



കേരള ഗസറ്റ് KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
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Thiruvananthapuram,
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06th July 2019

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21st Mithunam 1194

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15th Ashadha 1941

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No.

1503

GOVERNMENT OF KERALA

Law (Legislation-E) Department

NOTIFICATION

No. 392/Leg.E1/2019/Law.

*Dated, Thiruvananthapuram, 6th July, 2019
21st Mithunam, 1194
15th Ashadha, 1941.*

The following Ordinance promulgated by the Governor of Kerala on the 6th day of July, 2019 is hereby published for general information.

By order of the Governor,

VIJAYAKUMAR. T.,
Special Secretary (Law).



ORDINANCE No. 33 OF 2019**THE KERALA PREVENTION OF DAMAGE TO PRIVATE PROPERTY AND
PAYMENT OF COMPENSATION ORDINANCE, 2019**

Promulgated by the Governor of Kerala in the Seventieth Year of the Republic of India.

AN

ORDINANCE

to provide for the prevention of frequent and rampant damage to private property by damaging acts and for payment of compensation and for matters connected therewith or incidental thereto.

Preamble.— WHEREAS, the Kerala Prevention of Damage to Private Property and Payment of Compensation Ordinance, 2019 (5 of 2019) was promulgated by the Governor of Kerala on the 8th day of January, 2019;

AND WHEREAS, a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of January, 2019 and ended on the 12th day of February, 2019;

AND WHEREAS, in order to keep alive the provisions of the said Ordinance, the Kerala Prevention of Damage to Private Property and Payment of Compensation Ordinance, 2019 (10 of 2019) was promulgated by the Governor of Kerala on the 25th day of February, 2019;

AND WHEREAS, a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 27th day of May, 2019 and ended on the 4th day of July, 2019;

AND WHEREAS, under sub-clause (a) of clause (2) of Article 213 of the Constitution of India, the said Ordinance will cease to operate on the 8th day of July, 2019;

AND WHEREAS, difficulties will arise if the provisions of the said Ordinance are not kept alive with certain modifications;

AND WHEREAS, the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;



NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Prevention of Damage to Private Property and Payment of Compensation Ordinance, 2019.

(2) Sections 3A and 5A shall come into force at once and the remaining provisions of this Ordinance shall be deemed to have come into force on the 8th day of January, 2019.

2. *Definitions.*—(1) In this Ordinance, unless the context otherwise requires,—

- (a) “damaging act” means an act, causing any damage or loss or destruction to any private property due to communal riot, hartal, bandh, demonstration, march, procession, blockade of road traffic or similar assembly by whatever name called, committed by an individual, group of individuals or organisation whether social, religious or political;
- (b) “prescribed” means prescribed by rules made under this Ordinance;
- (c) “private property” means any property whether movable or immovable including any machinery, other than public property as defined in the Prevention of Damage to Public Property Act, 1984 (Central Act 3 of 1984), which is owned by or in the possession of or under the control of any person or organisation or institution or entity.

3. *Prohibition of committing damaging act.*—No person participating in communal riot, hartal, bandh, demonstration, march, procession, blockade of road traffic or similar assembly by whatever name called, shall cause any damaging act.

3A. *Police may make video recording.*—The police may make video recording of the commission of an offence under this Ordinance and such video recording shall be admissible in any proceedings subject to the provisions in sections 65A and 65B of the Indian Evidence Act, 1872 (Central Act 1 of 1872).

4. *Punishment for committing damaging act.*—Whoever commits a damaging act shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

5. *Punishment for committing damaging act by fire or explosive substance.*—Whoever commits a damaging act by fire or explosive substance shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.



5A. *Offences shall be cognizable and non-bailable.*—Offences under this Ordinance shall be cognizable and non-bailable.

6. *Bail.*—No person convicted or accused of an offence punishable under section 4 or section 5 shall, if in custody, be released on bail unless the prosecution has been given an opportunity to oppose the application for such release on execution of bond by two solvent sureties and sufficient security in the form of bank guarantee has been furnished or money is deposited in court which shall not be less than one half the value of the property destroyed or damaged, as may be determined by the court on the basis of a report by the Deputy Collector (General) having jurisdiction over the place of occurrence or in his absence the officer in-charge of the Deputy Collector (General).

7. *Trial of offences.*—(1) The offences under this Ordinance shall be investigated and tried under the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(2) When a court on conviction for an offence under this Ordinance imposes a sentence it shall order payment of compensation to any person for any damage or loss or destruction caused by the commission of offence, such compensation shall be determined by the court as provided in section 357 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and the same shall also be recoverable as if an arrear of public revenue due on land under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968).

8. *Saving.*—The provisions of this Ordinance shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force, and nothing contained in this Ordinance shall exempt any person from any proceeding (whether by way of investigation or otherwise) which might apart from this Ordinance, be instituted or taken against him.

9. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules either prospectively or retrospectively for the purpose of carrying into effect the provisions of this Ordinance.

(2) Every rule made under this Ordinance 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.

10. *Repeal and saving.*—(1) The Kerala Prevention of Damage to Private Property and Payment of Compensation Ordinance, 2019 (10 of 2019) 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 said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. SATHASIVAM,
GOVERNOR

