

**Thirteenth Kerala Legislative Assembly**  
**Bill No. 201**

**THE KERALA PANCHAYAT RAJ (AMENDMENT) BILL, 2013**

453/2013.

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2013

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[Translation in English of “2013-ലെ കേരള പഞ്ചായത്ത് രാജ് (ഭേദഗതി) ബിൽ” published under the authority of the Governor.]

**THE KERALA PANCHAYAT RAJ (AMENDMENT)  
BILL, 2013**

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**BILL**

*further to amend the Kerala Panchayat Raj Act, 1994.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Panchayat Act, 1994 for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Panchayat Raj (Amendment) Act, 2013.

(2) Section 2 of this Act shall be deemed to have come into force on the 1st day of November, 2010 and the remaining sections shall be deemed to have come into force on the 25th day of November, 2012.

2. *Amendment of section 35.*—In the Kerala Panchayat Raj Act, 1994 (13 of 1994) (hereinafter referred to as the principal Act), in clause (p) of sub-section (1) of section 35, for the word “twice”, the word “thrice” shall be substituted.

3. *Amendment of section 203.*—In section 203 of the principal Act,—

(a) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The limits of rates of basic property tax fixed by the Government under sub-section (2) and the rate of basic property tax once determined by the Village Panchayat under sub-section (3) subject thereto shall be in force for five years from the date on which they come into force and thereafter on completion of every five years, the Government and the Village Panchayat, respectively, shall, before the expiry of the five year period revise the minimum and maximum limits of the rates of basic property tax and the rates of basic property tax by making an enhancement on the existing limits and rates to a minimum of twenty five per cent subject to an upper limit of

thirty five per cent, so as to be in force for the next five years. While assessing the tax in accordance with the revised rate of tax as stated above,—

(a) in the case of buildings which are new, reconstructed and altered in usage, the Secretary shall fix the tax as prescribed and take further action;

(b) in the case of building which does not belong the category stated in clause (a) and the annual property tax of which is fixed once based on the plinth area, the Village Panchayat shall, for the purpose of revising the succeeding five year tax revise the tax by making an enhancement of twenty five per cent along with the existing annual property tax and accordingly the Secretary shall give demand notice for the next five years to the owner of the building:

Provided that while revising such annual property tax, no deduction or addition under sub-section (7) shall be applicable.”;

(b) in sub-section (7), items (iii), (vii) and (ix) shall be omitted;

(c) in the proviso to sub-section (9), the words “the construction of wall of the building” shall be omitted;

(d) in sub-section (10), for the words “within sixty days”, the words “within thirty days” shall be substituted;

(e) sub-section (12) shall be omitted;

(f) sub-section (14) shall be omitted;

(g) in sub-section (19), for item (ii), the following item shall be substituted, namely:—

“(ii) determination of the minimum limit and the maximum limit of enhancement of annual property tax;”.

5. *Amendment of section 207.*—In section 207 of the principal Act, after clause (b), the following clause shall be inserted, namely:—

“(ba) buildings exclusively used for educational purposes under the ownership of educational institutions having the recognition of the Government and up to the level of Higher Secondary and hostel buildings in which the students of such institutions reside;”.

6. *Amendment to section 232.*—In section 232 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in the Abkari Act, 1077 (1 of 1077) or in any other law for the time being in force, no person shall, without

previous permission in writing of a Village Panchayat and otherwise than in accordance with the conditions specified in the permission, establish an Abkari shop within a Village Panchayat area;

(3) While granting permission to establish an Abkari shop near an educational institution or place of worship, the distance limit prescribed in the Abkari Act for the time being in force or the rules framed thereunder shall be complied with and the Village Panchayat shall not grant permission to establish an Abkari shop within the said distance limit.

(4) A Village Panchayat shall be competent, in the interest of public peace or morality or on the grounds of convenience or nuisance, to order shifting from one place to another or closing of an Abkari shop within a period not exceeding fifteen days, as may be directed in this behalf.

(5) Notwithstanding anything contained in this section, the provisions of sub-sections (2) to (4) shall not be applicable to any Abkari shop existing on 25th November, 2012, the date of commencement of the Kerala Panchayat Raj (Fourth Amendment) Ordinance, 2012 (63 of 2012) or, subject to all existing legal provisions, for re-establishing the toddy shops existing on the said date, in the area within the boundaries allotted for establishing them.

*Explanation:*—“Abkari shop” means a toddy shop or a foreign liquor shop or a foreign liquor retail shop or an establishment having FL-9 licence or a bar hotel, under the Abkari Act, 1077 and the rules made thereunder.”.

7. *Insertion of new section after section 279.*—After section 279 of the principal Act, the following section shall be inserted, namely:—

“279A. *Taking possession of poramboke without licence.*—Where any person, without the previous permission of a Panchayat, possesses any land belonging to or vested in it or under its control, the person so possessing the land shall be liable to pay in respect of such possession an amount by way of fine as may be demanded by the Panchayat from time to time, subject to such limits as may be prescribed:

Provided that before demanding any amount from a person under this sub-section, the Panchayat shall give him an opportunity to show cause against such demand.

(2) Where a person makes default in payment of any amount under sub-section (1), the Magistrate having jurisdiction over the area of the Panchayat may, on application by the Secretary, recover that amount in the same manner as if it is a fine imposed by the Court.

(3) (a) Any person unauthorisedly possessing any land for which he is bound to pay a fine under sub-section (1) in respect of such possession, may be summarily evicted by the Secretary and any crops or other product cultivated in the land shall be subjected to forfeiture and any building or structure erected therein or anything deposited thereon shall also, if not removed by him after such written notice as the Secretary deems to be reasonable, be subjected to forfeiture and any property so forfeited shall be disposed of by the Secretary in accordance with such procedure as the Panchayat may direct.

(b) A notice shall be served to a person who is possession of any land unauthorisedly or his agent, requiring him to vacate the land within such time as the Secretary deems to be reasonable after receipt of the notice and if such notice is not obeyed, any person who refuse to vacate shall be removed or a subordinate officer shall be deputed to remove him and if the officer removing any such person is resisted or obstructed by any person, the Secretary may report the fact to the Collector and thereupon the Collector shall hold a summary enquiry into the case and if satisfied that the resistance or obstruction still continues, may issue a warrant for the arrest of the said person and, on his appearance may send him, with a warrant, in such form as may be prescribed, for imprisonment in the civil jail for such period, not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance:

Provided that no person so committed for imprisonment under this section shall be liable to be prosecuted under sections 183, 186 and 188 of the Indian Penal Code, 1860 (Central Act 45 of 1860) in respect of the same facts.

7. *Repeal and saving.*—(1) The Kerala Panchayat Raj (Amendment) Ordinance, 2013 (24 of 2013) 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

In most of the Village Panchayats reconstituted after 1st November, 2010, the Grama Sabhas could not be convened promptly due to the impression which prevailed to the effect that the Grama Sabhas should not be convened after the election conduct rules came into force. As per clause (p) of sub-section (1) of section 35 of the Kerala Panchayat Raj Act, 1994, a member elected to the Panchayat shall cease to hold office as such, if he has failed to convene the meetings of Grama Sabha within the time limit. Therefore, in order

to remove the disqualification that may so arise, the Grama Panchayat Association had requested the Government to provide legal protection to the members. Though no provision of law stipulates that the Grama Sabha shall not be convened after the declaration of the general election, taking into account the practical aspects in the matter, the Government consider it appropriate to provide legal protection to the members of the Panchayats who had not convened meetings of Grama Sabha during the prevalence of election conduct rules, from being disqualified under the said clause.

2. In the above circumstances, in order to remove the disqualification that may arise for the members of the Village Panchayats to continue as such due to their inability to convene Grama Sabhas, the Government have decided to amend clause (p) of sub-section (1) of section 35 of the said Act by substituting the word "thrice" for the word "twice" and also to give retrospective effect to the said amendment from the 1st day of November, 2010, the date on which the present Administrative Committees of the Village Panchayats came into power.

3. The Government had received several complaints consequent to the implementation of refixation of property tax. Besides, it has also come to the notice of the Government that loss of revenue of Local Self Government Institutions has occurred since periodical revision of property tax has not been made. Considering the above, the Government have decided to suitably amend sections 203 and 207 of the Kerala Panchayat Raj Act to enable revision of property tax in every five years and to exempt buildings which are under the ownership of institutions recognised by the Government and used exclusively for educational purposes up to the Higher Secondary level and also the hostel buildings of such institutions in which students are staying.

4. Besides, Government consider it necessary to include necessary provisions in the Act to make it compulsory to obtain previous permission of the Panchayat to locate Abkari shops and to ensure compliance of the conditions prescribed by the Panchayat in such permission and provisions regarding the distance constraints from educational institutions and places of worship as prescribed in the Abkari Act and Rules. Further, Government have decided to amend section 232 to empower the Panchayats to order re establishment and closure of Abkari Shops in public interest and to insert a new section as section 279A to make provisions regarding occupation of poramboke lands vested in the Panchayats.

5. As the Kerala Legislative Assembly was not in session and circumstances existed for making immediate legislation for implementing the above said decision, the Kerala Panchayat Raj (Third Amendment) Ordinance,

2012 (62 of 2012), the Kerala Panchayat Raj (Fourth Amendment) Ordinance, 2012 (63 of 2012) was promulgated by the Governor of Kerala on the 24th day of November, 2012 and the same was published in the Kerala Gazette Extraordinary No. 1261 and 1262 respectively dated 25th November, 2012.

6. 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 10th day of December, 2012 and ended on the 21st day of December, 2012.

7. In order to keep alive the provisions of the said Ordinance, and as the Legislative Assembly of the State was not in session, the Kerala Panchayat Raj (Amendment) Ordinance, 2013 (8 of 2013) and the Kerala Panchayat Raj (Second Amendment) Ordinance, 2013 (9 of 2013) were promulgated by the Governor on the 9th day of January, 2013 and the same was published in the Kerala Gazette Extraordinary No. 102 and 103 respectively dated 10th January, 2013.

8. A Bill to replace the said Ordinances 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 1st day of February, 2013 and ended on the 19th day of February, 2013.

9. In order to keep alive the provisions of the said Ordinances, and as the Legislative Assembly of the State was not in session the Kerala Panchayat Raj (Amendment) Ordinance, 2013 (24 of 2013) was promulgated by the Governor on the 26th day of January, 2013 and the same was published in the Kerala Gazette Extraordinary No. 563 dated 2ih February, 2013.

10. This Bill seeks to replace Ordinance No. 24 of 2013 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

Clause (a) of sub-section (4) of section 203 proposed to be inserted by clause 3 of the Bill empowers the Government to make rules prescribing the manner in which the Secretary shall fix the tax, while fixing the rates of basic property tax in the case of building which are new, reconstructed and altered in usage.



2. Sub-section (1) of section 279A proposed to be inserted by clause 6 of the Bill empowers the Government to make rules by fixing the limits of the amount which can be demanded as penalty by the panchayats from time to time where any person, without previous sanction of a panchayat, occupies any land belonging to or vested in it or under control, in respect of such occupation.

3. Clause (b) of sub-section (3) of section 279A proposed to be inserted by clause 6 of the Bill empowers the Government to make rules fixing the form of warrant to be issued by the Collector to arrest and to send to Civil jail a person who continues resistance or obstruction without vacating the land in unauthorised occupation even after receipt of notice to vacate the same.

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

DR. M. K. MUNEER.

EXTRACT OF RELEVANT PORTIONS FROM THE KERALA PANCHAYAT  
RAJ ACT, 1994 (13 OF 1994)

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35. *Disqualifications of members.*—(1) Subject to the provisions of section 36 or section 102, a member shall cease to hold office as such, if he—

(a) is found guilty as described under clause (b) of sub-section (1) of section 34 or is sentenced for such an offence; or

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(p) has failed, twice consecutively, to convene the meetings of the Grama Sabha, due once in three months, of which he is the convenor; or

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203. *Property Tax.*—(1) Any Village Panchayat shall in accordance with the provisions of this Act and the rules as may be prescribed, levy property tax on every building (including the land appurtenant thereto) situated within the area of the respective Village Panchayat and not exempted under the provisions of this Act.

(2) \*\*                      \*\*                      \*\*

(3) \*\*                      \*\*                      \*\*

(4) The limits of rates of basic property tax fixed by Government under sub-section (2) and the rates of basic property tax determined by the Village Panchayat subject thereto under sub-section (3) shall have effect for five years from the date on which they come into force and thereafter on the completion of every five years and before the expiry of the period, the Government and the Village Panchayat shall revise the limits of rates of basic property tax and the rates of basic property tax respectively, so as to be in effect for the next five years. The Secretary shall, in accordance with such revision of rates, after completing the procedures, revise and fix the revised property tax in respect of every building before the expiry of the period.

(5) The rates of basic property tax fixed by the Village Panchayat for the first time under sub-section (3) shall come into force on such date as the Government may, by notification, appoint in this behalf.

(6) The basic property tax shall be such amount as is arrived at by multiplying the plinth area of a building with the rate of basic property tax applicable to such building which is rounded to the next higher whole number.

(7) In the basic property tax of building calculated as per sub-section (6) on the basis of the factors:—

(i) Where the areas of Village Panchayat are classified into different zones, the zone in which the building is located;

(ii) availability of road facility to the building;

(iii) variation in the plinth area of the building;

(iv) construction of roof of the building;

(v) age of the building;

(vi) construction of the floor of the building;

(vii) construction of wall of the building;

(viii) air conditioning facility of the building;

(ix) nature of use of the building; (that is whether used for personal purpose or given on rent etc.)

the Secretary, in accordance with the classification of factors as may be specified in the Rules and at the rate as may be specified for each category, allow deductions and make additions, as the case may be:

Provided that the aggregate deductions so allowed in respect of all the items shall not exceed seventy five per cent of the basic property tax.

(8)   \*\*   \*\*   \*\*

(9) In the case of a building, if two or more uses or its sub-categories referred to in sub-section (2) or any two or more factors referred to in sub-section (7) or two or more kinds of a factor are applicable at the same time, the aggregate of annual property tax shall be assessed by reckoning separately the property tax as applicable to the respective part of the building:

Provided that if more than one kind of anyone of the factors such as construction of roof of the building, construction of floor of the building, the construction of wall of the building are applicable to a building at the same time, the annual property tax of the building shall be assessed on the basis of that kind applicable to more than half portion of the aggregate plinth area.

(10) After publishing the rate of basic property tax applicable to the area of the Village Panchayat and the notification classifying the area of the Village Panchayats into different zones, the Secretary shall by a public notice publish the general details helpful to the owners to assess the annual property tax of their building by themselves, in accordance with details as the plinth area of the building, the permissible deductions and additions that may be made in the basic property tax, by a notice, demand the owners of the building to submit the return in respect of the property in the prescribed form within sixty days from the date of publication of such public notice. The format/copy of the Form shall be made available to the owners of the building free of cost by the Village Panchayat.

(11) \*\* \*\* \*

(12) On inquiry by the Secretary, if it is found that the owner of the building or the person authorised has furnished false or misleading particulars in the tax return or that the return has not submitted within the stipulated time, the owner of the building shall, also be liable to pay fine as prescribed in addition to actual property tax payable for the building as per law.

(13) \*\* \*\* \*

(14) The Secretary may, on the basis of the return submitted by the owner of the building, assess provisionally, the annual property tax of the building and levy tax as such by issuing such demand notice and subsequently after conducting inquiry in respect of the building, confirm or revise the tax assessed earlier. The assessment of tax shall be provisional until the property tax of the building is assessed any conducting inquiry in respect of the building by the Secretary.

(15) \*\* \*\* \*

(16) \*\* \*\* \*

(17) \*\* \*\* \*

(18) \*\* \*\* \*

(19) The Government may, by notification in the Gazette, make rules in respect of the following:—

(i) the procedure to be followed by the Village Panchayat for fixing the rate of basic property tax to be made applicable to the area of the Village Panchayat subject to the limits specified by the Government and for publishing the same;

(ii) for fixing the increase in the upper limit of annual property tax;

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207. *Exemption from Tax, Cess etc.*—(1) The following buildings and lands shall be exempted from property tax as may be levied under Section 203 and service cess as may be levied under sub-section (2) of Section 200, namely:—

(a) \*\*                      \*\*                      \*\*                      \*\*

(b) building exclusively used for educational purposes or allied purposes under the ownership of educational institutions owned by the Government, aided or functioning with the financial assistance of the Government and the hostel buildings wherein the students of the said institutions reside;

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232. *Purpose for which places may not be used without a licence.*—(1) The Village Panchayat may notify that no place in the Panchayat area shall be used for any of the purposes specified in the rules made in this behalf being purposes which in the opinion of Government, are likely to be offensive or dangerous to human life or health or property, without a licence issued by the Secretary and except in accordance with the conditions specified in such licence:

Provided that no such notification shall take effect until the expiry of thirty days from the date of its publication.

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279. *Village Panchayat to regulate the use of certain porambokes.*—(1) Village Panchayat shall have power subject to such restrictions and control as may be prescribed to regulate the use of the land set apart for the common use of the community such as grazing grounds, burring and burial grounds and cart stands which are the disposal of the Government.

(2) The Government or any officer authorised by them after consulting the Village Panchayat, may, by notification, exclude from the operation of this Act any poramboke referred to in sub-section (1) and may also modify or cancel such notification.

(3) The Village Panchayat shall also have power, subject to such restrictions and control as may be prescribed, to regulate the use of any other poramboke which is at the disposal of Government if the Village Panchayat is authorised in that behalf by an order of Government.

(4) The Village Panchayat may subject to such restrictions and control as may be prescribed, plant trees on any poramboke the use of which is regulated by it under sub-section (1).

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