

Kerala Gaming (Amendment) Act, 2005**19 of 2005**

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Kerala Gaming (Amendment) Act, 2005**19 of 2005**

An Act further to amend the Kerala Gaming Act, 1960. WHEREAS, it is expedient further to amend the Kerala Gaming Act, 1960 for the purposes hereinafter appearing; WHEREAS, games of chances, fortunes and guesses where no skill is involved, in the guise and pretext of 'lotteries' are being organized, marketed and promoted in the State of Kerala by name 'on-line lotteries' by and on behalf of various State Governments and others; AND WHEREAS, paper lotteries are organized, conducted and marketed by Government of Kerala; AND WHEREAS, paper lotteries organized, conducted or promoted by other State Governments and Foreign Countries having bilateral agreement with the Government of India are permitted to sell their lotteries in the State of Kerala subject to the provision of the Lotteries (Regulation) Act, 1998; AND WHEREAS, by its mesmerizing gambling character, on-line lottery is attracting a substantial population of the State of Kerala, especially the people belonging to the lowest strata of the society and leading them to penury and desperation; AND WHEREAS, the Government of Kerala is constitutionally bound to protect the social and economic interests of the people of the State and to prevent such

social evils from permeating into the society and destroying its social fabric. BE it enacted in the Fifty-sixth year of the Republic of India as follows:-

1. Short Title And Commencement :-

(1) This Act may be called the Kerala Gaming (Amendment) Act, 2005.

(2) It shall come into force at once.

2. Amendment Of Section 2 :-

In the Kerala Gaming Act, 1960 (20 of 1960) (hereinafter referred to as the principal Act), in section 2,-

1. after clause (a) the following clause shall be inserted, namely:-

"(aa) central computer server means a server class computer installed at a central location which accepts, processes, stores and validates the on-line lottery transactions and otherwise manages, monitors and control the entire on-line lottery system.";

1. for clause (b), the following clause shall be substituted, namely:-

"(b) gaming means wagering, betting or gambling, which includes the organizing, conducting, promoting, marketing or selling of on-line lotteries, but does not include paper lotteries organized conducted or promoted by any State Government or the Central Government.";

1. the Explanation below clause (b) shall be numbered as Explanation-1 and after the Explanation so numbered the following Explanation shall be inserted, namely:-

"Explanation 2.-For the purpose of this definition, gambling shall be deemed to comprise the conduct of on-line lotteries, by electronic devices including computers; computer peripherals and other equipments for operating on-line lottery systems, lottery terminals, etc., through common gaming houses by selection of numbers or series of numbers which may be pre-determined, instantly determined pre-printed or pre-designed and whereby one or more of such participants who selected a specific number or series of numbers may or may not be declared as winners and rewarded with pre-determined, instantly determined, pre-printed or pre-designed winnings or prizes in the form of money or otherwise.";

1. in clause (c) after the words "any article" the words "or any electronic devices including computers and computer peripherals and other equipments for operating on line lottery systems, on-line lottery terminals etc." shall be inserted.

1. after clause (c) the following clauses shall be inserted, namely:-
"(d) On-line lottery means a system of gambling organized, conducted, promoted, marketed or sold through electronic devices including computers, computer peripherals and other equipments for operating on-line lottery systems, lottery terminals, etc., where the information about the players choice of any particular number or combination of numbers etc. is simultaneously registered with the central computer server which assigns a unique number to verify the validity;
(e) on-line lottery terminal means a terminal connected to the Central computer server where on line lottery tickets are marketed or sold in retail in common gaming houses;
(f) paper lottery means, any lottery other than on-line lottery."

3. Amendment Of Section 3 :-

In the principal Act, in section 3,--

1. in sub-clause (vi) of clause (a) after the words "on chance or", the words "on a system of gambling in on-line lottery" shall be added;
2. in the proviso, after the words "an offence under this section", the words "other than an offence relating to gambling in on-line lottery" shall be inserted;
3. after the existing proviso, the following proviso shall be inserted, namely:-

"Provided further that if the offence relating to gambling by means of on-line lotteries shall be liable on conviction be punishable with imprisonment which may extend to three years or with fine which may extend to fifty thousand rupees or with both.";

4. Amendment Of Section 4 :-

In the principal Act, in section 4 after sub-section 2 the following sub-section shall be inserted, namely:-

"(3) Whoever commits any offence relating to gambling by means of on-line lotteries shall on conviction be punishable with imprisonment which may extend to one year or with a fine which may extend to twenty five thousand rupees or with both.";

5. Amendment Of Section 7 :-

In the principal Act, the existing section 7 shall be numbered as sub-section (1) and after that sub-section (1) so numbered the

following sub-section shall be inserted namely:-

"(2) Whoever commits any offence relating to gambling by means of on-line lotteries shall be liable on conviction to a fine of rupees twenty thousand or with imprisonment which may extend to two years or with both.";

6. Amendment Of Section 8 :-

In the principal Act, the existing section 8 shall be numbered as sub-section (1) and after that sub-section (1) so numbered the following sub-section shall be inserted, namely:-

"(2) Whoever commits any offence relating to gambling by means of on-line lotteries shall be liable on conviction to a fine of rupees twenty thousand or with imprisonment which may extend to two years or with both:"

7. Amendment Of Section 9 :-

In the principal Act, the existing section 9 shall be numbered as sub section (1) and after that sub-section (1) so numbered the following sub-section shall be inserted, namely:-

"(2) Whoever commits any offence relating to gambling by means of on line lotteries shall be liable on conviction to a fine of rupees ten thousand or with imprisonment which may extend to one year or with both".

8. Insertion Of New Section 9A :-

In the principal Act after section 9, the following section shall be inserted, namely:-

"9A. Penalty for attempt to open a common gaming house for gaming in on-line lottery.-Whoever attempts or assists to open a common gaming house for the purpose of gaming in on-line lottery or makes any preparation or assists in the preparation of the same shall be liable on conviction to a fine of rupees ten thousand or with imprisonment which may extend to one year or with both."

9. Amendment Of Section 10 :-

In the principal Act in section 10, the following proviso shall be inserted, namely:-

"Provided that all instruments of gaming relating to on-line lottery shall be sold and converted into money as per the order of the Magistrate."

10. Insertion Of New Section 10A :-

In the principal Act, after section 10, the following section shall be inserted, namely:-

"10A. Interim custody of articles seized relating to on-line lottery to be released upon furnishing cash security and bond.-The Magistrate before whom the seized instruments of gaming relating to on-line lottery have been produced may order the release of all or any of such instruments of gaming to the custody of such person who proves to the satisfaction of the Magistrate to be the owner of the same and upon furnishing cash security equivalent to its market value and upon a bond that it would be produced before such Magistrate at any time required for any purpose and further that it would not be used for the same purpose for which it was seized, but on conviction, the cash securities furnished shall be forfeited to Government.";

11. Amendment Of Section 19 :-

In the principal Act in section 19, the following proviso shall be inserted, namely:-

"Provided that offences relating to gambling in on-line lottery shall not only be cognizable but also non bailable.";

12. Insertion Of New Section 19A :-

In the principal Act, after section 19, the following section shall be inserted, namely:-

"19A. Offences to be tried summarily.- All offences under this Act shall be tried summarily by Judicial Magistrate of the First Class specially empowered in this behalf by the Government and the provision of section 262, 263, 264 and 265 of the Code of Criminal Procedure (Central Act 2 of 1974) shall as far as may be apply to such trial.".