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**Thirteenth Kerala Legislative Assembly**

**Bill No. 369**

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**THE KERALA REGULATION OF HARTAL BILL, 2015**

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[Translation in English of “2015-ലെ കേരള ഹർത്താൽ നിയന്ത്രണ ബിൽ” published under the authority of the Governor.]

THE KERALA REGULATION OF HARTAL BILL, 2015

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BILL

*to regulate the conduct of hartals and for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to provide for the regulation of conduct of hartal and for matters connected therewith or incidental thereto;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Regulation of Hartal Act, 2015.

(2) It shall come into force at once.

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

(a) “hartal” means cessation of activity in any form or of business or occupation or service, at the instance of any other person or organization, for the purpose of creating public pressure, social tension, economic intimidation or apprehension of violence in order to advance a cause or a campaign sponsored by the organizers of the hartal:

Provided that a ‘hartal’ under this Act shall not include any strike by workers or a strike organized by any trade union or professional body which otherwise complies with the provisions of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Trade Union Act, 1926 (Central Act 16 of 1926) or any other law governing trade union activity and workers’ rights;

(b) “prescribed” means prescribed by rules made under this Act.

3. *Regulation of hartals.*—(1) On and from the date of commencement of this Act, no person, group or organization shall have a right to call or conduct any hartal except in the manner permissible by this Act.

(2) No person shall organize, or abet the conduct of, a hartal, for any reason whatsoever, without three days public notice through the media to the fair knowledge of public bodies likely to be affected by the proposed hartal.

(3) The organizers of a hartal shall deposit such an amount, in such manner, as may be prescribed, as the security for payment of compensation for destruction or damage likely to cause to property and life.

4. *Conditions for the conduct of hartal.*—(1) No person, organization or other body shall, directly or through any other person or body,—

(a) enforce a hartal by force, intimidation whether physical or mental or by coercion;

(b) stop, control or otherwise deal with the movement of any person, agency, business or instrumentality by use of force or threat thereof or other means by which freedom of action of another is in any manner affected or obstructed;

(c) deter or obstruct or cause to deter or obstruct the utility services or normal functioning of any public institution, including any educational institutions or charitable institutions, or any organizations or tourist centres or such other centres;

(d) use force, violence or threat to obstruct any trade, business or undertaking or transport vehicle or facility or compel to close or stop them totally or partially;

(e) cause in any manner a threat or apprehension or risk to life, liberty or property of any citizen or destruction of life and property or damage to any Government property or to endanger public peace and public order.

(2) The State Government shall, in every reasonable manner, forbid or prevent such behaviour or mode of operation adversely affecting the fundamental rights of members of the public.

5. *Certain hartals to be prohibited by the Government.*—Hartals, when they cause stoppage of business or activity essential for the life of the community, shall be effectively prohibited by the State Government directly or through other delegated authority even if three days notice has been given.

*Explanation.*—For the purpose of this section "business or activity essential for the life of the community" means the hospitals, health clinics, medical shops, pharmacy, supply of milk, newspaper, fish, water and food, transport of ambulances and hospital vehicles, fuel delivery and such other business or activity as may be notified by the Government from time to time.

6. *Police to render assistance needed to exercise legal rights.*—If any one prevents the exercise of any persons legal rights using force or threatening to use force during hartal hours, the State Police and other law and order authorities of the State shall, on request by such person, help him for the exercise of such rights.

7. *Offences and punishment.*—(1) Whoever calls for, or conducts, hartal in violation of the provisions of this Act shall, on conviction, be punished with imprisonment for a term which may extend up to six months or with fine which may extend up to ten thousand rupees or with both.

(2) Any person who forcibly prevents another person on the ground of a hartal from attending his work, visiting a hospital, hotel, educational institution or fuel delivery station or using transport facility, shall, on conviction, be punished with imprisonment for a term which may extend up to six months or with fine which may extend up to ten thousand rupees or with both.

(3) The police and other agencies shall provide all assistance as specified in sub-section (2) and where the police or such other agency fails to help any person who needs such help, such failure shall be treated as a dereliction of duty on the part of the officer concerned and shall be punished with fine which may extend up to ten thousand rupees.

8. *Conditions for granting bail.*—(1) Where a public property is destroyed by any person as part of a hartal or in the name of a hartal, no court shall grant bail to the accused concerned unless he deposits the value of such property temporarily assessed by such court on the basis of the assessment of the police officer who files such report before the court.

(2) Where the accused is found not guilty in the offences relating to the hartal, the court shall order for the refund of the amount deposited under sub-section (1) and where the accused is found guilty and sentenced to pay fine in any such offence, the amount so deposited in the court shall be utilised for payment of the fine and the balance, if any, shall be refunded to the accused.

9. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against any person in respect of anything done in good faith in pursuance of this Act.

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

(2) 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

In the judgment pronounced on the 29th December, 2014 disposing a group of writ petitions with prayer to solve the difficulties being created due to hartal announced by various political parties and organizations, which badly affects the public life, the Hon'ble High Court of Kerala, in WP(C) No. 32529/2007 [2015(2) KLJ 442], proposed the Government to consider the issue of making a comprehensive legislation considering the draft Bill recommended as per the Law Reforms Commission Report, 2008 and also incorporating all matters relating to hartal. The Government examined the said proposal and decided to make a legislation for regulating hartal.

2. The Bill is intended to achieve the above object.

## 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

Sub-clause (3) of clause 3 of the Bill empowers the Government to make rules to prescribe the amount of security to be deposited and the manner of depositing the amount by the organizers of the hartal, for the payment of compensation for destruction or damage likely to cause to property and life.

2. Clause 5 of the Bill empowers the Government to notify as to what are the "business or activity essential for life of the community" in addition to those specified in the Act.

3. Clause 10 of the Bill empowers the Government to make rules, by notification in the Gazette, for carrying into effect the provision of the Act.

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 administrative in nature. Further, the rules, after they are made, are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is, therefore, of a normal character.

RAMESH CHENNITHALA.