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**Thirteenth Kerala Legislative Assembly**

**Bill No. 382**

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**THE KERALA HOTELS (REGULATION OF FOOD PRICE) BILL, 2015**

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[Translation in English of “2015-ലെ കേരള ഹോട്ടലുകൾ (ഭക്ഷണ വില ക്രമീകരണം) ബിൽ” published under the authority of the Governor.]

**THE KERALA HOTELS (REGULATION OF FOOD PRICE) BILL, 2015**

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*BILL*

*to regulate the price of food articles being sold through the hotels in the State of Kerala and to constitute District Food Price Regulatory Authorities for the purpose and for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to regulate the price of food articles being sold through the hotels in the State of Kerala and to constitute District Food Price Regulatory Authorities for the purpose and for matters connected therewith or incidental thereto;

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

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

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

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

(a) “beverages” includes boiled beverages such as tea and coffee, cool drinks and juice, but does not include medicines, liquor and bottled drinks manufactured and sold in sealed bottles in accordance with a lawful licence;

(b) “District Authority” means a District Price Regulatory Authority constituted under section 3;

(c) “Government” means the Government of Kerala;

(d) "hotel" includes the establishments which sell food articles or beverages to the public, the places used for such purpose, bakeries, temporary food stalls and fast food centres, but does not include any star hotel, heritage hotel and the canteens or hostels which are conducted exclusively for the employees or inhabitants working under the Government, aided or private institutions or companies;

(e) "hotel owner" means a person, association of persons, company, co-operative institution, a person authorised to run hotel or a hotel licensee, who conducts hotel in the State;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "star hotel" means a hotel categorized as a star hotel by the concerned authority of the Central Government.

3. *Constitution of District Food Price Regulatory Authorities.*—(1) Subject to the provisions of this Act, the Government may, by notification in the Gazette, constitute a District Food Price Regulatory Authority in each District for registration of the hotels in the District and to regulate the price of food articles and beverages.

(2) The District Price Regulatory Authority shall consist of the following members, namely:—

(a) The Government shall appoint a person who is or has been a District Judge or qualified to be appointed as a District Judge to be the Chairperson. The procedure for appointment of the Chairperson shall be such as may be prescribed:

Provided that where the Government have not appointed a Chairperson, the Government may, by notification in the Gazette, entrust the functions of the Chairperson to the District Grievance Redressal Officer appointed under section 15 of the National Food Security Act, 2013 (Central Act 20 of 2013);

(b) Not more than six non-official members nominated by the Government, of whom one shall be from among the Scheduled Castes or Scheduled Tribes, one shall be a woman, one shall be an advocate having atleast five years of active practice in the courts, two persons shall be hotel owners with at least seven years' experience in running hotel in the District and one shall be a person with at least ten years' experience in the field of administration or social activities;

(c) The District Supply Officer- Secretary (*ex-officio*).

(3) The Chairperson and members shall hold office for a term of four years or till the completion of 65 years, whichever is earlier, and they shall not be eligible for reappointment.

(4) The Chairperson of the District Authority shall be eligible to get such salary and allowances, and the members shall be eligible to get such allowances, as may be prescribed.

(5) The method of appointment of the Chairperson and members of the District Authority and the other terms of service, the time, place, quorum and procedures of meeting shall be such, as may be prescribed.

4. *Powers and duties of the District Food Price Regulatory Authority.*—(1) The District Authority shall exercise the following powers and perform the duties, namely:—

(a) To grade the hotels in the District subject to such criteria and conditions as may be prescribed;

(b) To fix and regulate the price of food articles and beverages in different hotels in the District as per the provisions of this Act and the rules made thereunder;

(c) To convene meetings of the hotel owners in the District for fixing the matters necessary for regulating the price;

(d) To inspect the hotels to ensure that the provisions of this Act and the rules made thereunder are being complied with;

(e) To initiate penal actions under this Act on the violation of the provisions of this Act and the rules made thereunder after conducting inquiry in compliance with the procedures as may be prescribed;

(f) To give registration to hotels under this Act;

(g) To perform such other functions as may be prescribed, for achieving the aims and objectives of this Act;

(2) The District authority shall consider the following matters for fixing the maximum price so as to regulate the price that may be realised and to determine the criteria and conditions for the same, namely:—

(a) Consumer Price Index;

(b) Wholesale Price Index;

(c) The actual existing price in market from time to time, of various articles necessary for conducting hotels and the geographical location of the place where the hotel is situated;

(d) The expenses that may incur, including wages to labourers;

(e) The expenses in relation to compliance of the provisions of the existing laws concerned;

(f) such other matters as may be prescribed.

(3) The Government shall provide the staff required for the functioning of a District Authority.

(4) The method of appointment, salary and the conditions of service of the employees of the District Authority shall be such as may be prescribed.

5. *Disqualification for appointment as a member.*—The Government may disqualify any person nominated as a member of the District Authorities if he,—

(a) has been convicted of an offence which, in the opinion of the Government, involves moral turpitude and sentenced to undergo imprisonment; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or an institution owned or controlled by the Government; or

(e) has, in the opinion of the Government, such financial or other interest as is likely to affect prejudicially the discharge of his functions as a member; or

(f) if the Government is satisfied that, failed to perform the duties under the provisions of this Act and rules made thereunder.

6. *Registration of hotels.*—(1) All hotels existing in the State as on the date to be fixed by the Government by notification in the Gazette, shall, within such period as may be prescribed, and all hotels that may be opened in the State after the said date shall, before their opening, be registered with the District Authority of the respective Districts.

(2) The application for registration of hotels under sub-section (1) shall be submitted to the District Authority of the respective Districts in such form and in such manner, along with such fees, as may be prescribed.

(3) No person shall run a hotel without getting duly registered under the provisions of this Act and the rules made thereunder.

(4) For the registration of a hotel existing on the date specified in sub-section (1), the price list existed in that hotel as on the 1st day of April of the financial year in which this Act came into force and for the registration of a hotel that may be opened thereafter, the price list intended to be introduced in such hotel, shall be attested and submitted in such manner as may be prescribed.

(5) Where the District Authority is satisfied that the price in the price list submitted by a hotel at the time of registration under sub-section (4) is high, the District Authority shall have the power to regulate and fix the price after giving a notice to the hotel owner and hearing him in person.

(6) Where the District Authority considers that a modification is required in the price list submitted along with the application for registration of hotels existing on the date specified in sub-section (1) and hotels intended to be opened thereafter, the District Authority may, after giving notice in this respect to the applicant and hearing the applicant in person, make necessary modifications and approval shall be given within two months:

Provided that, till the price list is got approved in this manner, the existing hotels may be conducted on the basis of the price list submitted along with the application for registration.

(7) No hotel shall sell food articles or beverages at a price more than that in the price list approved by the District Authority under the provisions of this Act and the rules made thereunder.

(8) The District Authority shall, within thirty days from the date of receipt of the application, inspect the hotel and give a registration certificate to the applicant in such form, as may be prescribed. Where the registration is not given within thirty days, it will be deemed to have been given temporary registration and the District Authority may, after inspecting the hotel within thirty days next ensuing and ensuring that the hotel fulfills the criteria as prescribed, confirm the registration and issue certificate either approving the price list submitted by the applicant or by fixing revised price as it deems necessary.

(9) Where the price of food articles or beverages in a registered hotel is intended to be enhanced, an application in such form and in such manner and with such fee, as may be prescribed in this behalf, shall be submitted to the District Authority and the District Authority shall dispose of the matter within one month there from:

Provided that in an application for registration or enhancement of price under this section, the District Authority shall have the power to reject such an application either wholly or partly, for reasons to be recorded, after giving the applicant an opportunity of being heard.

(10) The District Authority shall have the power to allow enhancement of price applicable to all establishments, for reasons to be recorded.

(11) The District Authority shall issue the Certificate of Registration for hotels in such form as may be prescribed.

(12) Where the Certificate of Registration is lost, destroyed, stolen, distorted or it is damaged, the District Authority may, on an application of the hotel owner and on payment of such fee as may be prescribed, issue a duplicate certificate.

(13) The details of registration given to the hotels shall be recorded and maintained in a register as may be prescribed.

7. *Exhibition of registration certificate and approved price list.*—Every hotel registered under this Act shall exhibit its registration certificate and the price list approved by the District Authority concerned in such manner clearly visible to the consumers.

8. *Conduct of trial.*—(1) The District Authorities may, for the purpose of disposing the complaints and appeals under the provisions of this Act and the rules made under it and for the cognizance of persons violating the provisions, try any person concerned and for the said purposes, summon any person before it for adducing evidence or to produce any document.

(2) For the purpose of exercising the powers vested by or under this Act, the District Authorities shall have all the powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:—

(a) for summoning and enforcing the attendance of any witness and examining him on oath;

(b) for requiring to find out and produce any document;



- (c) for receiving evidence on affidavit;
- (d) for issuing Commissions for the examination of witnesses or to conduct local inspection;
- (e) for the examination of any article or goods to arrive at a decision;
- (f) for the requisition of any public document or copy there of from any court or authority or office;
- (g) for any other matter as may be prescribed.

9. *Cancellation of registration.*—(1) Where the District Authority is satisfied that a hotel registered under this Act does not comply with the provisions or the terms of registration under this Act and the rules made thereunder, a notice shall be served on such hotel owner to show cause why the registration of such hotel should not be cancelled and after giving the hotel owner a reasonable opportunity of being heard, if the District Authority is satisfied that there is violation of the provisions or the terms of registration under this Act and the rules made thereunder, it shall issue order cancelling the registration of such hotel under this Act.

(2) Where the registration of a hotel is cancelled under this Act, it shall also be informed to the Local Self Government Institution concerned and notwithstanding anything contained in any other law, such Local Self Government Institution shall cancel the registration of such hotel for the reason that such hotel has violated the provisions of this Act.

10. *Appeal.*—(1) Any person aggrieved by any order or decision of the District Authority may, within ninety days from the date of receipt of such order, prefer an appeal before the State Food Commissioner in such manner as may be prescribed:

Provided that the Appellate Authority may if it is satisfied that the appellant has sufficient reason for not filing the appeal before it within the said time limit, entertain an appeal even after the expiry of the said period.

(2) Every appeal under sub-section (1) shall be filed along with such fee as may be prescribed.

(3) Where it appears to the Appellate Authority that the claim in the appeal can not be granted or a decision which may adversely affect the petitioner will have to be taken, it shall give the appellant an opportunity of being heard.

11. *Revision.*—(1) Any person aggrieved by an order of the State Food Commissioner on an appeal under this Act, may, within sixty days from the date of receipt of the order, file a revision petition before the Government in such manner as may be prescribed:

Provided that if it appears to the Government that there is sufficient reason for not filing the revision submitted before it within the said time limit, the Government may accept the revision even after the said time limit.

(2) Where the Government, after examining the revision petition under sub-section (1), is satisfied that the orders of the Appellate Authority is illegal or improper, the Government may, after giving the parties concerned an opportunity of being heard issue such order as it thinks fit.

(3) The Government may, in public interest, review, *suo motu*, any order passed and decision taken by the District Authorities under this Act and pass such order as it thinks fit.

12. *Penalties.*—(1) Any person running a hotel without registering it under the provisions of this Act shall, on conviction, be punished with fine which may extend up to five thousand rupees.

(2) Where a person convicted under sub-section (1) continues the commission of such offence, he shall be punished with an additional fine which may extend up to two hundred and fifty rupees for each day in which the offence is continuing.

(3) Any hotel owner who realises excess price than the maximum price fixed by the District Authority for food articles and beverages, in contravention of the provisions of this Act and the rules made thereunder, shall, on conviction, be punished with fine which may extend up to five thousand rupees.

(4) Where a person convicted under sub-section (3) continues the commission of such offence, he shall be punished with an additional fine which may extend up to five hundred rupees for each day in which the offence is continuing.

13. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions which are not inconsistent with the provisions of this Act, as it deems necessary for the purpose of removing such difficulty:

Provided that no such order shall be issued after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order issued under sub-section (1) shall be caused to be laid, as soon as may be after it is issued before the Legislative Assembly.

14. *Power to give concessions and directions.*—(1) Subject to provisions of this Act and the rules made thereunder, the Government shall have the power to give necessary directions, in public interest, to carry out such provisions and they shall be obeyed by the District Authorities and hotels.

15. *Bar of jurisdiction of Civil Courts.*—No civil court shall have jurisdiction to decide or deal with any matter which is, by or under this Act, required to be disposed, decided, dealt with or to be solved by the District Authorities or any officer authorised by them.

16. *Cognizance of offences and trial.*—No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except on a report in writing containing the facts constituting such offence, submitted by the District Authorities or an officer authorised in this behalf.

17. *Members and employees of the Authority to be public servants.*—All members, officers and employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

18. *Procedures of Authorities not to be void.*—(1) No act and procedure of the District Authorities shall be void only for the reason that there exist any vacancy of its members or there is any defect in its composition.

19. *Protection of action taken in good faith.*—(1) No suit or other legal proceedings shall lie against the Government or any officer of the Government or any Authority or any member of the Authority or other employees for anything which is done or intended to be done in good faith in pursuance of any provisions of this Act or the rules made thereunder.

20. *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) 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

Though the Kerala Essential Articles Control Act, 1986 (13 of 1986) provides for controlling the price for purchase and sale of the essential articles as defined therein, the provisions therein are not sufficient to control the price of food articles in the hotels. The Kerala Food Stuffs (Display of Prices by Catering Establishments) Order, 1977 which is applicable in Kerala deals only with the provisions related to display of the price of food articles in catering establishments, including hotels, and giving information to the authorities and other related provisions. There is no provision in the said order to regulate the price of food articles or to fix the price limit in such establishments. Therefore, in the judgment in WP(C) 28902/2013[2015(3) KLT 769] dated 20th May, 2015, the Honourable High Court of Kerala have specifically stated that the District Administration had no power to fix the price of food articles in the hotels in a District without bringing into effect a legislation by the Government. In *Kerala Hotel and Restaurant Association Vs Thrissur District Consumer Redressal Forum* [2012 (3) KLT 277], the Honourable High Court has opined that it is desirable to constitute a machinery for regulating the price of food articles in the hotels in the State to restrict the realisation of unreasonable price from common man. The Government considers that necessary steps are to be taken for regulating the realisation of exorbitant price for the food articles by the hotels functioning in Kerala and to eradicate the hardships of the common people who depends on the hotels for their food and also to solve the complaints in relation to this. For this purpose, the Government considers that it is also necessary to constitute District Food Price Regulatory Authorities in all the Districts. In order to carry out the matters in this respect, a legislation is required in this subject.

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

### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of District Food Price Regulatory Authority in each District. The Bill provides that there shall be a Chairperson in the rank of a District Judge and not exceeding six non-official members in the District Authority. As per sub-clause (3) of clause 4 of the Bill,

the Government shall provide the staff required for the functioning of a District Authority. A recurring expenditure of 6,82,43,920 (Six crore eighty two lakhs forty three thousand nine hundred and twenty rupees) towards salary and allowances of the Chairperson and employees, allowances for the members, including other expenditure, and a non-recurring expenditure of 1,37,14,820 (One crore thirty seven lakhs fourteen thousand eight hundred and twenty rupees) towards ancillary matters are expected from the Consolidated Fund of the State.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 3 of the Bill empowers the Government to constitute, by notification in the Gazette, District Food Price Regulatory Authority in every District.

2. Item (a) of sub-clause (2) of clause 3 of the Bill empowers the Government to make rules prescribing the procedures for the appointment of Chairperson. The proviso to sub-clause (2) of clause 3 of the Bill empowers the Government to entrust, by notification in the Gazette, the powers of the Chairperson to the District Grievance Redressal Officers appointed under section 15 of the National Food Security Act, 2013 in case the Chairperson is not appointed by the Government.

3. Sub-clause (4) of clause 3 of the Bill empowers the Government to make rules prescribing the salary and allowances of the Chairperson and members.

4. Sub-clause (5) of clause 3 of the Bill empowers the Government to make rules prescribing the method of appointment and the conditions of service of the Chairperson and members and the place, time, quorum and the procedures of meeting.

5. Sub-clause (1) of clause 4 of the Bill empowers the Government to make rules prescribing the criteria and conditions for grading the hotels.

6. Item (e) of sub-clause (1) of clause 4 of the Bill empowers the Government to make rules prescribing the procedures for initiating penal actions, after conducting trial, on the violation of the provisions.

7. Item (g) of sub-clause (1) of clause 4 of the Bill empowers the Government to make rules prescribing the functions for achieving the aims and objectives of the Act.

8. Item (f) of sub-clause (1) of clause 4 of the Bill empowers the Government to make rules prescribing other criteria and conditions for regulating the price.

9. Sub-clause (4) of clause 4 of the Bill empowers the Government to make rules prescribing the method of appointment, conditions of service and salary of the employees of the District Authority.

10. Sub-clause (1) of clause 6 of the Bill empowers the Government to make rules fixing the time limit for registering all the hotels existing in the State on a date to be fixed by the Government, by notification in the Gazette, and the newly opening hotels, in the District Authority.

11. Sub-clause (2) of clause 6 of the Bill empowers the Government to make rules prescribing the form and the manner of application and the fees for the registration of hotels under sub-section (1).

12. Sub-clause (4) of clause 6 of the Bill empowers the Government to make rules prescribing the manner in which the price list that was existing in the hotels as on the 1st April of the financial year in which this Act comes into force and for those hotels which comes into being later has to be certified for the purpose of registration of the hotels stated in sub-section (1).

13. Sub-clause (8) of clause 6 of the Bill empowers the Government to make rules prescribing the form in which the registration certificate is to be given by the District Food Price Regulatory Authority.

14. Sub-clause (9) of clause 6 of the Bill empowers the Government to make rules prescribing the Application Form and the fees for increasing the price of food and beverages in the registered hotels.

15. Sub-clause (11) of clause 6 of the Bill empowers the Government to make rules prescribing the Form of the registration certificate to be issued by the District Authority.

16. Sub-clause (12) of clause 6 of the Bill empowers the Government to make rules prescribing the fees for issuing duplicate certificate by the District Authority on the application of a hotel owner in case the registration certificate is lost, destructed, stolen or distorted.

17. Sub-clause (13) of clause 6 of the Bill empowers the Government to make rules prescribing the Form of the Register to record the details regarding registration of the hotels.

18. Item (g) of sub-clause (2) of clause 8 of the Bill empowers the Government to make rules prescribing the matters in respect of which the powers of a civil court under the Code of Civil Procedure, 1908 for any other matter while trying a suit, may be exercised by the District Authority.

19. Sub-clause (1) of clause 10 of the Bill empowers the Government to make rules prescribing the manner in which an appeal against the order or decision of the District Authority has to be submitted before the State Food Commissioner.

20. Sub-clause (2) of clause 10 of the Bill empowers the Government to make rules prescribing the fees to file appeal before the Food Commissioner.

21. Sub-clause (1) of clause 11 of the Bill empowers the Government to make rules prescribing the manner in which a revision application against the decision of the State Food Commissioner has to be submitted to the Government.

22. Sub-clause (1) of clause 13 of the Bill empowers the Government to make such provisions as it deems necessary and not inconsistent with the provisions of this Act, by order published in the Gazette, for the purpose of removing such difficulty if any arises in giving effect to the provisions of the Act.

23. Clause 20 of the Bill empowers the Government to make rules, by notification in the Gazette, for carrying out the provisions of the Act.

24. 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. Delegation of legislative power is, therefore, of a normal character.

ANOOP JACOB.