

Twelfth Kerala Legislative Assembly
Bill No. 25

**THE KERALA PUBLIC ACCOUNTANTS
(AMENDMENT) BILL, 2006**

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Bill

to amend the Kerala Public Accountants Act, 1963

Preamble.—WHEREAS, it is expedient to amend the Kerala Public Accountants Act, 1963 for the purposes hereinafter appearing ;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Public Accountants (Amendment) Act, 2006.

(2) It shall be deemed to have come into force on the 19th day of October, 2005.

2. *Amendment of Section 2.*—In the Kerala Public Accountants Act, 1963 (37 of 1963) (hereinafter referred to as the principal Act), in section 2,—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) “Government Law Officer” means any person appointed for a specified term by the Government to conduct cases on behalf of the Government in any court, tribunal or other authority in the State of Kerala or in the Supreme Court;”;

(ii) in clause (b), the words “and includes a person who is, or has been, a Government Law Officer” shall be added at the end.

3. *Amendment of Section 3.*—In section 3 of the principal Act, to sub-section (1), the following Explanation shall be added, namely:—

“ *Explanation:* For the purposes of this sub-section,—

(i) a Government Law Officer appointed to conduct cases before any court (other than the High Court of Kerala or the Supreme Court), tribunal or other authority shall be deemed to be a public accountant serving under the Collector; and

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(ii) the Advocate General shall be deemed to be the Head of a Department of the Government under whom a Government Law Officer appointed to conduct cases in the High Court of Kerala or the Supreme Court is or was serving.”.

5. *Repeal and Saving.*—(1) The Kerala Public Accountants (Amendment) Ordinance, 2006 (34 of 2006) is hereby repealed.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 principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

At present there is no provision in the existing Acts or rules for the speedy realization of loss caused to Government by the Government Law Officers during the period they hold office as such. The provisions contained in the Kerala Public Accountants Act, 1963, are not adequate to proceed against such persons for recovering the loss caused by them to Government. For recovering such loss, the only remedy is to file suits before competent courts. Government have, therefore, decided to include provisions in the Kerala Public Accountants Act, 1963, to make the said Act applicable to persons who are or have been Government Law Officers.

A Bill for the above purpose was published as Bill No.228 of the Eleventh Kerala Legislative Assembly, but the same could not be introduced in or passed by the Eleventh Kerala Legislative Assembly. As the Legislative Assembly was not in session and the above proposals had to be given effect to immediately, it was decided to promulgate the same as an Ordinance. Accordingly, the Kerala Public Accountants (Amendment) Ordinance, 2005 (17 of 2005) was promulgated by the Governor on the 18th day of October, 2005 and was published in the Kerala Gazette Extraordinary No. 2255 dated the 19th October, 2005.

A Bill to replace the said Ordinance could not be introduced in or passed by the Eleventh Kerala Legislative Assembly in any of its sessions. Hence, in order to keep alive the provisions of Ordinance No. 17 of 2005, the Governor has promulgated Ordinance No. 1 of 2006 and Ordinance No. 21 of 2006 and were published in the Kerala Gazette Extraordinary No. 6 dated 2nd January, 2006 and No. 597 dated 17th March, 2006, respectively.

A Bill to replace the Ordinance No. 21 of 2006 was published as Bill No. 3 of Twelfth Kerala Legislative Assembly, but the same could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on 24th May, 2006 and ended on the 30th June, 2006. Difficulties will arise if the provisions of the said Ordinance are not kept alive.

As the Legislative Assembly of the State of Kerala was not in session and since the provisions of Ordinance No. 21 of 2006 had to be kept alive, Ordinance No. 34 of 2006 was promulgated by the Governor on the 5th day of July, 2006 and the same was published in the Kerala Gazette Extraordinary No. 1128 dated 5th July, 2006.

The Bill seeks to replace the Ordinance No. 34 of 2006 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

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

K. P. RAJENDRAN

EXTRACT FROM THE KERALA PUBLIC ACCOUNTANTS
ACT, 1963 (37 OF 1963)

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

(a) “Collector” means the Collector of a district ;

(b) “public accountant” means a person who, by reason of being employed in the service of the Government or of any other authority or institution notified by the Government in this behalf from time to time in the Gazette, is entrusted with the receipt, custody, possession or control of any moneys or securities for money, documents, or other property belonging to the Government, or to any such authority or institution notified as aforesaid, or who, in his capacity as Government Servant, or servant of any such authority or institution, is entrusted with the receipt, custody, possession or control of any moneys or securities for money; documents or other property belonging to any person or persons or to any institution for and on behalf of the Government or any such authority or institution, as the case may be.

3. *Statement of particulars of claim to be drawn up by Collector or Head of Department.*—(1) Whenever it appears to the Collector or the Head of a Department of the Government or other authority or institution notified under clause (b) of section 2, under whom a public accountant is or was serving, that the Government or such authority or institution have or has a claim on such public accountant for moneys, securities for money, documents or other property, he shall draw up a statement of the particulars of the said claim, and if he is not a Collector, may send the statement to the Collector in whose jurisdiction such accountant is or was employed.

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