

THE KERALA LOK AYUKTA (AMENDMENT) BILL, 2022

(As Passed by the Assembly)

A

BILL

further to amend the Kerala Lok Ayukta Act, 1999.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Lok Ayukta Act, 1999 (8 of 1999) for the purposes hereinafter appearing;

BE it enacted in the Seventy-third Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Lok Ayukta (Amendment) Act, 2022.

(2) In this Act, sections 2, 3(iii), 5, 6(i), 6(ii) and 7 shall come into force at once and the remaining sections shall be deemed to have come into force on the 7th day of February, 2022.

2. *Amendment of section 2.*—In the Kerala Lok Ayukta Act, 1999 (8 of 1999) (hereinafter referred to as the principal Act) in clause (d) of section 2,—

(a) for the existing item (i), the following item shall be substituted, namely:—

“(i) in the case of the Chief Minister, the State Legislative Assembly;”;

(b) after item (i), the following item shall be inserted, namely:—

“(ia) in the case of a Member of the State Legislative Assembly, the Speaker of the State Legislative Assembly;”.

3. *Amendment of section 3.*— In section 3 of the principal Act,—

(i) in sub-section (2), after the words “or that of the Chief Justice of a High Court”, the words “ or that of a Judge of a High Court” shall be inserted;

(ii) in sub-section (3), the words “ holds or ” shall be omitted;

(iii) the proviso to sub-section (3) shall be omitted.

4. *Amendment of section 5.*— In sub-section (1) of section 5 of the principal Act,—

(a) after the words “ a term of five years” the words and symbols “or till he completes the age of seventy years, whichever is earlier,” shall be inserted;

(b) before the existing proviso, the following proviso shall be inserted, namely:—

“Provided that, the Lok Ayukta and the Upa-Lok Ayukta appointed before the commencement of the Kerala Lok Ayukta (Amendment) Act, 2022(..... of 2022) shall continue to be governed by the provisions of this Act and the rules made thereunder as if the Kerala Lok Ayukta (Amendment) Act, 2022 (..... of 2022) had not come into force :”;

(c) in the existing proviso, for the words “Provided that” the words “Provided further that” shall be substituted.

5. *Amendment of section 6.*— In section 6 of the principal Act, sub-section (3) shall be omitted.

6. *Amendment of section 7.*— In section 7 of the principal Act,—

(i) item (v) of sub-section (1) shall be omitted;

(ii) in sub-section (2), the words “or an office bearer of a political party at State level” shall be omitted;

(iii) after sub-section (5), the following sub-sections shall be inserted, namely:—

“(5A) In the event of occurrence of any vacancy in the office of the Lok Ayukta by reason of his death, resignation or otherwise, the Governor may, by notification, authorise the senior most Upa-Lok Ayukta available to discharge the functions of the Lok Ayukta until the appointment of a new Lok Ayukta to fill such vacancy.

(5B) When the Lok Ayukta is unable to discharge his functions owing to absence on leave or otherwise, the Governor may, by notification, authorise in this behalf, the senior most Upa-Lok Ayukta available to discharge the functions of the Lok Ayukta until the date on which the Lok Ayukta resumes his duties.”.

7. *Amendment of section 14.*— For section 14 of the principal Act, the following section shall be substituted, namely:—

“14. Recommendation of the Lok Ayukta or Upa-Lok Ayukta and action thereon. —

(1) Where, after investigation into a complaint, the Lok Ayukta or an Upa-Lok Ayukta is satisfied that the complaint involving an allegation against the public servant is substantiated and the public servant is not fit to hold the post as such, the Lok Ayukta or Upa-Lok Ayukta, as the case may be, shall make a recommendation to the competent authority to that effect in its report under sub-section (3) of section 12.

(2) The competent authority shall examine the recommendation made by the Lok Ayukta or Upa-Lok Ayukta, as the case may be, and communicate to the Lok Ayukta or Upa-Lok Ayukta, as the case may be, within a period of ninety days from the date of receipt of the report, the action taken or proposed to be taken on the basis of the recommendation or the reasons for not taking any action on the said recommendation:

Provided that where the competent authority is the State Legislative Assembly, in computing the period of ninety days, any period during which the State Legislative Assembly is not in session, shall be excluded.

(3) In the case of a public servant falling under items (iv) to (vii) of clause (o) of section 2, the appointing authority shall initiate appropriate action in accordance with the rules or regulations applicable to the service of such public servants.

(4) If the public servant is a member of All India Service as defined in section 2 of the All India Services Act, 1951 (Central Act 61 of 1951), the Government shall take appropriate action in accordance with the rules or regulations applicable to his service.”.

8. *Amendment of section 15.*— In section 15 of the principal Act, the words, figures and symbol “ Notwithstanding anything contained in section 14,” shall be omitted.

9. *Validation.*—Notwithstanding the cesser of operation of the Kerala Lok Ayukta (Amendment) Ordinance, 2022 (8 of 2022) (hereinafter referred to as the said Ordinance),—

(a) anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the provisions of the principal Act as amended by this Act;

(b) anything done or any action taken after the cesser of operation of the said Ordinance and before the date of publication of this Act in the Gazette, which could have been done or taken under the principal Act as amended by the said Ordinance if the said Ordinance had not ceased to operate, shall be deemed to have been done or taken under the principal Act as amended by this Act.
