

Thirteenth Kerala Legislative Assembly  
Bill No. 21

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**THE KERALA PUBLIC SERVICE COMMISSION (ADDITIONAL  
FUNCTIONS AS RESPECTS THE LOK AYUKTA) BILL, 2011**

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**THE KERALA PUBLIC SERVICE COMMISSION (ADDITIONAL  
FUNCTIONS AS RESPECTS THE LOK AYUKTA) BILL, 2011**

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*BILL*

*to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services of the Lok Ayukta.*

*Preamble.*—WHEREAS, it is expedient to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services under the Kerala Lok Ayukta ;

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 Public Service Commission (Additional Functions as Respects the Lok Ayukta) Act, 2011.

(2) It shall come into force at once.

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

(a) “Lok Ayukta” means the Lok Ayukta appointed under section 3 of the Kerala Lok Ayukta Act, 1999 (8 of 1999) and includes the Upa-Lok Ayukta appointed under the said section ;

(b) “Public Service Commission” means the Kerala Public Service Commission.

3. *Functions of the Public Service Commission in respect of services under the Lok Ayukta.*—(1) Notwithstanding anything contained in the Kerala Lok Ayukta Act, 1999 or the rules made there under in respect of the appointment and conditions of service of officers and employees of the Lok Ayukta, it shall be the duty of the Public Service Commission to prepare select list, for appointment by direct recruitment, of officers and employees of the Lok Ayukta.

(2) The Lok Ayukta shall consult the Public Service Commission,—

(a) on matters relating to direct recruitment to the services and posts under the Lok Ayukta ;

(b) on the principles to be followed in making appointments by direct recruitment of officers and employees of the Lok Ayukta and on the suitability of candidates for such appointments, and

It shall be the duty of the Public Service Commission to advise on any matter so referred to them :

Provided that the Government may make rules specifying the matters in which, either generally or in any particular case or class of cases or in any particular circumstance, it shall not be necessary for the Public Service Commission to be consulted.

(3) If there is any difference of opinion between the Public Service Commission and the Lok Ayukta on any matter, the Lok Ayukta shall refer the matter to the Government and the decision of the Government thereon shall be final :

Provided that the Government, before taking a decision against the advice of the Public Service Commission, shall refer the matter to the Commission.

4. *Power to make rules.*—(1) The Government may, in consultation with the Public Service Commission and the Lok Ayukta, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the procedure to be followed by the Lok Ayukta for consulting with the Public Service Commission ;

(b) any matter which is incidental to or necessary for, the purpose of consulting with the Public Service Commission.

(3) 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

Government have decided that all appointments by direct recruitment of the staff of the Lok Ayukta shall be made in consultation with the Public Service Commission. The services of the Lok Ayukta does not form part of the public services of the State. Hence the Public Service Commission has to be empowered to exercise additional functions as respects the Lok Ayukta by appropriate legislative measure under Article 321 of the Constitution of India. Moreover, consultation with Public Service Commission on the draft rules relating to the appointment and other conditions of service of the officers and employees of the Lok Ayukta will be possible only if the Posts in the service of the Lok Ayukta are brought within the purview of the Commission. Hence the Government have decided to bring in a special legislation for the said purpose.

2. The Bill seeks to achieve the above object.

#### FINANCIAL MEMORANDUM

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

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

The proviso to sub-clause (2) of clause 3 of the Bill seeks to empower the Government to make rules specifying the matters in which, either generally or in any particular case or class of cases or in any particular circumstance, it shall not be necessary for the Public Service Commission to be consulted.

2. Clause 4 of the Bill seeks to empower the Government to make rules in consultation with the Public Service Commission and the Lok Ayukta for carrying out the purposes of the Act.

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

OOMMEN CHANDY