

# KERALA CONSERVATION OF PADDY LAND AND WETLAND (AMENDMENT) ACT, 2018

Preamble - KERALA CONSERVATION OF PADDY LAND AND WETLAND (AMENDMENT) ACT, 2018

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

[Act No. 29 of 2018]

[06th July, 2018]

## PREAMBLE

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

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

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

## Section 1 - Short title and commencement

- (1) This Act may be called the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018.
- (2) It shall be deemed to have come into force on the 30th day of December, 2017.

## Section 2 - Amendment of section 2

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

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

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

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

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

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

(viB) "Fund" means the Agricultural Promotion Fund constituted under Section 27D;"

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

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

"(xviiA) "unnotified land" means the lands within the area of jurisdiction of the Committee which have been included as paddy land or wetland in the basic tax register maintained in Village Offices, but are not notified as paddy land or wetland under sub-section (4) of section 5 or where data bank has not been published under the provisions of clause (i) of sub section (4) of section 5, the lands which have already been filled up on the date of commencement of this Act and are not paddy land according to the report of the Kerala State Remote Sensing Centre and the Local Level Monitoring Committee or where the report of the Kerala State Remote Sensing Centre is not available, lands which are not paddy land according to the report of the Local Level Monitoring Committee;

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

drainage channels;".

### Section 3 - Amendment of section 5

In section 5 of the principal Act,--

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

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

Provided that the Committee shall not recommend for filling of paddy land of more than an extent of 4.04 Ares in a Panchayat or an extent of 2.02 Ares in Municipality/Corporation area, as the case may be, for the construction of residential building for the owner of the paddy land;

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

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

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

- (2) in sub-section (4).—

(i) after item (i), the following proviso shall be inserted, namely:--

"Provided that any person aggrieved by the entries in the data bank so exhibited, may prefer an application to the Revenue Divisional Officer concerned and the Revenue Divisional Officer shall dispose of such application within a period of three months after following such procedure, as may be prescribed, and in case the Revenue Divisional Officer finds that the land included as paddy land or wetland in the said data bank is not paddy land or wetland, it shall be deemed to have been removed from the data bank.";

(ii) item (iv) shall be omitted.

#### Section 4 - Amendment of section 8

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

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

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

#### Section 5 - Amendment of section 9

In section 9 of the principal Act,--

(1) in the proviso to sub-section (1), for the words and symbol "ten cents in a Panchayat and five cents in a Municipality/Corporation", the words, symbol and figures "an extent of 4.04 Ares in a Panchayat and an extent of 2.02

Ares in a Municipality/Corporation" shall be substituted.

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

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

## Section 6 - Substitution of new section for section 10

In the principal Act, for section 10, the following section shall be substituted, namely:--

"10. Power of Government to grant exemption.--

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

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

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

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

(3) The decision of the Government shall clearly indicate the survey number and the extent of land in each survey number for which

exemption is granted, the survey number and the extent of land in which water conservancy measures are to be adopted by the applicant and a sketch of such land indicating the aforementioned details shall be appended to the order.

- (4) The Government may, in case of non-receipt of report from the State Level Committee within the time specified in sub-section (3) of section 8, call for a report from such other authority as may be prescribed, and proceed to make an order in writing for grant or refusal of exemption.
- (5) The Government may either suo-moto or on application from any aggrieved party cancel any order issued under this section if the conditions specified in the order of exemption are not complied by the applicant, either fully or partially and give direction to the District Collector to restore the said land to its original position under section 13 and District Collector shall be liable to do so after following such procedure as may be prescribed.
- (6) No order of cancellation under sub-section (5) shall be made by the Government unless the applicant thereof has been given an opportunity of being heard in the matter."

## Section 7 - Amendment of section 12

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

"(c) seize any vessel, vehicle or other conveyance or any implements used or purported to be used in contravention of the provisions of this Act or seize any clay, sand, earth etc. used for filling of the paddy land or wetland or any clay, sand, earth etc. removed from the paddy land or wetland in contravention of the provisions of this Act or any brick or tile made of all or any of them and send a report to the District Collector for.

initiating proceedings for their confiscation;".

## Section 8 - Amendment of section 13

In section 13 of the principal Act.--

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

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

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

## Section 9 - Amendment of section 14

In section 14 of the principal Act, after the words "a wetland", the words "or an unnotified land, nature of which has been changed in contravention of the provisions of this Act" shall be inserted.

## Section 10 - Amendment of section 16

In section 16 of the principal Act,--

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

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

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

be substituted;

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

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

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

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

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

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

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

(3G) If the Revenue Divisional Officer grants permission under sub-section (3F) or in the case of a deemed permission under sub-section (3C), the Committee may inform the Panchayat/Municipality/ Corporation, as the case may be, in writing and the Panchayat/

Municipality/Corporation may, by an order, entrust the right to cultivate the said paddy land, by auction or otherwise, for a maximum period of two years at a time and make arrangement for such cultivation as per sub-section (4):

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

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

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

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

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

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

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

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

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

(i) Padasekhara Samithis or Joint Farmers Societies;

(ii) Self Help Groups;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Section 11 - Amendment of section 19

In sub-section (1) of section 19 of the principal Act, after the word "conveyance", the words "or any clay, sand, earth etc. removed from the paddy land or wetland or any brick, tile made of all or any of them" shall be inserted and for the word "Collector" the words "District Collector" shall be substituted.

## Section 12 - Amendment of section 20

In sub-section (1) of section 20 of the principal Act,--

- (i) for the word "Collector" the words "District Collector" shall be substituted;
- (ii) after the proviso, the following proviso shall be inserted, namely:--

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

## Section 13 - Amendment of section 23

In section 23 of the principal Act, for the words "two years", the words "three years" shall be substituted.

## Section 14 - Omission of section 25

Section 25 of the principal Act shall be omitted.

## Section 15 - Insertion of new sections 27A to 27D

After section 27 of the principal Act, the following sections shall be inserted, namely:--

"27A. Change of nature of unnotified land.--

- (1) If any owner of an unnotified land desires to utilise such land for residential or commercial or for other purpose, he shall apply to the Revenue Divisional Officer for permission in such manner as may be prescribed.
- (2) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal or any other authority, the Revenue Divisional Officer may, after considering the reports of the Village Officer concerned, pass such orders as deems fit and proper on such

applications, ensuring that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary:

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

- (3) If the application is allowed, the applicant shall be liable to pay a fee at such rate as may prescribed:

Provided that, no such fee shall be collected if the applicant proves that the land where the application is allowed is, filled up or naturally filled up before the 4th day of July, 1967, the date of commencement of the Kerala Land Utilisation Order, 1967, after completing such procedure, as may be prescribed.

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

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

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

- (6) Notwithstanding anything contained in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or in the Kerala Municipality Act, 1994 (20 of 1994), no permission under this section shall be necessary for constructing a residential building having a maximum area of 120 square meters in a maximum extent of 4.04 ares of land or a

commercial building having a maximum area of 40 square meters in a maximum extent of 2.02 ares of land:

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

Provided further that this exemption shall be granted only once.

- (7) The exemption under sub-section (6) shall be applicable only to owners of unnotified lands under the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018:

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

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

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

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

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

- (10) The order issued under sub-sections (2) and (9) shall clearly indicate

the survey number of the lands and the extent of the land in each survey number for which sanction has been accorded, the extent of the land in which water conservancy measures are to be adopted by the applicant and a sketch of such land indicating the aforementioned details shall be appended to the order.

- (11) The Revenue Divisional Officer may, either suo-moto or on the application of any aggrieved party, cancel any order issued under sub-section (2) if the conditions specified in the order issued therein are not complied by the applicant, either fully or partially.
- (12) No order of cancellation under sub-section (11) shall be made by the Revenue Divisional Officer unless the applicant thereof has been given an opportunity of being heard in the matter.
- (13) Any application received for the change of nature of unnotified land from the date of commencement of the Kerala Conservation of Paddy Land and Wetland (Amendment) Act, 2018 shall be considered and disposed of only in accordance with the provisions of the Act.

27B. Appeal.--

- (1) Any person aggrieved by an order of the Revenue Divisional Officer under sub-section (2) of section 27A may prefer an appeal to the District Collector within thirty days from the date of receipt of the order.
- (2) Every appeal preferred under sub-section (1) shall be accompanied by a certified copy of the order appealed against and an appeal fee of rupees five hundred.
- (3) The District Collector may, after giving an opportunity to the appellant to be heard, dispose of the appeal as expeditiously as

possible.

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

27C. Changes in records.--

- (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any Court, Tribunal or any other Authority, wherever a part of a survey number or subdivision is permitted to be converted under sections 8, 9, 10 or 27A of this Act, a new subdivision shall be created for the extent for which such orders for conversion are issued.
- (2) Where the paddy land or unnotified land is duly converted as per the provisions of this Act, the Tahsildar shall reassess the land tax under Section 6A of the Kerala Land Tax Act, 1961 (13 of 1961) and make necessary entries in revenue records relating to such lands.
- (3) Where such changes are recorded in revenue records, the number and date of the order and the authority granting sanction, the survey number of the lands for which sanction has been accorded, extent of the land in each survey number for which sanction has been accorded and the revised land tax shall be clearly recorded ensuring that the old entries are legible.
- (4) Tahsildar shall conduct periodical inspection to ensure that changes in revenue records are in accordance with sub-section (3).
- (5) No attempt shall be made to alter or change or modify the revenue records relating to the paddy land or wetland or unnotified land otherwise than in accordance with sub-section (3).

27D. Establishment of Agricultural Promotion Fund.--

- (1) There shall be established an "Agricultural Promotion Fund", referred to as the fund for the purposes of this Act.
- (2) The management of the fund shall be vested with a State Level Officer designated by the Government and shall be audited by the State Audit Department.
- (3) The collection, management and utilization of the Fund shall be in such manner as may be prescribed."

Section 16 - Repeal and Saving.--

- (1) The Kerala Conservation of Paddy Land and Wetland (Amendment) Ordinance, 2018 (30 of 2018) is hereby repealed.
- (2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.