

Kerala Buildings (Regularisation Of Unauthorised Construction And Land Development) Rules, 1999

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Kerala Buildings (Regularisation Of Unauthorised Construction And Land Development) Rules, 1999

S.R.O. No. 827/99.- In exercise of the powers conferred by Section 565 read with Section 407 of the Kerala Municipality Act, 1994 (20 of 1994) and Section 254 read with Section 235 AB of the Kerala Panchayat Raj Act, 1994(13 of 1994) and in supersession of the Kerala Building Construction (Regularisation and Compounding of Offences) Rules; 1994 issued in notification G.O.(Ms) No. 196/94/LAD dated 18th August, 1994 the Government of Kerala hereby make the following rules, namely:-

1. Short Title, Commencement And Applicability :-

- (1) These rules may be called the Kerala Building (Regularisation of Unauthorised Construction and Land Development) Rules, 1999.
- (2) These rules shall come into force at once.
- (3) These rules shall apply to all unauthorised constructions and land developments carried out before the [15th day of October 1999] in any Municipal area or in any Panchayat area.

NOTES

Section 407 of the Kerala Municipality Act, 1994 as amended by Act 14 of 1999 and section 235 AB of the Kerala Panchayat Raj Act, 1994 as amended by Act 13 of 1999 empowers the Government to regularise unauthorised constructions and land developments carried out on or before 31st December, 1998 collecting compounding fee as may be prescribed. Section 235 AB of the

Kerala Panchayat Raj Act, 1994 as amended by Act 13 of 1999 also contains similar provisions. Government have decided to issue a common rule prescribing the form, procedure and fee for the above purpose. These rules came into force on 15th October 1999.

2. Definitions :-

(1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Kerala Municipality Act, 1994 (20 of 1994) or as the case may be the Kerala Panchayat Raj Act, 1994 (13 of 1994).

(b) "Secretary" means the Secretary of a Municipality or a Grama Panchayat;

(c) "Development of land" means any material change on the use of the land other than for agricultural purposes, brought about or intended to be brought about by filling up of the land and/or water bodies, changing from the existing/former use of the land, layout of streets and footpaths, sub-division of land for residential plots or for other uses including lay out of internal streets, conversion of wet land, and developing parks, play grounds and social amenities of the like, but does not include legal partitioning of family property among heirs and construction of wells;

(d) .-"unauthorised construction" means any construction or reconstruction carried out and completed before 2 [15th day of October 1999].-

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1. Substituted for "31 st day of December, 1998" by S.R.O. No. 932/2000, dt. 5-9-2000.

(i) which the Secretary has no power to regularise under Section 406 of the Kerala Municipality Act, 1994 or Section 235W of the Kerala Panchayat Raj Act, 1994; and

(ii) deviating from the approved plan and in violation of the provisions of the Act or the Building Rules made thereunder, or

(iii) without obtaining permit and in violation of the provisions of the Act or the Building Rules made thereunder; or

(iv) deviating from the exemption order issued by the Government or violating any condition from such order;

(e) "unauthorised development of land" means any development or redevelopment of land carried out and completed before the 3 [15th day of October 1999] without obtaining development permit and in violation of the provisions of the Act or the rules made

thereunder of deviating from the approved plan and in violation of the provisions of the Act or the rules made thereunder;

(2) Words and expressions used and was not defined in these rules, but defined in the Act shall have the same meaning assigned to them in the Act.

3. Submission Of Application For Regularisation Of Unauthorised Construction And Unauthorised Land Development :-

(1) Application for regularisation of unauthorised construction and unauthorised land development shall be submitted to the Secretary concerned on or before 4 [31st October 2000] in Form-I appended to these rules.

(2) The application shall be accompanied by the following documents namely.-

(a) A receipt for payment of application fee, if any paid to the concerned Panchayat or the Municipality as per rule 4;

(b) The plan and service plan of the building constructed or the land development carried out:

Provided that in the case of huts of any area or buildings with area not exceeding 20 M², only site plan showing the boundaries of the land, access, abutting road and location, area and set back etc., is required.

(c) Copy of plans, if any, earlier approved by the Secretary;

(d) Documents to prove ownership of land;

(e) Proof of having completed the construction before 5 [15th October, 1999];

(f) Details of application/exemption application, if any, filed; earlier, 6 Jx x] 7

[(g) Exemption order, if any, obtained earlier; and

(h) Details of action, if any, taken by the concerned local body against this constructions.]

2. Substituted for "31st day of December, 1998" by S.R.O. No. 932/2000, di. 5-9-2000.

3. Substituted for "31st day of December, 1998" by S.R.O. No. 932/2000, dt. 5-9-2000.

4. Substituted for "31st March. 2000" by S.R.O. No. 932/2000, dt. 5-9-2000.

4. Application Fee :-

The following fee shall be paid to the Municipality/Panchayat for an application for regularisation of unauthorised

construction/unauthorised land development, namely:-

- (1) In the case of huts and buildings not exceeding 20 sq. metres ..
No fee
- (2) Thatched residential building upto 50 sq. metres .. Rs. 25
- (3) Telecommunication Tower .. Rs. 1000
- (4) All other buildings and land development .. Rs. 100

5. Procedure For Disposal Of The Application :-

(1) The Secretary shall, after necessary inspections and verifications forward the application to the Town Planner of the Town and Country Planning Department having jurisdiction in the District within 30 days of the receipt, stating whether the construction was completed before 8 [15th October, 1999] or not.

(2) Details of any building/land development permit earlier issued, any conditions stipulated therein and reference to any orders granting exemption from the building rules for the time being in force or Town Planning Scheme shall be verified and noted by the Secretary.

(3) The Secretary shall note the extent of violations of any provision of the building rules, for the time being in force and Town Planning Scheme, if any, in the report. The compounding fee as in Table-I appended herein, to be remitted in case it is allowed, may be calculated and noted in the report.

(4) The Town Planner concerned shall examine the application in detail and forward the same with recommendation to the Government within 30 days of its receipt. The amount of compounding fee to be paid should be reported to the Government.

(5) The Government, after examining the plans, other documents and also the recommendation of the Secretary and the Town Planner, shall issue orders according sanction to the Secretary for regularisation with or without conditions or rejecting the same and copies of the said order shall be sent to the applicant, the Secretary and the Town Planner concerned. The Government Order according sanction for regularisation shall specify the amount of compounding fee to be remitted in the Government Treasury, the Head of account and the period within which fee is to be remitted in the Government Treasury.

(6) If the applicant fails to remit the specified compounding fee or fails to comply with the conditions on or before the date specified in the regularisation order, the regularisation order issued by Government shall cease to operate from the said date.

(7) No unauthorised construction shall be regularised if the construction so carried out affects adversely the proposals of any sanctioned General Town Planning Scheme (Master Plan) or Detailed Town Planning Scheme for the area or if the construction grossly violates any safety provisions in the building rules for the time being in force or any safety condition specified in the exemption order or permit.

5. Substituted for "31st December, 1998 by S.R.O. No. 932/2000, dt. 5-9-2000.

6. The word "and" by S.R.O. No. 932/2000, dt. 5-9-2000.

7. Clause (g) substituted by S.R.O. No. 932/2000, dt. 5-9-2000.

8. Substituted for "31st December, 1998" by S.R.O. No. 932/2000, dt. 5-9-2000

(8) The Secretary shall maintain a register of all treasury remittances towards compounding fee and shall forward quarterly reports thereon to the Government.

(9) Secretary shall also maintain a permanent register of all constructions or developments regularised under these rules containing the details such as name and address of the applicant, nature of the unauthorised construction or land development, number and date of the Government Order by which regularisation was granted, amount of compounding fee remitted with chalan receipt particulars, conditions, if any, stipulated in the order and action taken and the result thereof.

6. Procedure In Case The Application For Regularisation Is Rejected :-

(1) In case the application for regularisation of any unauthorised construction is partly allowed by Government and the applicant does not comply with the conditions including nonremittance of compounding fee within the time specified, it shall be the responsibility of the Secretary to take appropriate action for the demolition of such part of the building which is not regularised so as to render the remaining part of the construction to be in conformity with the order or conditions stipulated in the Government Order for regularisation.

(2) If the owner of any unauthorisedly constructed building fails to submit any application for regularisation on or before 9 [31st October, 2000] or if the application for regularisation is rejected in toto or if the compounding fee is not remitted within the time specified in the Government Order, the Secretary shall take

appropriate action for the demolitions of the said unauthorised construction, after the said date or after rejection of the application or after the expiry of the time specified, as the case may be.

(3) The Secretary shall have the power to recover the cost for demolition from the owner or person responsible as if it were an arrear of property tax.

(4) The Secretary shall have the power to initiate prosecution against the owner or the person responsible for the unauthorised construction or land development for not complying with the provisions of the Act or these rules or any orders issued thereunder

7. Review By Government Of Its Own Orders :-

(1) Any person aggrieved by an order issued or action taken by or on behalf of the Government under the provisions of these rules, may file a petition for review, to the Government: Provided that there shall be only one review against any order issued or action taken.

(2) A petition for review under sub-rule (1) shall be presented within 30 (thirty) days from the date of the order or the service of the order complained of.

(3) When a petition for review has been presented under these rules, the Government may, if felt necessary, stay operation of the order or the action complained against, pending consideration of the petition.

(4) The application shall be in white paper typed or written in ink, affixed with Court fee stamp worth Rs. 5, and shall also contain true copy of the order to be reviewed.

(5) The Government shall, if found so necessary, after hearing the petitioner, the Chief Town Planner and the Secretary, pass appropriate orders on the review petition.

9. Substituted for "31st March, 2000" by S.R.O. No. 932/2000, dt. 5-9-2000.