

**Thirteenth Kerala Legislative Assembly**  
**Bill No. 321**

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**THE KERALA SHOPS AND COMMERCIAL  
ESTABLISHMENTS (AMENDMENT)  
BILL, 2014**

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**Thirteenth Kerala Legislative Assembly**

**Bill No. 321**

**THE KERALA SHOPS AND COMMERCIAL ESTABLISHMENTS  
(AMENDMENT) BILL, 2014**

*A*

*BILL*

*further to amend the Kerala Shops and Commercial Establishments Act, 1960.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Shops and Commercial Establishments Act, 1960, 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 Shops and Commercial Establishments (Amendment) Act, 2014.

(2) Sections 2 to 4, clauses (1) to (3) of section 5 and clause (1) of section 6 of this Act shall be deemed to have come into force on the 29th day of August, 2014 and clause (4) of section 5 and clause (2) of section 6 shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Shops and Commercial Establishments Act, 1960 (34 of 1960) (hereinafter referred to as the principal Act),—

(1) after clause (1), the following clause shall be inserted, namely:—

“(1A) “big establishment” means a shop or commercial establishment which employs twenty or more employees.”.

(2) for clause (8), the following clause shall be substituted, namely:—

“(8) “establishment” means a shop or commercial establishment which may be a small establishment, a medium establishment or a big establishment.”.

(3) after clause (10), the following clause shall be inserted, namely:—

“(10A) “medium establishment” means a shop or commercial establishment which employs six or more, but less than twenty employees.”.

(4) after clause (15), the following clause shall be inserted, namely:—

“(15A) “small establishment” means a shop or commercial establishment which employs no employee or not more than five employees.”.

3. *Insertion of Chapter 1B.*—After Chapter 1A of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER 1B

CONDITIONS FOR ENGAGING EMPLOYEES

*5D. Issue of appointment letter.*—Every employer in a big establishment shall issue an appointment letter, in such manner as may be prescribed, to his employees at the time of appointment.

*5E. Prohibition of retaining education certificate or experience certificate.*—No educational certificate or experience certificate in original received from an employee shall be retained by the employer of any establishment at the time of appointment or during the course of employment.

*5F. Issue of service certificate.*—Every employer shall provide service certificate to the employee engaged by him, in such manner as may be prescribed, at the time of resignation or retrenchment or superannuation of the employee or while applying for another job.”.

4. *Insertion of section 21A.*—In Chapter VI of the principal Act, after section 21, the following section shall be inserted, namely:—

“21A. *Hostel facilities.*—Every employer of a big establishment employing more than fifty employees shall provide hostel facilities to such employees, in such manner as may be prescribed.”.

5. *Amendment of section 29.*—In Chapter VIII of the principal Act, in section 29,—

(1) in sub-section (1),—

(i) in clause (a),—

(a) for the word “two hundred and fifty rupees” the words “five thousand rupees” shall be substituted;

(b) for the words “ten rupees” the words “one hundred rupees” shall be substituted.

(ii) in clause (b) for the words “ten rupees” the words “one hundred rupees” shall be substituted.

(2) in sub-section (1A),—

(a) before the figure “6” the figures and letters, “5D, 5E, 5F” shall be inserted;

(b) after the figure “21” the figure and letter “21A” shall be inserted;

(c) for the words “two hundred and fifty rupees” the words “five thousand rupees” shall be substituted;

(d) for the words “five hundred rupees” the words “ten thousand rupees” shall be substituted.

(3) in sub-section (2), for the words “fifty rupees” the words “two thousand and five hundred rupees” shall be substituted.

(4) in sub-section (4), for the words “Magistrate of a Second class” the words “Magistrate of the First class” shall be substituted.

6. *Amendment of section 34.*—In section 34,—

(1) in sub-section (2) after the word “health”, the word “sanitation”, shall be inserted;

(2) in sub-section (3), for the words “fifty rupees” the words “five thousand rupees” shall be substituted.

7. *Repeal and Saving.*—(1) The Kerala Shops and Commercial Establishments (Amendment) Ordinance, 2014 (20 of 2014) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action 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

The hardships being faced by the employees working in the shops and commercial establishments in the State have come to the notice of the Government. Various complaints regarding non issuance of appointment order,

service certificate, retention by the employer of original certificates of employees etc. have been received by the Government. Hygiene (Commerce and Offices) Convention, 1964 (No. 120) of the International Labour Organisation stresses the need for providing better hygienic conditions to employees working in commercial establishments and offices. In the above circumstances, the Government have decided to incorporate provisions in the Kerala Shops and Commercial Establishments Act, 1960 for the purpose of regulating the appointment conditions, betterment of the working conditions and to enhance the penalties under the provisions of the Act by amending the same.

The Kerala Shops and Commercial Establishment (Amendment) Bill, 2014 was published as Bill No. 293 in the 13th Kerala Legislative Assembly. The said Bill could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 9th day of June, 2014 and ended on the 17th day of July, 2014.

As the State Legislative Assembly was not in session, the Governor of Kerala has promulgated the Kerala Shops and Commercial Establishments (Amendment) Ordinance, 2014 (20 of 2014) by incorporating the provisions of Bill No. 293 on the 29th day of August, 2014 and the same was published in the Kerala Gazette Extraordinary No. 2167 dated 29th August, 2014.

This Bill seeks to replace Ordinance No. 20 of 2014 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. Section 5D proposed to be inserted in the Act by clause 3 of the Bill seeks to empower the Government to prescribe the manner in which an employer shall issue the appointment letters to his employees in every big establishment.

2. Section 5F proposed to be inserted in the Act by clause 3 of the Bill seeks to empower the Government to prescribe the manner in which the Service Certificates are to be issued by the employer to the employees engaged by him.

3. Section 21A proposed to be inserted in the Act by clause 4 of the Bill seeks to empower the Government to prescribe the manner in which hostel facilities are to be provided to the employees.

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

SHIBU BABY JOHN

EXTRACT FROM THE RELEVANT PORTIONS OF THE KERALA  
SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1960  
(ACT NO. 34 OF 1960)

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

(1) “apprentice” means a person, aged not less than twelve years, whom an employer employs in his service for training by himself or by any other person for any trade or calling;

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(8) “establishment” means a shop or a commercial establishment;

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(10) “leave” means leave provided for in Chapter III of this Act;

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(15) “Shop” means any premises where any trade or business is carried on or where services are rendered to customers, and includes offices, store rooms, godowns or warehouses, whether in the same premises or otherwise, used in connection with such trade or business but does not include a commercial establishment or a shop attached to a factory where the persons employed in the shop are allowed the benefits provided for workers under the Factories Act, 1948 (Central Act 63 of 1948);

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CHAPTER I A  
REGISTRATION

*5A. Registration of Establishments.*—(1) The employer of every establishment shall make an application to such authority as the Government may, by notification in the Gazette, specify in this behalf (in this Chapter referred to as the “competent authority”), in such form and on payment of such fees as may be prescribed, for a registration certificate in respect of that establishment.

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5C. *Duties of Employer.*—(1) A registration certificate granted or renewed under this Act shall be prominently displayed by the employer in the premises of the establishment.

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CHAPTER VI  
HEALTH AND SAFETY

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21. *Cleanliness, ventilation and lighting.*—(1) The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed; and these methods may include lime washing, colour washing, painting, varnishing, disinfecting and deodorizing.

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CHAPTER VIII  
OFFENCES, PENALTIES AND PROCEDURE

29. *Penalties.*—(1) Whoever commits any breach of the provisions of sections 5A and 5C of Chapter IA shall be punishable,—

- (a) with fine which may extend to two hundred and fifty rupees and in case of continuing breach with fine which may extend to ten rupees for everyday during which the breach continues after conviction for the first breach; or
- (b) with fine which may extend to ten rupees for everyday during which the breach continues after receipt of notice from the competent authority to discontinue such breach].

(1A) Whoever contravenes any of the provisions of sections 6, 8, 9 to 11, 13, 13A, 14, 18, 21 and 22 shall on conviction be punishable with fine, which for a first offence, may extend to two hundred and fifty rupees and for a second or any subsequent offence, may extend to five hundred rupees.

(2) Whoever contravenes any of the provisions of sections 7, 19, 20, 28 and 30 shall, on conviction, be punishable with fine which may extend to fifty rupees.

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(4) No court interior to that of a Magistrate of a Second Class shall try any offence punishable under this Act or any rules or orders made thereunder.

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34. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (1) may provide in respect of the health, safety and welfare of employees.

(3) In making rules under this section, the Government may provide that a contravention of the rules shall be punishable with fine which may extend to fifty rupees.

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