

Fourteenth Kerala Legislative Assembly

Bill No. 213

**THE KERALA POLICE (AMENDMENT)
BILL, 2019**

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[Translation in English of " 2019-ലെ കേരള പൊലീസ് (അംഗതി) ബിൽ " published under the authority of the Governor.]

THE KERALA POLICE (AMENDMENT) BILL, 2019

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BILL

further to amend the Kerala Police Act, 2011.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Police Act, 2011 for the purposes hereinafter appearing;

BE it enacted in the Seventieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Police (Amendment) Act, 2019.

(2) It shall be deemed to have come into force on the 8th day of January, 2019.

2. *Amendment of section 101.*—In the Kerala Police Act, 2011 (8 of 2011) (hereinafter referred to as the principal Act), sub-section (6) of section 101 shall be omitted.

3. *Repeal and saving.*—(1) The Kerala Police (Amendment) Ordinance, 2019 (32 of 2019) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been 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

As per sub-section (6) of section 101 of the Kerala Police Act, 2011 (8 of 2011), it is provided that, the punishments mentioned in items (a) to (j) of sub-section (4) of the said section shall not be a bar for promotion of a police officer. It has come to the notice of the Government that, because of this provision, the officers who are imposed with major penalties are also being included in the select list and promoted. The Government have examined the same in detail and to overcome the said situation it is decided to amend section 101 of the Kerala Police Act, 2011 (8 of 2011).

As the Legislative Assembly of the State of Kerala was not in session and the above proposals had to be given effect to immediately, the Kerala Police (Amendment) Ordinance, 2019 was promulgated by the Governor of Kerala on the 8th day of January, 2019 and the same was published as Ordinance No. 6 of 2019 in the Kerala Gazette Extraordinary No. 43 dated 8th January, 2019.

Though a Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Fourteenth Kerala Legislative Assembly during its session which commenced on the 25th day of January, 2019 and ended on the 12th day of February, 2019.

In order to keep alive the provisions of the said Ordinance and the State Legislative Assembly was not in session, the Kerala Police (Amendment) Ordinance, 2019 was promulgated by the Governor of Kerala on the 25th day of February, 2019 and published as Ordinance No. 9 of 2019 in the Kerala Gazette Extraordinary No. 486 dated 26th February, 2019.

Though a Bill to replace the said Ordinance by an Act of the State Legislature was published as Bill No. 190 of the Fourteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Kerala Legislative Assembly during its session which commenced on the 27th day of May, 2019 and ended on the 4th day of July, 2019.

In order to keep alive the provisions of the said Ordinance and the State Legislative Assembly was not in session, the Kerala Police (Amendment) Ordinance, 2019 was promulgated by the Governor of Kerala on the

6th day of July, 2019 and published as Ordinance No. 32 of 2019 in the Kerala Gazette Extraordinary No. 1508 dated 7th July, 2019.

The Bill seeks to replace Ordinance No. 32 of 2019 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.

PINARAYI VIJAYAN.

EXTRACT FROM THE KERALA POLICE ACT, 2011 (8 of 2011)

101. *Departmental Enquiry Proceedings.*—(1) Any police officer, who commits any misconduct or offence under this Act or any other Act for the time being in force or rule or order made thereunder may be subjected to departmental enquiry proceedings under the Kerala Police Departmental Enquiries, (Punishment and Appeal) Rules, 1958 notified by the Government.

(2) The State Police Chief may order initiation of action against any police officer, before the Court in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) in addition to the Departmental Inquiry Proceedings under the said Rules.

(3) A police officer on being found guilty on enquiry under this section and subjected to any penalties shall not be construed as a criminal under any other Act including this Act or sentenced to any punishment under the Criminal law.

(4) The competent officer or the Government may impose any of the following penalties mentioned in items (a) to (q) below against any police officer found guilty on completion of the department level inquiry,—

- (a) fine;
- (b) extra duty including drill and physical training;
- (c) recovery of loss caused to Government from salary;
- (d) recovery of loss sustained to the concerned party from salary;
- (e) giving training to improve work and conduct;
- (f) prohibit from performing fixed particular duties or assigning fixed particular rank;
- (g) warning;
- (h) censure;
- (i) barring increment without cumulative effect;

- (j) barring increment with cumulative effect;
- (k) withholding of promotion;
- (l) reducing pay without cumulative effect;
- (m) reducing pay with cumulative effect;
- (n) reduction in seniority or rank;
- (o) compulsory retirement;
- (p) removal;
- (q) dismissal.

(5) The penalties stated in item (g) to (q) above may be given separately or in addition to any punishment stated in items (a) to (f) mentioned above.

(6) The penalties stated in items (a) to (j) above shall not be treated as a bar for the promotion of a police officer.
