

**Thirteenth Kerala Legislative Assembly  
Bill No. 306**

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**THE KERALA ANTI-SOCIAL ACTIVITIES (PREVENTION)  
AMENDMENT BILL, 2014**

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1425/2015.

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**THE KERALA ANTI-SOCIAL ACTIVITIES (PREVENTION)  
AMENDMENT BILL, 2014**

*A*

*BILL*

*to amend the Kerala Anti-Social Activities (Prevention) Act, 2007.*

*Preamble.*—WHEREAS, it is expedient to amend the Kerala Anti-Social Activities (Prevention) Act, 2007 for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Anti-Social Activities (Prevention) Amendment Act, 2014.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Anti-Social Activities (Prevention) Act, 2007 (Act 34 of 2007) (hereinafter referred to as the principal Act),—

(i) in clause (a), after the letter and brackets “(q)”, the letters and brackets “(qb)” shall be inserted;

(ii) in clause (j), after the words “a loan shark”, the words “money chain offender” shall be inserted;

(iii) for clause (1), the following clause shall be substituted, namely:—

“(1) “hawala racketeer” means any person who illegally buys, sells or deals with Indian currency or foreign currency under circumstances from which it can be reasonably inferred that he is doing so as a member of any organized group or of his own motion;”;

(iv) in clause (q), after the words “loan shark” means the words “a person who lends money for exorbitant interest in contravention of the provisions of the Kerala Money Lenders Act, 1958 (35 of 1958), the Kerala

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Prohibition of Charging Exorbitant Interest Act, 2012 (2 of 2013) or of any other law”, and after the words “any part of the loan”, the words “so given for exorbitant interest”, shall be inserted;

(v) after clause (q), the following clauses shall be inserted, namely:—

“(qa) “material object” means any movable or immovable property, including any object, vessel, vehicle or animal, used by any person, directly or otherwise, for committing or attempting to commit, or abetting the commission of, any anti-social activity.”;

(qb) “money chain offender” means a person who conducts money circulation scheme or prize chits punishable under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (Central Act 43 of 1978);”.

3. *Amendment of section 12.*—In section 12 of the principal Act,—

(i) for the words “shall not exceed six months”, the words “shall not ordinarily exceed six months” shall be inserted;

(ii) the following proviso shall be inserted, namely:—

“Provided that the maximum period of detention in respect of any person who involves in any anti-social activity after previous detention under this Act shall be one year.”.

4. *Insertion of new section 16A.*—In the principal Act, after section 16, the following section shall be inserted, namely:—

“16A. *Prohibition of use of material object.*—(1) No person shall use or cause to be used or permit to use any material object for the purpose of committing or attempting to commit, or assisting or abetting the commission of, any anti-social activity.

(2) Any material object used for committing or attempting to commit, or assisting or abetting the commission of, any anti-social activity in contravention of sub-section (1) shall, if there is any law to initiate prosecution proceedings relating to such material object, be subjected to necessary proceedings, including seizure and confiscation through the competent authority concerned, under the provisions of such law and where there is no such law in force, any such material object shall be subjected to seizure and confiscation under the provisions of this Act.”.

5. *Amendment of section 17.*—In the principal Act, for section 17, the following section shall be substituted, namely:—

“17. *Power to search and seizure.*—Notwithstanding anything contained in any law for time being in force, the Government or the authorized officer may, by general or special order, empower any police officer not below the rank of a Sub Inspector of Police, to search any place or person, to stop and search any vessel, vehicle, cart or animal or any other conveyance and where the authorized officer has reason to believe that the same was used or attempted to be used in contravention of the provisions of sub-section (1) of section 16A, to seize and take further proceedings in respect of any material object, including such vessel, vehicle, cart, animal or other conveyance, subject to the provisions of sub-section (2) of section 16A.

(2) Where a police officer empowered under sub-section (1) detects any material object, including vessel, vehicle, cart, animal or other conveyance and,—

(a) if there is a law for initiating prosecution proceedings in respect of such material object and any person or any conveyance mentioned above has been detained, the matter shall immediately be informed to the competent officer concerned or the authority for the purpose of seizing such material object and initiating such further proceedings as per the provisions of the law concerned;

(b) if such material objects are seized under this Act, the matter shall immediately be reported before the District Magistrate having jurisdiction.

6. *Insertion of new sections 17A, 17B, 17C, 17D, 17E, 17F.*—After section 17 of the principal Act as amended, the following sections shall be inserted, namely:—

“17A. *Procedure for search and seizure.*—Where a police officer authorized under sub-section (1) of section 17 conducts search of any place or person, the provisions of section 100 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, *mutatis mutandis*, apply to such search and in dealing with any object seized by such an officer, the provisions of sub-section (3) of section 102, section 457, sub-section (1) of section 458 and sections 459 and 481 of the said Code shall apply subject to the modifications that the references to “Magistrate” and “court” in the said sections shall be construed as “District Magistrate” and the references to “Code” shall be construed as “Act” and for the purposes of the said sections, the rules made by the High Court of Kerala

in exercise of the powers conferred by the said Code, as amended from time to time, shall, *mutatis mutandis*, as far as possible, apply to the proceedings under this Act.

(2) Any person aggrieved by an order passed by the District Magistrate in respect of any material object seized under this Act may, within thirty days from the date of receipt of such order, prefer an appeal before the Secretary to Government in charge of the Home Department.

(3) On receipt of an appeal under sub-section (2), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order confirming, modifying or annulling the order appealed against, as it deems fit.

17B. *Procedure for confiscation.*—(1) No order confiscating any material object under this Act shall be passed without giving the person from whom it is seized and the owner of such material object,—

(a) a notice in writing informing him the grounds on which such material object is proposed to be confiscated;

(b) an opportunity to submit a representation in writing against the grounds of confiscation, within such reasonable time as may be specified in the notice for the same;

(c) a reasonable opportunity of being heard in the matter; and

(d) an opportunity to produce evidence:

Provided that if such person is not known or cannot be found, the District Magistrate may initiate the steps under sub-section (2) of section 17C.

(2) Where the owner of the vessel, vehicle, cart, animal and other conveyances proves to the satisfaction of the District Magistrate that it was used for committing the anti-social activity without the knowledge or connivance of himself or of his agent, if any, and the person in charge of such vessel, vehicle, cart, animal or other conveyance had taken all reasonable and necessary precaution against such use, no order for confiscation of any material object shall be passed under this Act.

17C. *Order for confiscation.*—(1) Where the District Magistrate is satisfied on the matters coming under his jurisdiction that any material object was used or is being used or is attempted to be used in violation of the provisions of section 16A, he may pass an order for confiscation of such material object, including the vessel, vehicle, cart, animal or other conveyance used or being used or attempted to be used for carrying the same.

(2) Where the person who has committed violation of section 16A and the owner of the material object seized are not known or cannot be found or no person makes any claim for the release or return of the material object, the District Magistrate may, after issuing a proclamation specifying the details of the material object to be confiscated and requiring any person who may have a claim on it to appear before him within three months from the date of proclamation and to establish his claim, if he is satisfied that they may be confiscated, pass orders for confiscation of the same.

17D. *Material objects not liable to confiscation to be returned to the owner.*—Where the District Magistrate passes an order under this Act that any material object seized and detained under sub-section (2) of section 16A is not liable to be confiscated under this Act, he shall, after the expiry of thirty days from the date of such order, release such material object to the person from whom it was seized or to the owner thereof, subject to such condition as he deems fit.

17E. *Burden of proof.*—Where any material object under section 16A is detected, until the contrary is proved, the person found in possession of such material object shall be presumed to have acted in violation of the said section and the burden to prove the contrary shall be on the person who is found in possession of the material object or on the owner thereof.

17F. *Confiscated material object to be vested in Government.*—An order passed under this Act for confiscation of any material object and conveyance used for carrying it, if any, shall become final after the final decision of the Advisory Board confirming the detention order relating to such material object, after the expiry of the period of filing appeal under sub-section (2) of section 17 A and, if an appeal is filed, after the decision thereon and also after other legal proceedings, if any, and thereafter the material object and other conveyance so confiscated shall vest in the Government free from all encumbrances and the District Magistrate shall pass an order entrusting the possession of the same with any officer not below the rank of a Tahasildar, as he deems fit.

#### STATEMENT OF OBJECTS AND REASONS

Since it was found that the existing laws were inadequate to prevent and control the organized criminal activities, the Kerala Anti-social Activities (Prevention) Act, 2007 was enacted on the basis of the finding that a legislation providing for preventive detention is necessary to deal with, control and properly prevent the organized anti-social activities in the State. The Government have decided to incorporate the ‘money chain’ offences also within the purview

of the anti-social activities and also to extend the maximum period of detention up to one year. Besides, the Government consider that it is imperative to incorporate necessary provisions in the Act for seizure and confiscation of material objects including vehicles used for committing anti-social activities and also to make clarity in the definition of “loan shark” and “hawala racketeer” in accordance with the provisions of other related laws in force. The Government have decided to amend the Act for the above purposes.

The Bill is intended to achieve the above objects.

#### FINANCIAL MEMORANDUM

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

RAMESH CHENNITHALA.



EXTRACT FROM THE KERALA ANTI-SOCIAL ACTIVITIES  
(PREVENTION) ACT, 2007

(ACT 34 OF 2007)

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

(a) “anti-social activity” means acting in such manner as to cause or likely to cause, directly or indirectly, any feeling of insecurity, danger or fear among the general public or any section thereof, or any danger to the safety of individuals, safety of public, public health or the ecological system or any loss or damage to public exchequer or to any public or private property or indulges in any activities referred in clauses (c), (e), (g), (h), (i), (l), (m), (n), (q) and (s) of this section;

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(j) “goonda” means a person who indulges in any anti-social activity or promotes or abets any illegal activity which are harmful for the maintenance of the public order directly or indirectly and includes a bootlegger, a counterfeiter, a depredator of environment, a digital data and copyright pirate, a drug offender, a hawala racketeer, a hired ruffian, rowdy, an immoral traffic offender, a loan shark or a property grabber;

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(l) “hawala racketeer” means any person who illegally buys or sells or deals in Indian currency or foreign currency under circumstances from which it can be reasonably inferred that he is doing so as a member of any organized group;

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(q) “loan shark” means a money lender or any person engaged, by the money lender or someone acting on his behalf, who uses or threatens to use physical violence, directly or otherwise or through any person against any person for the purpose of collecting any part of the loan or interest thereon or any installment thereof or for taking any movable or immovable property connected with the loan transaction or the realization of whole or part of the loan amount or interest thereon;

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12. *Maximum period of detention.*—The maximum period for which any person may be detained in pursuance of any detention order made under this Act, which has been confirmed under section 10, shall not exceed six months from the date of detention.

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16. *Punishment for concealing persons ordered to be detained.*—Whoever, knows or has reason to believe that an order against any person has been made under section 3 or section 15, harbours or conceals such person, shall be punished with imprisonment for a term which shall not be less than three months but may extend to one year, and shall also be liable to fine which may extend to one thousand rupees.

17. *Power to search.*—(1) The Government or the authorised officer may, by general or special order, empower any police officer to search any place, stop and search any vessel, vehicle or animal, and may seize anything which he has reason to believe, has been, is being, or is about to be, used for committing any anti-social activity.

(2) Any officer empowered under sub-section (1) shall forthwith report to the Government or the authorised officer in detail any seizure made by him and till the receipt of their orders, may detain in custody anything so seized or take such other steps for its safe custody, as he may think fit.

(3) The Government or the authorised officer may make such order as they deem fit, for the disposal of anything seized under sub-section (1), by destruction, confiscation or in such other manner, as they may direct.

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