi-storied building, in which such flat is located) provided by the promoter for use by the owner of such flat for parking any vehicle or for the residence of any domestic aide employed in such flat;”;

(2) after section 28B, the following section shall be inserted, namely:—

“28C. *Valuation of buildings other than Flats/Apartments.*—Notwithstanding anything contained in this Act or the rules made thereunder, an instrument transferring land including a building other than flat/apartment, chargeable with *ad valorem* duty, shall fully and truly set forth the value of building therein and for this purpose the valuation of building shall be determined on the basis of the cost inflation index under section 48 of the Income Tax Act, 1961 (Central Act 43 of 1961), in such manner as may be prescribed by rules made under this Act;”;

(3) in section 45B, to sub-section (5), the following proviso shall be added, namely:—

“Provided that no such appeal shall be entertained, unless an amount equal to twenty-five per cent of the deficit amount of duty determined and payable under sub-section (2) or sub-section (3), as the case may be, is deposited by the aggrieved person in such a manner as may be prescribed by rules made under this act.”;

(4) in THE SCHEDULE, —

(a) in serial number 5, clause (e) shall be re-lettered as clause (g) and before clause (g) as so re-lettered, the following clauses shall be inserted, namely:—

“(e) If relating to advertisement on mass media, made for promotion of any product or programme or event

Rupees 500 per contract

with an intention to make profit or business out of it or conferring exclusive rights of telecasting, broadcasting or exhibition of an event or a film.

(f) If relating to public works or service level agreements

One rupee for every rupees 1000 or part thereof on the amount agreed in the contract, subject to a minimum of rupees 200 and a maximum of rupees one lakh”;

(b) in serial number 6, after clause (2), the following clause shall be inserted, namely:—

“(3) Release, discharge or cancellation of any instrument specified under clause (1) or clause (2)

The same duty with which such agreement [clause (1) or (2), as the case may be] is chargeable”;

(c) for serial number 31, and entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be substituted, namely:—

“31. Gift— instrument, not being a Settlement or will or transfer,

(a) where the gift is in favour of any of the members of the family and/or legal heirs of the deceased family member

Two rupees for every rupees 1000 or part thereof of the fair value of the land and the value of the other properties set forth in the instrument or the value of all properties set forth in the instrument, whichever is higher, subject to a minimum of rupees 1000.

(b) in any other case

The same duty as a conveyance (No. 21 or 22 as the case may be)”;

(d) in serial number 33, the existing Explanation shall be numbered as Explanation I and after Explanation I as so numbered, the following Explanation shall be inserted, namely:—

“Explanation II.—Rent paid in advance shall be deemed to be premium or money advanced within the meaning of this serial number, unless it is specifically provided in the lease agreement that the rent paid in advance will be set off towards the last instalment or instalments of rent.”;

(e) in serial number 42,—

(i) for the entries in columns (2) and (3), the following entries shall respectively, be substituted, namely: —

“Partition— Instrument of [as defined by section 2(k)]:

- | | |
|--|--|
| (a) Where the partition is among all or any of the members of the family and legal heirs of the deceased family member, if any | Two rupees for every rupees 1000 or part thereof of the fair value of the separated share or shares of land and the value of other properties in such separated share or shares set forth in the instrument or of the value of all the properties of the separated share or shares as set forth in the instrument, whichever is higher, subject to a minimum of rupees 1000. |
| (b) in any other case | Six rupees for every rupees 100 or part thereof of the amount of the value or fair value of the separated share or shares of the property, whichever is higher.”; |

(ii) existing Explanation shall be omitted;

(f) in serial number 44,—

(i) in clause (c), for the entry in column (3), the following entry shall be substituted, namely:—

“Six hundred rupees”

(ii) in clause (g), for the entry in column (3), the following entry shall be substituted, namely:—

“Six hundred rupees”

(g) for serial number 48, and the entries against it in columns (2) and (3), the following serial numbers and entries shall, respectively, be substituted, namely:—

“48. Release, that is to say, any instrument (not being such a release as is provided by section 24), whereby a person renounces a claim upon another person or against any specified property,—

(a) When such release operates in favour of any of the members of the family and / or legal heirs of the deceased family member

Two rupees for every rupees 1000 or part thereof of the amount of the fair value of land and the values of other properties or claims of which the right is relinquished in proportion to the right relinquished or value of all the properties or claims of which right is relinquished in proportion to the right relinquished or consideration for the release, whichever is higher, subject to a minimum of rupees 1000.

(b) in any other case

The same duty as a conveyance (No. 21 or 22 as the case may be) for such

amount or value of the property or claim or fair value of the land and the values of other properties of which the right is relinquished in proportion to the right relinquished or consideration for the release, whichever is higher”;

(h) in serial number 51, for clause A and the entries against it in columns (2) and (3), the following clause and entries shall, respectively, be substituted, namely:—

“A. instrument of (including a deed of dower),

(a) Where the settlement is in favour of any of the members of family and/or legal heirs of the deceased family member

Two rupees for every rupees 1000 or part thereof of the fair value of the land and the value of other properties set forth in the instrument or the value of all properties set forth in such instrument, whichever is higher, subject to a minimum of rupees 1000.

(b) in any other case

The same duty as Bottomry Bond (No. 14) for a sum equal to the amount or value of the property settled as set forth in such instrument or fair value of land and value of other properties, whichever is higher.”;

(i) for serial number 54, and the entries against it in columns (2) and (3), the following serial number and entries shall, respectively, be substituted, namely:—

“54. Surrender of lease—

(a) when lease is surrendered before the expiry of lease period One thousand rupees

(b) in any other case

Five hundred rupees”.

5. *Amendment of Act 10 of 1960.*—In the Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960) in SCHEDULE II, after Article 18 and the entries against it in columns (2) and (3), the following Article and entries shall, respectively, be inserted, namely:—

<p>“19. Application to arbitrator for adjudication of dispute under the Chit Funds Act, 1982 (Central Act 40 of 1982)</p>	<p>Two per cent of the arbitration amount.”.</p>
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6. *Amendment of Act 13 of 1961.*— In the Kerala Land Tax Act, 1961 (13 of 1961), in section 6, for sub-section (1) and NOTE below it, the following sub-section and proviso shall be substituted, namely:—

“(1) Subject to the provisions of sub-section (2) of section 7, the basic tax charged and levied under section 5 shall be at the rate of five rupees in Panchayat areas, ten rupees in Town Panchayat and Municipal Council areas and twenty rupees in Municipal Corporation areas, per Are per annum:

Provided that where the aggregate extent of land held by a land holder does not exceed 8.1 Ares in Panchayat area, 2.43 Ares in Town Panchayat and Municipal Council area and 1.62 Ares in Municipal Corporation area, the basic tax charged and levied on such land shall be at the rate of two rupees and fifty paise in Panchayat area, five rupees in the “Town Panchayat and Municipal Council area and ten rupees in the Corporation area, per Are per Annum.”.

7. *Amendment of Act 15 of 1963.*— In the Kerala General Sales Tax Act, 1963 (15 of 1963),—

(1) in section 23B,—

(a) in sub-section (3) for the words and figures “31st December, 2017” the words and figures “30th June, 2018” shall be substituted;

(b) in sub-section (4), for the words and figures “31st December, 2017” the words and figures “30th June, 2018” shall be substituted;

(2) in the schedule, for serial number 2 and the entries against it, the following serial number and entries shall, respectively, be substituted, namely:—

“2	Foreign Liquor	
(i)	Bottled Wine, imported from outside the country and has suffered duty under the Customs Act, 1962	25
(ii)	Bottled Foreign liquor other than wine, imported from outside the country and has suffered duty under the Customs Act, 1962	78
(iii)	Beer not covered under sub-entry (ii) above	100
(iv)	Wine not covered under sub-entry (i) above	70
(v)	Foreign liquor not covered under sub entries (i), (ii), (iii) and (iv) above	
	(a) for which purchase value incurred is Rupees 400 per case or more	210
	(b) for which purchase value incurred is up to Rupees 400 per case	200

*Explanation:—*For the purpose of this Schedule,—

(i) “case” means, 48 bottles of 180 ml. each, or 24 bottles of 375 ml. each, or 18 bottles of 500 ml. each or 12 bottles of 750 ml. each, or 9 bottles of

1000 ml. each or 6 bottles of 1500 ml. each;

(ii) "purchase value" means the value at which the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited purchases such liquor from the suppliers and in case any liquor is not purchased by the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited, such value as fixed by the Commissioner of Excise, for the purpose of levy of duties under the provisions of the Abkari Act, 1077 (1 of 1077).".

8. *Amendment of Act 19 of 1976.*— In the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976),—

(1) in section 3,—

(a) in sub-section (1),

(i) in the second proviso, for the words "as per fourth proviso" the words "as per fifth proviso", shall be substituted;

(ii) in the third proviso,—

(a) for the words "tax has been paid at the rate", the words and symbol "tax has been paid, at the rate" shall be substituted;

(b) after the words, figures, brackets and letter "new autorickshaws specified in item 7(i)(a)", the words, figures, brackets and letters "and 7(i)(aa) and new e-rickshaws specified in item 7(i)(ab)" shall be inserted;

(c) for the words "seventh proviso", the words "eighth proviso", shall be substituted;

(d) after the fourth proviso, in the NOTE, for the words "This shall", the words "This proviso shall" shall be substituted;

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

“Provided also that in the case of Transport Vehicles registered in any State or Union Territories other than the State of Kerala and found operating in the State of Kerala without remitting tax due to Kerala, a tax equal to double the amount of tax specified in the schedule for such vehicle shall be levied.”;

(c) in sub-section (7), for the words “specified in the schedule”, the words “specified in Annexure IV” shall be substituted;

(2) in sub-section (1) of section 4,—

(a) for the third proviso, the following proviso shall be substituted, namely:—

“Provided also that the tax payable in respect of motor vehicles other than those vehicles for which one time tax or lump sum tax or biennial tax has been paid for an year does not exceed rupees one thousand five hundred, the tax shall be paid yearly on an annual licence.”;

(b) in the fourth proviso, for the words “second proviso”, the words “third proviso”, shall be substituted;

(c) in the fifth proviso, after the words, figures and brackets “specified in item 7(i)(a)”, the words, figures and brackets “and 7(i)(aa) and new e-rickshaw specified in 7(i)(ab)”, shall be inserted;

(d) in the eighth proviso, after the words, figures and brackets “7(i)(a)” the words, figures and brackets “and 7(i)(aa) e-rickshaw specified in 7(i)(ab)”, shall be inserted;

(3) in the Schedule,—

(a) in serial number 3, in item (ii), for sub-item (q) and the entries against it in columns (2) and (3), the following sub-items and entries shall, respectively, be substituted, namely:—

“(q) 15000 kg	20000 kg	-do-	4240 + Rs.160/- for every 250 kg or part there of in excess of 15000 kg.
(r)	20000 kg		7440 + Rs.220/- for every 250 kg or part there of in excess of 20000 kg”;

(b) in serial number 7, in item (i), for sub-item (a) and the entries against it in columns (2) and (3), the following sub-items and entries shall, respectively, be substituted, namely:—

“(a) and to carry not more than 3 passengers (Autorickshaws) and using fuel petrol and diesel	125.00
(aa) and to carry not more than 3 passengers (Autorickshaws) and using fuel other than petrol and diesel.	115.00
(ab) and used for carrying more than 2 passengers but not more than 6 passengers other than motor cabs and Tourist Motor Cabs (e-rickshaws)	125.00”;

(c) serial number 14 and the entries against it in columns (2) and (3) shall be omitted;

(d) in Annexure II, under the heading “Class of Vehicle”, against serial number C, after the words “State of Kerala”, the words “and new e-rickshaws and e-rickshaws which were originally registered in other State on or after 1st April, 2018 and migrated to the State of Kerala” shall be inserted;

(e) for Annexure III, the following Annexure shall be substituted namely:—

“ANNEXURE-III

[see section 3(6)]

Sl. No.	Class of Vehicle	Amount of Tax	
(1)	(2)	(3)	
		Period of stay exceeding 30 days and up to one year	Period of stay exceeding one year
1	Motor Cycle and Three Wheelers	1/15th of the onetime tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
2	Motor Cars	1/15th of the onetime tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
3	Private Service Vehicle for Personal use.		
	A. Passanger capacity up to 10 seats—for every passenger	1/15th of the onetime tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I
	B. Passanger capacity more than 10 seats—for every passenger	1/15th of the onetime tax specified in Annexure I	One time tax proportionate to the rate specified in Annexure I

(1)	(2)	(3)
4	Construction Equipment Vehicles	1/15th of the onetime tax specified in Annexure I
		One time tax proportionate to the rate specified in Annexure I
5	Other Non-Transport Vehicles	Quarterly Tax specified in the schedule for every quarter
		Quarterly Tax specified in the schedule for every quarter";

(c) after Annexure III, the following Annexure shall be inserted, namely:—

“ANNEXURE-IV
(Short Term Tax)
[See section 3(7)]

Motor Vehicles brought to the State from any other Country for Temporary use in the State.

Sl. No.	Period of Stay	Amount of Tax (in Rupees)
(1)	(2)	(3)
(i)	For the first month of stay or part there of	10,000/-
(ii)	For every subsequent month of stay or part there of	5,000/-

9. *Amendment of Act 15 of 1991.*— In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991), in section 37C,—

(a) in sub-section (5), for the words and figures “30th September, 2017” the words and figures “30th June, 2018” shall be substituted;

(b) in sub-section (7), for the words and figures “31st December, 2017” the words and figures “30th June, 2018” shall be substituted.

10. *Amendment of Act 30 of 2004.*— In the Kerala Value Added Tax Act, 2003 (30 of 2004),—

(1) in section 2, after clause (xxiv), the following clause shall be inserted, namely:—

“(xxiva) “Joint Commissioner (Appeals)” means any person appointed to be a Joint Commissioner (Appeals) under sub-section (3) of section 3;”

(2) in section 3,—

(a) in sub-section (3), after the words and symbol “Joint Commissioners”, the words, brackets and symbol “Joint Commissioner (Appeals),” shall be inserted;

(b) in the proviso to sub-section (4), after the words “discretion of the”, the words, brackets and symbol “Joint Commissioner (Appeals),” shall be inserted;

(3) in section 24, in the fourth proviso to sub-section (1), for the words and figures “31st March, 2018”, the words and figures “31st March, 2019” shall be substituted;

(4) in section 25, in the third proviso to sub-section (1), for the words and figures “31st March, 2018”, the words and figures “31st March, 2019” shall be substituted;

(5) to section 25D, the following proviso shall be inserted, namely:—

“Provided that dealers who have opted to pay differential amount of tax under this section, but has not paid the amount or has only paid the amount partly, shall pay the balance amount outstanding as on 31st March, 2018, in twenty four equal monthly instalments on or before 31st March, 2020.”;

(6) in section 25E,—

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

“Provided that the dealers specified in sub-section (1) who had failed to take registration under the Act may also settle their cases relating to the period up to 31st March, 2017, under this section on payment of registration fee at the prescribed rate for each such year and an amount equal to registration fee as penalty, in addition to the tax payable under this section.”;

(b) in sub-section (2), for the words and figures "30th September, 2017", the words and figures "30th June, 2018" shall be substituted;

(c) in sub-section (5), for the words and figures "31st December, 2017", the words and figures "30th June, 2018" shall be substituted;

(d) sub-section (7) shall be omitted;

(7) in section 31A,—

(a) in sub-section (5), for the words and figures "30th September, 2017" the words and figures "30th June, 2018" shall be substituted;

(b) in sub-section (7), for the words and figures "31st December, 2017" the words and figures "30th June, 2018" shall be substituted;

(8) after section 31A, the following section shall be inserted, namely:—

31B. Notwithstanding anything contained in this Act, the interest accrued under sub-section (5) of section 31 and sub-section (6) of section 31 of this Act, on tax due or accrued, under sub-section (2) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) on arecanut and penalty under section 67 and section 68 of this Act, and penalty imposed on non-payment or short payment of tax due or assessed under sub-section (2) of section 8 shall be waived subject of the following conditions:

(a) the dealers who have received assessment orders before 20th April, 2018 shall file their option for waiver before the assessing authority on or before 31st May, 2018;

(b) dealers who receives assessment orders after 20th April, 2018 shall file the option within a month from the date on which the assessment orders are received or before 31st March, 2019, whichever is earlier:

Provided that the Commissioner may, for sufficient reasons extent the date for filing of option;

(c) such dealers shall pay the entire tax assessed in lumpsum or in 12 equal monthly instalments, starting on the date on which the assessing authority intimates the tax amount to be paid under the option;

(d) cases relating to the above assessment pending in all Courts and Appellate or Revisional forums shall be withdrawn by the dealer;

(e) penalties and interest already remitted before 20th March, 2018 will not be readjusted towards tax liability.;

(8) in section 42, in sub-section (2), after the existing proviso, the following provisos shall be inserted, namely:—

“Provided that those dealers who have filed audited statement of accounts and certificates under sub-section (1) will be allowed to revise the returns for the period up to June, 2017, in respect of defects of a technical or clerical in nature, having no effect on the sales turnover already conceded or the tax paid. Such dealers may apply for revision of their returns before the assessing authority on or before 30th June, 2018:

Provided further that this facility shall not be available to dealers against whom assessment proceedings have already been initiated based on such defects:

Provided also that such revision shall be allowed on the basis of the instructions issued by the Commissioner from time to time.”;

(9) in section 55,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Appeals to the Joint Commissioner (Appeals), Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals).—”

(b) in sub section (1),—

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

“Provided further that notwithstanding anything contained in this Act, any order passed under this Act by an assessing authority not below the rank of Deputy Commissioner shall be appealable only to the Joint Commissioner (Appeals).”;

(ii) in the third proviso for the words and brackets "Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)", the words and brackets "Joint Commissioner (Appeals), Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)" shall be substituted;

(c) in sub-section (4), in the first proviso, for the words and brackets "Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)", the words and brackets "Joint Commissioner (Appeals), Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)" shall be substituted;

(d) in sub-section (5), for the words and brackets "Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)", the words and brackets "Joint Commissioner (Appeals), Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)" shall be substituted;

(e) in sub-section (6), for the words and brackets "Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)", the words and brackets "Joint Commissioner (Appeals), Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)" shall be substituted;

(f) in sub-section (7), for the words and brackets "Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)", the words and brackets "Joint Commissioner (Appeals), Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)" shall be substituted;

(10) in section 58,—

(a) in sub-section (1), for the words and brackets "other than that of the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)", the words and brackets "other than that of the Joint Commissioner (Appeals), Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)" shall be substituted;

(b) in sub-section (2), in clause (b), for the words and brackets "the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)", the words and brackets "the Joint Commissioner (Appeals), Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)" shall be substituted;

(11) in section 59, in sub-section (1), for the words and brackets “the Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)”, the words and brackets “the Joint Commissioner (Appeals), Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)” shall be substituted;

(12) in section 60,—

(a) in sub-section (1), for the words and brackets “Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)”, the words and brackets “Joint Commissioner (Appeals), Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)” shall be substituted;

(b) in sub-section (2), for the words and brackets “Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)”, wherever they occur the words and brackets “Joint Commissioner (Appeals), Deputy Commissioner (Appeals) or Assistant Commissioner (Appeals)” shall be substituted;

(13) in section 65, for the words and brackets “Deputy Commissioner (Appeals), Assistant Commissioner (Appeals) or the Deputy Commissioner”, the words and brackets “Joint Commissioner (Appeals), Deputy Commissioner (Appeals), Assistant Commissioner (Appeals) or the Deputy Commissioner” shall be substituted;

(14) in section 85, in sub-section (2), in clause (x), in sub-clause (b), the words “or by a Joint Commissioner (Appeals)” shall be added the end;

(15) in section 94, in sub-section (5), for the words and brackets “including Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)” the words and brackets “including Joint Commissioner (Appeals), Deputy Commissioner (Appeals) and Assistant Commissioner (Appeals)” shall be substituted;

(16) in the first schedule, below serial number 17B and the entries against it in columns (2) and (3), the following note shall be inserted, namely:—

“Note:- This entry shall be deemed to have come into force on the 19th day of July, 2011.”.

11. *Amendment of Act 21 of 2008.*— In the Kerala Finance Act, 2008 (21 of 2008), in section 6,—

(1) (a) for the words and figures “section 5 and section 7” the words and figure “section 5, except on foreign liquor,” shall be substituted;

(b) the proviso shall be omitted;

(2) sub-section (2A) shall be omitted;

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

“(3) The Government may after due appropriation made by law in this behalf utilise such sum of money of Social Security Cess for the purposes specified in sub-section (1).”;

(4) in sub-section (4), the word, brackets, figure and letter “and (2A)” shall be omitted.

12. *Reduction of arrears in certain cases.*— (1) Notwithstanding anything contained in sub-section (1) of section 173 of the Kerala Goods and Services Tax Act, 2017 (20 of 2017) and the Kerala Tax on Luxuries Act, 1976 (32 of 1976) (hereinafter referred to as the repealed Act) and the rules made thereunder or in any judgment, decree or order of any court, tribunal or appellate authority, an assessee who is in arrears of tax or any other amount due under the repealed Act relating to the period up to and including 31st March, 2011, may opt for settling the arrears on payment of the principal amount of tax in arrears and thirty per cent of penalty amount, by availing a complete reduction of the interest on the tax amount and interest on the penalty amount.

(2) Notwithstanding anything contained in the Kerala Revenue Recovery Act, 1968, (15 of 1968) reduction of arrears under sub-section (1) shall be applicable to those cases in which revenue recovery proceedings have been initiated and the assessing authorities under the repealed Act shall have the power

to collect such amounts on settlement under sub-section (1) and where the amount is settled under sub-section (1) the assessing authorities shall withdraw the revenue recovery proceedings against such assesseees which will then be binding on the revenue authorities and such assesseees shall not be liable for payment of any collection charges.

(3) The assessee shall withdraw all the cases pending before any appellate or revisional authority, tribunal or courts for opting for settling the arrears under this section.

(4) All arrears including tax and penalties pertaining to a year shall be settled together under this section.

(5) An assessee who intends to opt for payment of arrears under sub-section (1) shall submit an application to the assessing authority on or before 30th June, 2018.

(6) The arrears for the purpose of settlement under this section shall be calculated as on the date of submission of application.

(7) On receipt of an application under sub-section (5), the assessing authority shall determine the amount of tax and other amounts due from the assessee under sub-section (1) and shall intimate the same to the assessee, and thereupon the assessee shall remit the amount in equal monthly instalments on or before 30th June, 2018:

Provided that an assessee who opts to settle his arrears under sub-section (1) has remitted any amount relating to the arrears for obtaining a stay voluntarily or by way of an order or decree or judgment passed by any court or tribunal or appellate authority and if the case is pending before such authority, the amount so paid shall be treated as that paid under this option.

(8) There shall not be any refund subsequently for the amount settled under this scheme, under any circumstances.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the following enactments to give effect to the financial proposals of the Government of Kerala for the financial year 2018-2019 as announced in paras 244 to 250 and 252 to 274 of the Budget Speech 2018-2019, namely:—

1. The Abkari Act, 1077 (1 of 1077);
2. The Kerala Surcharge on Taxes Act, 1957 (11 of 1957);
3. The Kerala Stamp Act, 1959 (17 of 1959);
4. The Kerala Court Fees and Suits Valuation Act, 1959 (10 of 1960);
5. The Kerala Land Tax Act, 1961 (13 of 1961);
6. The Kerala General Sales Tax Act, 1963 (15 of 1963);
7. The Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976);
8. The Kerala Agricultural Income Tax Act, 1991 (15 of 1991);
9. The Kerala Value Added Tax Act, 2003 (30 of 2004);
10. The Kerala Finance Act, 2008 (21 of 2008);

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-item (iii) of item (b) of sub-clause (2) of clause 2 of the Bill, which proposes to insert a new proviso after the existing proviso to sub-section (4) of section 18 of the Abkari Act, 1077 (1 of 1077) seeks to empower the Government to prescribe the manner in which the Government may permit the licensees who sell or serve Indian Made Foreign Liquor to sell or serve Foreign Made Foreign Liquor also without levying the fees specified in clause (c).

2. Sub-clause (2) of clause 4 of the Bill, which proposes to insert a new section 28C in the Kerala Stamp Act, 1959 (17 of 1959) seeks to empower the Government to prescribe the manner in which the valuation of buildings other than flat/apartment shall be determined on the basis of the cost inflation index under section 48 of the Income Tax Act, 1961 (Central Act 43 of 1961).

3. Sub-clause (3) of clause 4 of the Bill, which proposes to add a proviso to sub-section (5) of section 45B of the above said Act, seeks to empower the Government to prescribe the manner in which the aggrieved person shall deposit an amount equal to twenty five per cent of the deficit amount of duty along with the appeal.

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

DR. T. M. THOMAS ISAAC.

EXTRACT FROM THE RELEVANT PORTIONS OF THE

ABKARI ACT, 1077

(1 OF 1077)

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3. *Interpretation.*—In this Act, unless there be something repugnant in the subject or context.—

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(13) *Foreign Liquor.*—“Foreign Liquor” includes all liquor other than country liquor:

Provided that, in any case in which doubt may arise, the Government may declare by notification what, for the purpose of this Act, shall be deemed to be “country liquor” and what “foreign liquor”.

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18. *How duty or countervailing duty may be imposed.*—(1) Such duty of excise or countervailing duty may be levied and collected:

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(2) The duty of excise or countervailing duty under sub-section (1) shall be levied and collected at such rates as may be fixed by the Government, from time to time, by notification in the Gazette, not exceeding the rates specified below.—

	<i>Duty of Excise</i>	<i>Maximum Rates</i>
(i)	Duty of excise on liquors (Indian made)	Rs.200 per proof litre or an amount equal to 200 per cent of the value of the liquor whichever is higher
	**	**

(4) The luxury tax under sub-section (3) shall be levied at such rates as may be fixed by the Government, from time to time, by notification in the gazette, not exceeding the rates specified below.—

Luxury tax

- (a) When levied in the form of a fee for licence for sale of foreign liquor (Indian made)

(2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—

- | | |
|---|---|
| (i) If the amount secured is up to rupees 5 lakhs | 0.5% of the amount. |
| (ii) If the amount secured exceeds rupees 5 lakhs but does not exceed rupees 20 lakhs | 0.5% of the amount subject to a maximum of rupees 5,000. |
| (iii) If the amount secured exceeds rupees 20 lakhs but does not exceed rupees 50 lakhs | 0.5% of the amount subject to a maximum of rupees 10,000. |
| (iv) If the amount secured exceeds rupees 50 lakhs | 0.25% of the amount subject to a minimum of rupees 20,000 and a maximum of rupees 25,000. |

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(1)	(2)	(3)
31. <i>Gift</i> .—instrument not being a settlement or will or transfer,		
(a) where the gift is in favour of father, mother, grandfather, grandmother, husband, wife, son, daughter, brother, sister or grandchildren of a person and if—		
(i) the extent of land involved in the property transferred by the instrument is five acres or less		Two rupees for every rupees 100 or part thereof of the fair value of the property and the value of the other properties set forth in the instrument or the value of all the properties set forth in the instrument whichever is higher, subject to a maximum of Rupees 1,000
(ii) the extent of land involved in the property transferred by the instrument is above five acres		Two rupees for every rupees 100 or part thereof of the fair value of the property and the value of the other properties set forth in the instrument or the value of all the properties set forth in the instrument whichever is higher.
(b) in any other case		The same duty as a conveyance (No.21 or 22 as the case may be).

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(1)	(2)	(3)
33. <i>Lease</i> .—including an underlease or sub lease and any agreement to let or sublet.—		
(a) where by such lease the rent is fixed and no premium is paid or delivered,—		
(i) where the lease purports to be for a term of less than one year		The same duty as a Bottomry Bond (No.14) for the whole amount payable or deliverable under such lease.
**	**	**
(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved:		The same duty as a conveyance (No. 21 or 22 as the case may be) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid for delivered:
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		**
Provided that in any case where an agreement to lease is stamped with <i>ad valorem</i> stamp required for a lease and a lease pursuant of such agreement is subsequently executed, the duty on such lease shall not exceed one rupee ninety five paise		
<i>Explanation</i> .—When a lessee undertakes to pay any recurring charge, such as Government revenues, the landlord's share of cesses or the owner's share of Municipal rates or taxes which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.		
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(1)	(2)	(3)
42. <i>Partition</i> .—instrument of [as defined by section 2 (k)].—		
(a) where the partition is among all or some of the members of the family and if—		
(i) the extent of land involved in the property divided by the instrument is five acres or less		One rupee for every rupees 100 or part thereof of the fair value of the separated share or shares of property and the value of other properties in such separated share or shares set forth in the instrument, or of the value of all the properties of the separated share or shares as set forth in the instrument, whichever is higher, subject to the maximum of rupees 1,000.
(ii) the extent of land involved in the property divided by the instrument is above five acres		One rupee for every rupees 100 or part thereof of the fair value of the separated share or shares of property and the value of other properties in such separated share or shares set forth in the instrument, or of the value of all the properties of the separated share or shares as set forth in the instrument, whichever is higher
(b) in any other case		Six rupees for every rupees 100 or part thereof of the amount of the value or fair value of the separated share or shares of the property whichever is higher.

(1)	(2)	(3)
<p><i>Explanation</i>:—Family means father, mother, grandfather, grandmother, husband, wife, son, daughter, grandchildren, brother, sister and legal heirs of the deceased children, if any, as the case may be.</p>		
**	**	**
**	**	
44. Power of attorney (as defined by section 2(p), not being a proxy)		
**	**	**
**	**	
(c) when authorising not more than 5 persons to act jointly and severally in more than one transaction or generally:		Three hundred rupees
**	**	**
**	**	
(g) in any other case		Rupees three hundred for each person authorized.
**	**	**
**	**	
48. Release, that is to say, any instrument (not being such a release as is provided in section 24), whereby a person renounces a claim upon another person or against any specified property—		
(a) When such release operates in favour of father, mother, grandfather, grandmother, husband, wife, son, daughter, brother, sister, grandchildren or legal heirs of the deceased children of a person and if—		
(i) the extent of land involved in the property in which right relinquished by the instrument is five acres or less		One rupee for every rupees 100 or part thereof of the amount of the fair value of other properties or claims of which the right is relinquished

(1)	(2)	(3)
		in proportion to right relinquished or value of all the properties or claims of which the right is relinquished in proportion to the right relinquished or consideration for the release, whichever is higher, subject to a maximum of Rupees 1,000
	**	**
(ii) the extent of land involved in the property in which right relinquished by the instrument is above five acres	**	One rupee for every rupees 100 or part thereof of the amount of fair value of other properties or claims of which the right is relinquished in proportion to right relinquished or value of all the properties or claims of which the right is relinquished in proportion to the right relinquished or consideration for the release, whichever is higher
(b) in any other case	**	The same duty as a conveyance (No.21 or 22 as the case may be) for such amount or value of the property or claim or fair value of the property of which the right is relinquished in proportion to right relinquished or consideration for the release, whichever is higher.
	**	**

(1)	(2)	(3)
51. <i>Settlement</i>		
A. instrument of (including a deed of dower).		
(a) Where the settlement is in favour of father, mother, grandfather, grandmother, husband, wife, son, daughter, brother, sister or grandchildren of a person and if—		
(i) the extent of land involved in the property settled by the instrument is five acres or less		Two rupees for every rupees 100 or part thereof of the amount of the fair value of other properties set forth in the instruments or the value of all properties set forth in such instrument, whichever is higher, subject to a maximum of Rupees 1,000
(ii) the extent of land involved in the property settled by the instrument is above five acres		Two rupees for every rupees 100 or part thereof of the fair value of the land and the value of other properties set forth in the instrument or the value of all properties set forth in such instrument whichever is higher.
(b) in any other case		The same duty as Bottomry Bond (No.14) for a sum equal to amount or value of the property settled as set forth in such instrument or fair value of land, whichever is higher.

(1)	(2)	(3)
54. <i>Surrender of lease</i>		
(a) when the duty with which the lease is chargeable does not exceed One Hundred rupees.	The duty with which such lease is chargeable.	
(b) in any other case	Two hundred and fifty rupees	
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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
COURT FEES AND SUITS VALUATION
ACT 1959 (10 OF 1960)

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SCHEDULE I

<i>Article</i>	<i>Particulars</i>	<i>Proper fee</i>
(1)	(2)	(3)

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SCHEDULE II

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18.	Caveat	Fifty rupees
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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
LAND TAX ACT, 1961

(13 OF 1961)

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6. *Rate of basic tax.*—(1) Subject to the provisions of sub-section (2) of section 7, the basic tax charged and levied per annum under section 5 shall be at the rates as shown in the Table below:

TABLE

I. In Panchayat areas:

up to 8 Are	.. ₹ 1 per Are
up to 2 Hectare	.. ₹ 2 per Are
above 2 Hectare	.. ₹ 400 plus ₹ 5 per Are for land in excess of two Hectare.

II. In Town Panchayats and Municipal Council areas:

up to 3 Are	.. ₹ 2 per Are
up to 2 Hectare	.. ₹ 4 per Are
above 2 Hectare	.. ₹ 800 plus ₹ 10 per Are for land in excess of two Hectare.

III. In Municipal Corporation areas:

up to 2 Are	.. ₹ 4 per Are
up to 2 Hectare	.. ₹ 8 per Are
above 2 Hectare	.. ₹ 1600 plus ₹ 20 per Are for land in excess of two Hectare.

Note:— Any excess tax paid on or after 30th day of September, 2014 may be adjusted against future dues.

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EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA
GENERAL SALES TAX ACT, 1963

(15 OF 1963)

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23B. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court, Tribunal or Appellate Authority, an assessee who is in arrears of tax or any other amount due under this Act or the Central Sales Tax Act, 1956 (Central Act 74 of 1956) relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon:

Provided that nothing in this section shall apply to a public sector undertaking under the control of Government of India.

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(3) A dealer who wishes to opt for payment of arrears under sub-section (1) shall make an application to the assessing authority in the prescribed form before 31st December, 2017 or on such date as may be notified by the Government.

(4) On receipt of an application under sub-section(3), the assessing authority shall verify the same and intimate the amount due to the assessee and thereupon the assessee shall remit the amount in lump sum or in three equal instalments on or before 31st December, 2017.

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SCHEDULE
[Section 5(1)]

Goods in respect of which tax is leviable under section 5

<i>Sl. No.</i>	<i>Sub-entry</i>	<i>Description of Goods</i>	<i>Rate of Tax (per cent)</i>
1.		<i>Petroleum Products</i>	
	(i)	Aviation Turbine Fuel	34
	(ii)	High Speed Diesel Oil	40
	(iii)	Motor Spirit (commonly known as Petrol)	50
2		<i>Foreign Liquor</i>	
	(i)	Beer and Wine	70
	(ii)	Other than Beer and Wine for which purchase value incurred is rupees 400 per case or more;	135
	(iii)	Other Foreign Liquor, not covered under items (i) and (ii) above	125

Explanation:—For the purpose of this Schedule,—

(i) “case” means, 48 bottles of 180 ml. each, or 24 bottles of 375 ml. each, or 18 bottles of 500 ml. each or 12 bottles of 750 ml. each, or 9 bottles of 1000 ml. each or 6 bottles of 1500 ml. each;

(ii) “purchase value” means the value at which the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited purchases such liquor from the suppliers and in case any liquor is not purchased by the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited, such value as fixed by the Commissioner of Excise, for the purpose of levy of duties as per the Abkari Act, 1077 (1 of 1077).