

Kerala Conservation Of Paddy Land And Wetland Act, 2008

28 of 2008

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PREAMBLE

An Act to conserve the paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote growth in the agricultural sector and to sustain the ecological system, in the State of Kerala

Whereas, it has come to the notice of the Government that indiscriminate and uncontrolled reclamation and massive conversion of paddy land and wetland are taking place in the State;

And Whereas, there is no existing law to restrict effectively, the conversion or reclamation of paddy land;

And Whereas, the Government are satisfied that it is expedient, in public interest, to provide for the conservation of paddy land and wetland and to ¹[restrict the conversion] or reclamation thereof, in order to promote agricultural growth, to ensure food security and to sustain the ecological system in the State of Kerala;

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

* Received the assent of the Governor on 11/08/2008. Published under Notification No. 19661/Leg.A1/2007/Law dated 12/08/2008 in K.G. Ext. No. 1790 dt. 12/08/2008 (w.e.f. 12/08/2008).

1. The word "restrict the conservation" corrected as per Erratum Notification No. 1673/Leg.A1/2009/Law. dt. 20/10/2009 in K.G. Ext. No. 1926 dated 20/10/2009.

1. Short title and commencement :-

(1) This Act may be called the Kerala Conservation of Paddy Land and Wetland Act, 2008.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,--

(i) "Collector" means the Collector of the district and includes any other officer appointed or authorised by the Government to perform the functions of the Collector;

(ii) "Committee" means the Local Level Monitoring Committee constituted under Section 5;

(iii) "conversion" means the situation whereby, land that has been under paddy farming and its allied constructions like drainage channels, ponds, canals, bunds and ridges are put to use for any

other purpose;

(iv) "district" means a revenue district;

(v) "District Level Authorised Committee" means the District Level Authorised Committee to be constituted under Section 9;

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

(vii) "Government" means the Government of Kerala;

(viii) "holder of paddy land" means a person holding any paddy land whether as owner or under a legal right;

(ix) "intermediary crop" means a short term crop, cultivated in between two paddy cultivation periods in an interchangeable manner according to the ecological nature of the paddy land like vegetables, pulses, plantain, fish, etc.;

(x) "Kudumbasree units" means the Kudumbasree unit functioning under the State Poverty Eradication Mission of the Government and includes the Self Help Groups;

(xi) "Local Self Government Institution" means a Panchayat as defined in the Kerala Panchayat Raj Act, 1994 (13 of 1994) or a Municipality as defined in the Kerala Municipality Act, 1994 (20 of 1994);

(xii) "paddy land" means all types of land situated in the State where paddy is cultivated at least once in a year or suitable for paddy, cultivation but uncultivated and left fallow, and includes its allied constructions like bunds, drainage channels, ponds and canals;

(xiii) "Padasekhara Samithi" means an organisation of farmers of a locality registered under any law for the time being in force, with the objective of promoting cultivation of paddy and allied crops;

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

(xv) "reclamation" means such act or series of acts whereby a paddy land or a wetland as defined in this Act is converted irreversibly and in such a manner that it cannot be reverted back to the original condition by ordinary means;

(xvi) "State" means the State of Kerala;

(xvii) "State Level Committee" means the State Level Committee constituted under Section 8.

(xviii) "wetland" means land lying between terrestrial and aquatic systems, where the water table is usually at or near the surface or

which is covered by shallow water or characterized by the presence of sluggishly moving or standing water, saturating the soil with water and includes backwaters, estuary, fens, lagoon, mangroves, marshes, salt marsh and swamp forests but does not include paddy lands and rivers;

(xix) "year" means a Malayalam calendar year.

3. Prohibition on conversion or reclamation of paddy land :-

(1) On and from the date of commencement of this Act, the owner, occupier or the person in custody of any paddy land shall not undertake any activity for the conversion or reclamation of such paddy land except in accordance with the provisions of this Act.

(2) Nothing contained in sub-section (1) shall apply to the cultivation of any intermediary crops that are cultivated without changing the ecological nature of that paddy land or the strengthening of the outer bunds for protecting the cultivation.

3A. Power to regularise the conversion or reclamation of paddy land made before the commencement of the Act :-

Notwithstanding anything contained in this Act or any other Act, rules or orders for the time being in force or in any judgment, decree or order of any court, tribunal or other authority, where before the commencement of this Act, any owner, occupier or the person in custody of any paddy land had undertaken conversion or reclamation of the said paddy land otherwise than in accordance with the provisions of any other Act existing at that time, the Collector may, regularise such conversion or reclamation in such manner as may be prescribed, by recovering a fee equal to 25 percent of the fair value of the said land notified under section 28A of the Kerala Stamp Act, 1959 (17 of 1959) or the fair value of adjacent land of similar nature, if the fair value of said land is not notified.

4. Incentives for paddy cultivation :-

The Government, shall take suitable measures, from time to time, in order to assist the farmers to augment the production of paddy in the State.

5. Constitution of Local Level Monitoring Committee :-

(1) There shall be a Local Level Monitoring Committee in each

Panchayat or Municipality, consisting of the members specified in sub-section (2), for the purpose of monitoring the implementation of the provisions of this Act.

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

(i) The President or Chairperson/Mayor of the Grama Panchayat or the Municipality or the Corporation, as the case may be; Chairman

(ii) The Agricultural Officer/Officers having jurisdiction in the Grama Panchayat or Municipality/Corporation; Member/Members

(iii) Village Officer/Officers having jurisdiction in the said area; Member/Members

(i v) Three representatives of farmers in the Panchayat/Municipality/Corporation to be nominated in such manner, as may be prescribed. Members

The Agricultural Officer shall be the Convenor of the Committee.

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

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

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

(ii) to inspect the paddy land situated within the jurisdiction of the Committee to monitor whether the provisions of this Act are being complied with and to report to the Revenue Divisional Officer regarding violations, if any, of the provisions of this Act;

(iii) to examine the complaints received from the public regarding the attempts to violate the provisions of this Act and to intervene in the issue to prevent such violation;

(iv) to examine the reason for keeping the paddy land fallow and to suggest remedial measures so as to persuade the holder of paddy land to cultivate it with paddy or any intermediary crops;

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

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

as may be prescribed, and exhibit the same for the information of the public, in the respective Panchayat/Municipality/Corporation Office and in the Village Office/Offices;

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

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

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

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

(5) The quorum for a meeting of the Committee shall be three and it shall meet as and when required and the venue for the meeting shall be the respective Panchayat Office and the time of meeting shall be fixed by the Chairman.

(6) The Committee may decide the procedure for its meetings and the concerned Agricultural Officer shall keep the proper minutes of the meeting signed by every person attended.

6. The term of the Local Level Monitoring Committee and other related matters :-

(1) The term of office of the non-official members of the Local Level Monitoring Committee shall be three years from the date of its Constitution. But after the expiry of the term of the Committee its non-official members may continue in office till the Constitution of the next Committee.

(2) A non-official member may resign his office at any time by giving letter in writing under his hand.

7. Reporting Officers :-

(1) The Agricultural Officers shall be the reporting officers, in respect of the paddy land in the area under their jurisdiction and it shall be their responsibility to report the Revenue Divisional Officer regarding any act in violation of the provisions of this Act. If any paddy land is kept fallow during any agricultural season, the

Agricultural Officer shall inform that matter also to the Committee.

(2) Wilful omission to make a report under sub-section (1), regarding the contravention of the provisions of the Act shall be deemed to be an offence under Section 23.

8. Constitution of State Level Committee :-

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

(2) The Agricultural Production Commissioner, the Commissioner of Land Revenue and an expert in the field of environment and a Scientist in the field of paddy cultivation, to be nominated by the Government, shall be the Members of the State Level Committee and the Agricultural Production Commissioner shall be its Convenor.

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

9. Constitution of District Level Authorised Committee :-

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

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

(2) The District Level Authorised Committee shall consist of the Revenue Divisional Officer, Principal Agricultural Officer and three paddy cultivators to be nominated by the Collector and the Revenue Divisional Officer shall be its Chairman and the Principal Agricultural Officer, shall be its Convenor:

Provided that where there are more than one Revenue Divisional Officer in a District, the Collector shall nominate one among them

to the District Level Authorised Committee.

(3) The term of office of the nominated members shall be three years from the date of their assuming charge in the office. But after the expiry of the term they may continue in office till the succeeding members are nominated.

(4) Nominated members may resign from the Committee at any time by giving letter under his hand to the Collector.

(5) The District Level Authorised Committee shall take decision on the recommendations made available to it within one month.

(6) Any person aggrieved by the decision of the District Level Authorised Committee, may prefer an appeal before the Collector within thirty days from the receipt of the decision, in such manner as may be prescribed.

(7) The Collector shall take a decision thereon within one month from the date of receipt of the appeal and the decision of the Collector shall be final.

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

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

(ii) the owner of the paddy land or his family do not own a suitable land for this purpose in that District;

(iii) the building to be constructed is for his own purpose; and

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

10. Power of Government to grant exemption :-

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

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

11. Prohibition on reclamation of wetland :-

On and from the date of commencement of this Act, the wetlands of the State shall be maintained as such and there shall be a total prohibition on reclamation of such wetland and removal of sand therefrom:

Provided that nothing contained in this section shall affect the removal of slurry and mud to maintain the ecological condition of such wetland.

12. Appointment of Authorised Officers and their Powers :-

(1) The Government may, by notification* in the Official Gazette, appoint such officers of the Revenue Department ¹[not below the rank of Village Officer] as authorized officers and may determine the area of jurisdiction within which they shall exercise their powers under this Act.

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

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

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

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

(d) require any person to furnish such information as he may consider necessary;

(e) take photographs, make inventories or do other things necessary for collecting evidence regarding the commission of the offence and send a report to the Court of competent jurisdiction in order to prosecute the accused.

(3) Any person required to produce any document or thing or to give any information to an authorised officer under this section shall be legally bound to do so within the meaning of Section 175 and 176 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(4) Every authorised officer appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (Central Act 45 of 1860).

²[(5) If an officer authorised under sub-section (1) fails to take

action on the report received by him regarding the violation of the Act, he shall be deemed to have committed an offence punishable under Section 23.]

* For notification see page no. 56.

1. Substituted by Act 14 of 2011 in K.G. Ext. No. 1465 dt. 29/07/2011(w.e.f. 12/08/2008) for "not below the rank of Revenue Divisional Officer".

2. Substituted by Act 14 of 2011 in K.G.Ext. No. 1465 dt. 29/07/2011 (w.e.f. 12/08/2008). Prior to the substitution it read as:

"(5) If an officer authorised under sub-section (1), fails to take action on the basis of the report regarding the violation of the Act submitted by the reporting officer under Section 7, he shall be deemed to have Committed an offence punishable under Section 23."

13. Power of the District Collector :-

Notwithstanding anything contained in this Act, the Collector may take such action, as he deems fit, without prejudice to the prosecution proceedings taken under the Act, to restore the original position of ¹[any paddy land or wetland] reclaimed violating the provisions of this Act, and realize the cost incurred in this regard from the holder or occupier of ²[the said paddy land or wetland], as the case may be, so reclaimed after giving him a reasonable opportunity of being heard.

1. Substituted by Act 14 of 2011 in K.G.Ext. No. 1465 dated 29/07/2011 (w.e.f. 12/08/2008), for "any paddy land".

2. Substituted by Act 14 of 2011 in K.G.Ext. No. 1465 dated 29/07/2011 (w.e.f. 12/08/2008), for "the said paddy land".

14. Refusal of licence by the Local Authority :-

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

15. Direction to cultivate paddy land left fallow :-

The Committee may direct the holder of any paddy land which is uncultivated and left fallow, to cultivate it by himself or through

any other person of his choice, with paddy or any other intermediary crops under the provisions of this Act.

16. Fallow paddy land to be got cultivated :-

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

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

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

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

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

(i) Padasekhara Samithis or Joint Farmers Societies;

(ii) Self Help Groups;

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

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

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

(8) Notwithstanding anything contained in this section, if an owner

of paddy land is unable to cultivate his paddy land by himself, he may request the Committee if he so desires, to entrust his paddy land with the Panchayat for cultivation even without the receipt of a notice under this section.

17. Eviction of Person to whom the right has been entrusted in certain cases :-

The person entrusted with the right to cultivate a paddy land shall have no right whatsoever, except to cultivate the same with paddy or such other crop as provided in this Act, and to take the proceeds thereof and after the expiry of the period for which such right has been accrued or after the termination of such right, as the case may be, he shall be liable to be summarily evicted, if he continues in possession of such paddy land after such expiry or termination.

18. Special power of the Collector :-

The Collector may take or cause to be taken proceedings as may, in his opinion, be reasonable for the compliance of an order issued under the provisions of this Act.

19. Power of entry and seizure :-

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

(2) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) relating to search and seizure shall, so far as may be, apply to search and seizure under this Act.

1. Substituted by Act 14 of 2011 in K.G.Ext. No. 1465 dt. 29/07/2011 (w.e.f. 12/08/2008), for "of a Revenue Divisional Officer".

20. Confiscation of vessel, vehicle, etc. :-

(1) After obtaining a report regarding seizure under Section 12 or Section 19, the Collector may, if he thinks fit, order confiscation of the object seized:

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

(2) No order of confiscation under sub-section (1) shall be made by the District Collector unless the owner thereof has been given an opportunity of being heard in the matter.

(3) No order of confiscation under sub-section (1) shall be invalid merely by reason of any defect or irregularity in the notice given under sub-section (2), if the provisions have been substantially complied with.

21. Appeal against confiscation :-

Any person aggrieved by an order of confiscation under Section 20 may within thirty days from the date of communication to him of such order, appeal to the District Court having jurisdiction over the area in which the articles were seized and the District Judge shall, after giving the parties a reasonable opportunity of being heard issue such order either confirming, amending or annulling the order appealed against.

22. Award of confiscation not to interfere with other punishments :-

The award of any confiscation under this Act by the District Collector shall not affect the infliction of any punishment to which the person affected thereby is liable under this Act.

23. Penalty :-

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

24. Offences by Companies :-

(1) If the person contravening the provisions of this Act is a

company, every person who, at the time when the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the Company, as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the contravention took place without his knowledge or that he had exercised due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.--For the purpose of this section,--

- (a) Company means a body corporate and includes a firm or other association of individuals; and
- (b) Director in relation to a firm means a partner in the firm.

25. Cognizance of offence :-

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

26. Grant of injunction etc., by Civil Courts :-

No Civil Court shall grant an injunction or make any order for any other relief against the Government or any officer authorised under this Act, in respect of any act done or purporting to be done by the Government or such officer under this Act or the rules or notifications made thereunder, unless notice of such injunction or other relief has been given to the Government or such officer, as the case may be.

27. Sums due recoverable as arrears of land revenue to Government :-

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

28. Revision :-

The Government may either suo motu or on application from any aggrieved party call for the records of any act or proceedings of the Collector in any case under this Act, and pass such orders thereon, as it may deem fit.

29. Protection of action taken in good faith :-

(1) No suit, prosecution for other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any provisions of this Act.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any provisions of this Act or the rules made thereunder.

30. Power to make rules :-

(1) The Government may, by notification in the Gazette, make rules for the purpose 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.