

Twelfth Kerala Legislative Assembly
Bill No. 137

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KERALA CONSERVATION OF PADDY LAND AND WETLAND
BILL, 2007

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to conserve the paddy land and wetland and to restrict the conversion or reclamation thereof in the State of Kerala

Preamble.—WHEREAS, it has come to the notice of the Government that indiscriminate and uncontrolled reclamation and massive conversion of paddy land and wetland is taking place in the State ;

AND WHEREAS, there is no existing law to restrict the conversion or reclamation of paddy land and wetland ;

AND WHEREAS, the Government are satisfied that it is expedient, in public interest, to make provision to conserve paddy lands and wetlands and to restrict the conversion and reclamation thereof in the State of Kerala ;

BE it enacted in the Fifty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Conservation of Paddy Land and Wetland Act, 2007.

(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) ‘agro-ecological zone’ means relatively homogeneous areas in a region delineated according to biophysical characters, including physiography, soil and topography, land use pattern and livestock population characteristics ;

(ii) ‘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 ;

- (iii) 'conversion' means the situation whereby land that has been under paddy farming and its related structures like drainage channels, ponds, lakes, canals and wells are put to use for any other purpose ;
- (iv) 'district' means a revenue district ;
- (v) 'drainage channel' means the inlets or outlets for the flow of water to or from a paddy land ;
- (vi) 'Government' means the Government of Kerala ;
- (vii) 'holder of paddy land' means .a person holding any paddy land whether as owner, tenant or otherwise ;
- (viii) 'Kudumbasree units' means the Kudumbasree Unit functioning under the State Poverty Eradication Mission of the Government and includes the Self Help Groups ;
- (ix) '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) ;
- (x) 'major paddy producing areas' means any paddy fields, mentioned in section 3 ;
- (xi) 'paddy land' includes all types of land situated in coastal, midland or high range regions of the State and where paddy is cultivated at least once in a year or suitable for paddy cultivation and uncultivated and left fallow, and its related structure like drainage channels, ponds, lakes, wells etc ;
- (xii) '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 ;
- (xiii) 'reclamation' means such act or series of acts whereby a paddy land or a wetland, as defined in this Act is converted irreversibly and such that it cannot be reverted back to the original condition by ordinary means ;
- (xiv) 'State' means the State of Kerala ;

- (xv) '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, fresh water lakes, lagoon, mangroves, marshes, salt marsh and swamp forests but does not include paddy lands and rivers.

3. *Major paddy producing areas.*—On and from the date of commencement of this Act, the following paddy lands situated in different agro-ecological zones in the State shall be known as, major paddy producing areas, namely:—

- (a) 'aathi' or 'koravakandom' fields located in the Mananthavadi and Sulthan Batheri taluks of Wayanad District ;
- (b) 'Kaippad' fields located in Kannur, Thalassery and Thaliparambu taluks of Kannur district ;
- (c) 'Karappuram' fields located in Cherthala taluk and parts of Ambalapuzha taluk of Alappuzha District ;
- (d) 'Kolakkai' fields in Kasargode and Hosdurg taluks of Kasargode district ;
- (e) 'Koleland' located in Mukundapuram, Thrissur, Chavakkad and Thalappilly taluks of Thrissur district and Ponnani taluk of Malappuram district ;
- (f) 'Kuttanadan fields' located in Kuttanad taluk, parts of Ambalapuzha, Mavelikara and Karthikappally taluks of Alapuzha district, parts of Thiruvalla taluk of Pathanamthitta district and parts of Vaikom and Kottayam taluks of Kottayam district ;
- (g) 'Palliyal fields' located in Eranad Taluk of Malappuram district ;
- (h) 'Pokkali' fields located in Kochi, Kanayannur and Paravur taluks of Ernakulam district and Kodungallur taluk of Thrissur district ;
- (i) the entire paddy fields of Palakkad district ;
- (j) the inter hill paddy strips of midland region and double crop paddy land in the State ;
- (k) paddy fields, which fall within the ayacut area of any major or minor irrigation projects ;
- (l) any other paddy land notified by the Government from time to time in such manner as may be prescribed.

4. *Prohibition on conversion or reclamation of paddy land and keeping paddy land as fallow.*—(1) On and from the date of commencement of this Act, the owner, occupier or the person in custody of any paddy land in a major paddy producing area in the State shall not undertake any activity for the conversion or reclamation of such paddy field except in accordance with the provisions of this Act and shall not keep such paddy land fallow.

(2) Nothing contained in sub-section (1) shall apply to the cultivation of any intermediary crops or any vegetable or pulses or a combination or rotation of paddy and fish or on a reversible basis during the period in between two paddy crops that is cultivated according to the ecological nature of that paddy field.

5. *Power of Government to grant exemption.*—(1) Notwithstanding anything contained in section 4, 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, after due enquiry, they are satisfied that no alternate locations are available and that the conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land and also the environmental conditions in the area.

6. *Prohibition on conversion or reclamation of wetland and removal of sand therefrom.*—On and from the date of commencement of this Act, the wetlands of the State shall be kept as such and free from encroachment and pollution, and there shall be a total prohibition on conversion or reclamation of such wetland and removal of sand therefrom.

7. *Appointment of Authorised Officers and their powers.*— (1) The Government may by notification in the official Gazette, appoint such officers of the Revenue Department not below the rank of a Deputy Tahsildar, as authorized officers and may determine the local area within which they shall exercise their powers under this Act.

(2) The authorised officer may, for the purpose of ascertaining whether any of the provisions of this Act have been violated, or to prevent the commission of any of the offences under the Act,—

(a) enter any premises connected therewith or any place at any reasonable time and with such assistance as he thinks necessary for the examination or enquiry or investigation into the alleged offence under this Act;

(b) require any person to stop any activities described in sections 4 and 6 of the Act ;

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

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

(e) take photographs, prepare necessary inventories or do anything necessary for collecting evidence regarding the commission of the offence and sent 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 212 of the Indian Penal Code, 1860, (Central Act 45 of 1860).

8. *Power of the District Collector.*—Notwithstanding anything contained in this Act, the District 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 any paddy field or wet land reclaimed violating the provisions of this Act, and realize the cost incurred in this regard from him, after hearing the owner or occupier of the land so reclaimed.

9. *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 in a paddy land or a wetland converted or reclaimed in contravention of the provisions of this Act.

10. *Notice to cultivate paddy land, left fallow.*—(1) Notwithstanding anything contained in any law, order, custom or practice, for the time being in force, the Collector may, by notice in writing in such form and in such manner as may be prescribed, call upon the holder of any paddy land, situated within his jurisdiction, which is not under cultivation and which, in the opinion of the Collector, is likely to be let fallow during the current cultivation season, to

cultivate it with paddy or any other crop in accordance with this Act, either personally or through any other person, within such period, as may be specified in the notice.

(2) The notice under sub-section (1) shall be served by delivering or tendering to the holder of the paddy land, a copy of such notice and if the holder of such land is not found, service shall be effected by affixing a copy of the notice on the outer door of his house and another copy on a conspicuous part of the paddy land to which it relates.

(3) The holder of such paddy land, within the period specified in the notice under sub-section (1) or within such extended period as the Collector may grant in this behalf on request, shall comply with the direction contained in the notice.

11. *Entrustment of the right to cultivate paddy land.*—(1) Where the holder of the paddy land fails to comply with the direction under section 10, the Collector, may by order, direct and arrange for the entrustment by public auction or otherwise, of his right to cultivate the paddy land in question for a specified period, which shall ordinarily be three years.

(2) While entrusting the right to cultivate such paddy land under sub-section (1), preference shall be given to the Kudumbasree units or Padasekhara Samithies and Self Help Groups in the locality where the paddy land is situated.

12. *Provisions relating to transfer of rights of land in certain cases and appeal thereto.*—(1) Where, during the pendency of the entrustment of right to cultivate a paddy land, the holder of such paddy land effects any alienation of his right in such paddy land, he shall give intimation regarding such transfer to the Collector within such time, in such form and containing such particulars, as may be prescribed.

(2) If such transferee is willing to cultivate the paddy land, he may apply to the Collector to resume the land to his possession and thereupon, the Collector shall give notice of termination of the right to cultivate the paddy land, to the person concerned, with effect from such date as may be specified herein and the right of such person to cultivate the paddy land shall stand terminated with effect from the date so specified, notwithstanding the fact that the period of entrustment of right under section 11 has not expired and resume possession of the paddy land to the transferee :

Provided that where such paddy land is cultivated with any crop as on the date of termination of the right to cultivate, the Collector shall not disposes him of such paddy land, until the crop is harvested.

(3) Any person aggrieved by a notice under sub-section (2) may within thirty days from the date of such notice appeal to the Commissioner of Land Revenue in such form as may be prescribed, together with the copy of notice appealed against.

13. *Eviction of person to whom the right has been entrusted in certain cases.*— The person entrusted with the right to cultivate a paddy field 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 field after such expiry or termination, as the case may be.

14. *Use of force by the Collector.*—The Collector may take or cause to be taken the proceeding or use or cause to be used the force as may, in his opinion, be reasonable for the compliance of an order issued under the provisions of this Act.

15. *Power to entry and seizure.*—(1) Any officer of the Revenue Department not below the rank of a Revenue Divisional Officer or any officer authorized by the Government in this behalf or any police officer not below the rank of a Sub-Inspector, with a view to secure compliance with the provisions of this Act enter and search any premises and seize any vessel vehicle or conveyance or any implements used or purported to be used for any activity in contravention of the provisions of this Act, a report regarding such seizure shall be given to the Collector of the area having jurisdiction within forty eight hours of such seizure whether the prosecution proceedings have been initiated or not.

(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.

16. *Confiscation of vessel, vehicle etc.*—(1) After obtaining a report regarding seizure under section 7 or section 15, the Collector may, if he thinks fit, order confiscation of the object seized :

Provided that the owner or 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.

17. *Appeal against confiscation.*—Any person aggrieved by an order of confiscation under section 16 may within thirty days of the 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, modifying or annulling the order appealed against.

18. *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.

19. *Penalty for conversion or reclamation.*—Any person who, in violation of the provisions of this Act converts or reclaims any paddy land in any major paddy producing area, or converts or reclaims a wetland, or remove sand there from, shall on conviction, be punishable with imprisonment for a term which may extend up to three years but shall not be less than one year and with fine which may extend to one lakh rupees but shall not be less than fifty thousand rupees.

20. *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.

21. *Cognizance of offence.*—No 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 7.

22. *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 authorized 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.

23. *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.

24. *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.

25. *Protection of action taken in good faith.*—(1) No suit, prosecution or 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.

26. *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.

STATEMENT OF OBJECTS AND REASONS

Till recently, Kuttanad, Palakkad and such other paddy fields of Kerala were remained as the granaries of the State of Kerala. But the situation has changed for the last few decades. There has been an alarming shift from rice and subsistence food farming to cash crops. The area under rice cultivation has drastically declined from above eight lakhs hectares in the early 1970s to nearly two lakhs hectares in 2000s mainly due to conversion of paddy lands. Kerala is importing more than eighty per cent of its rice requirements from other States. Several social, economical and cultural changes have led to conversion of paddy fields. The paddy fields throughout Kerala is facing severe threats as they are being converted to cash crop plantations. Even the marshes are filled for new constructions. Majority of land owners feel that sustained paddy cultivation is not economically viable and they aspire to shift into more remunerative crops and cropping patterns. Paddy field conversion had led to enormous ecological degradation in the watershed region, reduction in humus formation, intensification of soil erosion that affected the fertility of soil, reduction in water level in wells, ponds etc. The ecological system loses its quality irrecoverably forever and the entire society is the loser. It has led to loss of direct and indirect employment to farm workers and rural women. The rural poor will have to experience acute water shortage than at present. They lost access to nutrient-rich, low cost food materials, which had been available in and around the paddy fields. Now majority are unaware of the true value of the loss of resources and its consequences on the livelihood conditions and gravity of the problem. It is very likely that the remaining paddy lands would be vanished in the near future, if the present policy is continued.

(2) In the wider interest of the society and mankind, paddy lands are to be preserved. Paddy is an amphibious crop that can be cultivated along with the maintenance of ecological functions of wetland and hence paddy cultivation is to be preserved and promoted at any cost.

(3) Similarly, wetlands are some of the most diverse ecosystems on earth as they have both land and aquatic characteristics. Different plant species of a wetland provide habitat for a variety of animal communities. In addition to microorganisms and invertebrates, reptiles are common in wetland. Many amphibians live in wetland during at least part of their life cycle. A large number of fish species require wetland habitat for spawning, feeding, or protection from predation. Birds are attracted to wetland by the abundant food resources and sites for nesting, resting, and feeding. Inland wetland help control floods by storing water and slowly releasing it to downstream areas after the flood peak.

(4) Kerala has a total wetland area of 127930 hectares, out of which an area of 34200 is in the 'inland wetland' and 93730 hectares is in the 'coastal wetland'. We have three fresh water lakes at Pookot in Wayanad District, Sasthamkotta in Kollam District and Vellayani in Thiruvananthapuram District. All the wetland including fresh water lakes are facing severe threat as they are drained, cleared and reclaimed for the use of agriculture, settlement, industrial and several other purposes. This behavior will certainly disturb the ecological balance and scarcity for drinking water, drying up of perennial water sources and saline intrusion in the sweet water wells.

(5) Therefore, it is proposed to bring a new legislation covering various aspects of the issue to conserve, regulate the reclamation and conversion of paddy fields and wetland in Kerala

(6) The proposed enactment will facilitate conservation of paddy land and wetland; to regulate illegal and vast reclamation of paddy land and other wetland; indiscriminate clay mining from the paddy field; and to improve the overall ecological conditions of the State.

(7) The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

The existing Government machinery is invoked to implement the provisions of this Act. No additional post is created for this purpose. However Clause 8 of the Bill empowers the Collector to restore the original condition of the paddy field, if reclaimed in violation of the provisions of the Act and to realise the cost thereof from the owner. The amount likely to be incurred for the purpose cannot be reckoned accurately at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Item (1) of clause 3 of the Bill seeks to empower the Government to prescribe the manner in which any other paddy land may be notified as a major paddy producing area.

(2) Clause 10 of the Bill seeks to empower the Government to prescribe the form and the manner in which a notice may be issued to the holder of a paddy land to cultivate the same with paddy, if it is left fallow.

(3) Sub-clause (1) of clause 12 of the Bill seeks to empower the Government to prescribe the time within which and the form in which the holder of the paddy land shall give notice to the Collector regarding alienation of such paddy land. It also empowers the Government to prescribe the particulars to be contained in such notice.

Sub-clause (3) of the said clause also empowers the Government to prescribe the form in which an appeal may be filed against the order of the Collector under sub-clause (2) to the Commissioner of Land Revenue.

(4) Sub-clause (1) of clause 26 of the Bill seeks to empower the Government to make rules for the purpose of carrying into effect the provisions of this Act.

(5) The matter in respect of which Rules may be made are matters of procedure or of administrative in nature. Further the rules after they are made are subject to scrutiny by the Legislative Assembly. The delegation of the Legislative Power is thus of a normal character.

K. P. RAJENDRAN.