

Thirteenth Kerala Legislative Assembly

Bill No. 16

**THE KERALA GOVERNMENT LAND ASSIGNMENT
(AMENDMENT) BILL, 2011**

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Kerala Legislature Secretariat
2011

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further to amend the Kerala Government Land Assignment Act, 1960.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Government Land Assignment Act, 1960 for the purposes hereinafter appearing ;

BE it enacted in the Sixty-second Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Government Land Assignment (Amendment) Act, 2011.

(2) It shall be deemed to have come into force on the 19th day of March, 1993.

2. *Amendment of section 7.*—In section 7 of the Kerala Government Land Assignment Act, 1960 (30 of 1960) (hereinafter referred to as the Principal Act), in sub-section (1), for the opening words “The Government may make rules”, the words “The Government may make rules, either prospectively or retrospectively”, shall be substituted.

3. *Repeal and saving.*—(1) The Kerala Government Land Assignment (Amendment) Ordinance, 2011 (21 of 2011) is hereby repealed.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

As per sub-rule (1) of rule 15 of the Kerala Land Assignment (Regularisation of Occupations of Forest Lands prior to 1-1-1977), Special Rules 1993, the lands assigned under the said rules are heritable but not alienable. There were wide spread demands from the people to remove the restriction on alienation. As the assignees of the lands are in occupation of the land for more than 30 years and the area covered by the said rules are not likely to increase, Government consider it not necessary to restrict the alienation of the said lands.

Hence, the Government have decided to amend the rules retrospectively so as to enable the assignees to alienate the land with certain restrictions. But, at present there is no provision in the Kerala Government Land Assignment Act, 1960 to make rules retrospectively. Hence, the Government have decided to amend section 7 of the Kerala Government Land Assignment Act, 1960 so as to enable the Government to make rules either prospectively or retrospectively.

2. As the Legislative Assembly was not in session and the above proposals had to be given effect to immediately, the Kerala Government Land Assignment (Amendment) Ordinance, 2010 (52 of 2010) was promulgated by the Governor on the 12th day of September, 2010 and the same was published in the Kerala Gazette Extraordinary No. 2077 dated 13th September, 2010.

3. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 387 of the 12th Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 21st day of December, 2010 and ended on the 3rd day of January, 2011. In order to keep alive the provisions of the said Ordinance the Kerala Government Land Assignment (Amendment) Ordinance, 2011 (15 of 2011) was promulgated by the Governor on the 23rd day of January, 2011 and the same was published in the Kerala Gazette Extraordinary No. 153 dated 23rd day of January, 2011.

4. Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 408 of the 12th Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 4th day of February, 2011 and ended on the 24th day of February, 2011. In order to keep alive the provisions of the said Ordinance, the Kerala Government Land Assignment (Amendment) Ordinance, 2011 (21 of 2011) was promulgated by the Governor on the 17th day of March, 2011 and the same was published in the Kerala Gazette Extraordinary No. 650 dated the 18th day of March, 2011.

5. The Bill is intended to replace Ordinance No. 21 of 2011 by an Act of the 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

1. Sub-section (1) of section 7 of the Principal Act proposed to be amended by clause 2 of the Bill seeks to empower the Government to make rules either prospectively or retrospectively.

2. The matters in respect of which rules may be made are matters of procedure and of routine and administrative in nature. Further, the rules are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is therefore, of a normal character.

THIRUVANCHOOR RADHAKRISHNAN
