

Fifteenth Kerala Legislative Assembly

Bill No. 1

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THE KERALA EPIDEMIC DISEASES BILL, 2021

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[Translation in English of “2021-ലെ കേരള സാമൂഹിക രോഗങ്ങൾ ബിൽ” published under the authority of the Governor.]

THE KERALA EPIDEMIC DISEASES BILL, 2021**A*****BILL***

to unify and consolidate the laws relating to the regulation and prevention of epidemic diseases and for matters connected therewith or incidental thereto.

PREAMBLE.—WHEREAS, it is expedient to unify and consolidate the laws relating to the regulation and prevention of epidemic diseases and for matters connected therewith or incidental thereto;

BE it enacted in the Seventy-second year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Epidemic Diseases Act, 2021.

(2) Section 8 shall be deemed to have come into force on the 4th day of July, 2020 and remaining sections shall be deemed to have come into force on 27th day of March, 2020.

2. *Definitions.*— In this Act unless the context otherwise requires,—

(a) “Epidemic Disease” means any disease declared as epidemic disease by notification published in the official gazette, by the Government;

(b) “Government” means the Government of Kerala;

(c) “prescribed” means prescribed by rules or regulations made under this Act;

(d) “regulation” means the regulations made under this Act;

(e) “State” means the State of Kerala.

3. *Power of Government to notify epidemic disease.*—Government may, by notification in the official gazette, notify any disease as epidemic disease, for the purposes of this Act, either throughout the State or in such part or parts thereof as may be specified in the notification.

4. *Power to take special measures and specify Regulations as to epidemic disease.*—(1) When at any time the Government is satisfied that the State or any part thereof is visited by or threatened with an outbreak of any epidemic disease, the Government may take such measures, as it deems necessary for the purpose, by notification in the official gazette specify such temporary regulations or orders to be observed by the public or by any person or class of persons so as to prevent the outbreak of such disease or the spread thereof and require or empower District Collectors to exercise such powers and duties as may be specified in the said regulations or orders.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Government may take measures and specify regulations,—

(a) to prohibit any usage or act which the Government considers sufficient to spread or transmit epidemic diseases from person to person in any gathering, celebration, worship or other such activities within the State;

(b) to inspect the persons arriving in the State by air, rail, road, sea or any other means or in quarantine or in isolation, as the case may be, in hospital, temporary accommodation, home or otherwise of persons suspected of being infected with any such disease by the officers authorized in the regulations, or orders;

(c) to seal State borders for such period as may be deemed necessary;

(d) to impose restrictions on the operation of public and private transport;

(e) to prescribe social distancing norms;

(f) to restrict or prohibit congregation of persons in public places and religious institutions;

(g) to regulate or restrict the functioning of Government and private offices and educational institutions in the State;

(h) to impose prohibition or restrictions on the functioning of shops and commercial establishments, factories, workshops and godowns;

(i) to restrict duration of services in essential or emergency services such as banks, media, health care, food supply, electricity, water, fuel etc.; and

(j) such other measures as may be necessary for the regulation and prevention of epidemic diseases, as decided by the Government.

5. *Penalty.*—Any person/institution/company who is bound by regulations or orders contravenes or disobey any such regulation or order made under this Act or obstruct any officer empowered under this Act, shall on conviction be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

6. *Abetment of offences.*—Whoever abets any offence under this Act and if the act abetted is committed in consequence of the abetment, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

7. *Offence under this Act to be cognizable and bailable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) all offences under this Act shall be cognizable and bailable.

8. *Composition of offences.*—(1) Offences punishable under this Act may be compounded on the application of the accused either before the institution of prosecution or with permission of the court concerned after the institution of prosecution, by such officers and for such amount, as the Government may by notification published in the Official Gazette, specify in this behalf.

(2) Where an offence has been compounded, no further proceedings shall be continued against the offender in respect of the offence compounded and the offender if in custody and the vehicles if any seized shall be released.

9. *Act not in derogation of any other law.*—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

10. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done by or under this Act.

11. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make provisions not inconsistent with the provisions of this Act which appear to it to be necessary or expedient, for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

12. *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 Act.

(2) Every rules and regulations 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, if the Legislative Assembly, makes any modification in the rule or regulations or decides that the rule and / or regulation should not be made, the rule or regulation 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 or regulation.

13. *Repeal and saving.*—(1) The Epidemic Diseases Act, I of 1072 M.E. (Cochin Act), the Epidemic Diseases Act, 1073 (II of 1073 M.E., Travancore Act) and the Kerala Epidemic Diseases Ordinance, 2021 (Ordinance No.22 of 2021) are 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 Epidemic Diseases Act, I of 1072 M.E. (Cochin Act), the Epidemic Diseases Act, 1073 (II of 1073 M.E., Travancore Act) and the Kerala Epidemic Diseases Ordinance, 2021 (Ordinance No. 22 of 2021) shall be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

There were different laws in different parts of the State to control epidemic diseases. As it created a difficult circumstance to manage epidemic diseases like COVID-19 in a unified manner, Government has decided to enact a legislation applicable to the entire State by repealing the Epidemic Diseases Act, I of 1072 M.E. (Cochin Act), the Epidemic Diseases Act, 1073 (II of 1073 M.E., Travancore Act) and also by making the provisions of Epidemic Diseases Act, 1897 (Central Act 3 of 1897) not applicable to the Malabar region.

2. As the Legislative Assembly of the State of Kerala was not in session and the above said proposal had to be given effect to immediately, the Kerala Epidemic Diseases Ordinance, 2020 (18 of 2020) was promulgated by the Governor of Kerala on the 26th day of March 2020 and was published in the Kerala Gazette Extraordinary No.998 dated 27th March 2020.

3. As the Kerala Epidemic Diseases Ordinance, 2020 (18 of 2020) does not provide for compounding of cases taken under the Ordinance, for compounding such cases, the said Ordinance was amended by the Kerala Epidemic Diseases (Amendment) Ordinance, 2020 (38 of 2020) promulgated by the Governor of Kerala on the 3rd day of July 2020 and published in the Kerala Gazette Extraordinary No.1662 dated 4th July, 2020.

4. As 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 24th August 2020 and ended on the same day, and in order to keep alive the provisions of the said Ordinances the Kerala Epidemic Diseases Ordinance, 2020 (57 of 2020) was promulgated by the Governor of Kerala on the 26th day of September 2020 and was published in the Kerala Gazette Extraordinary No.2193 dated 28th September, 2020 by conjoining all the provisions of the above two Ordinances.

5. 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 31st December, 2020 and ended on the same day and during its session which commenced on the 8th day of January, 2021 and ended on the 22nd day of January, 2021.

6. In order to keep alive the provisions of the said Ordinance the Kerala Epidemic Diseases Ordinance, 2021 (22 of 2021) was promulgated by the Governor of Kerala on the 9th day of February 2021 and was published in the Kerala Gazette Extraordinary No.652 dated 10th day of February, 2021.

The Bill seeks to replace Ordinance No.22 of 2021 by an Act of State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Government to notify in the official gazette any disease as epidemic disease either throughout the State or in such part or parts thereof.

2. Clause 4 of the Bill empowers the Government to take such measures, as it deems necessary for the purpose, at any time when the Government is satisfied that the State or any part thereof is visited by or there is a threat of outbreak of any epidemic disease and to specify regulations or orders by notification in the official gazette to take steps to prevent the outbreak of such diseases and to require or empower the District Collectors to exercise such powers and duties as may be specified in such regulations or orders.

3. Sub-clause (1) of Clause 12 of the Bill empowers the Government to make rules either prospectively or retrospectively for the purpose of carrying into effect the provisions of this Act, by notification in the Gazette.

4. The matters in respect of which notifications or orders are to be issued or Rules and Regulations are to be made, are matters of procedure and are of routine and administrative in nature. Further, the rules so made are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

VEENA GEORGE.