

**THE
ACTS AND PROCLAMATIONS
OF
COCHIN**

**THE
ACTS AND PROCLAMATIONS**

OF

COCHIN

VOLUME VI

PUBLISHED BY

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PREFATORY NOTE.

This volume of Acts and Proclamations contains the enactments passed in 1113 subsequent to the termination of the Law Commission. The amendments effected by Acts I to XIII, XIV, XVI and XVII of 1113 having been incorporated in the respective places in the volumes of Acts and Proclamations already published and Proclamations I and II of 1113 having ceased to be in force they are not printed in this volume. Act XIX of 1113 amends the Cochin Tenancy Act, XV of 1113 and the amendments thus effected are incorporated in Act XV of 1113 itself. This volume consists of two parts. Part I contains the main Acts passed in 1113. As the other amending Acts passed during 1113 amend the enactments contained in the volumes of Acts and Proclamations already published they are grouped separately under Part II.

*The Huzur Secretariat, }
Law Department, }
30th December 1938. }*

N. S. RADHAKRISHNA SARMA,
Superintendent, Law Department

THE
ACTS AND PROCLAMATIONS
 OF
COCHIN.

VOLUME VI.

(Dhanu to Karkadagam 1113.)

CONTENTS.

I. ARRANGED CHRONOLOGICALLY.

PART I.

MAIN ACTS AND PROCLAMATIONS.

<i>Year.</i>	<i>No.</i>	<i>Short title.</i>	<i>Page.</i>
1113.	XV	The Cochin Tenancy Act (As amended by XIX of 1113).	.. 1
	XVIII	The Cochin Municipal Act.	.. 29
	XX	The Government of Cochin Act.	.. 248
	XXI	The Cochin Bar Council Act.	.. 276
	III	The Landing and Shipping Fees Proclamation.	.. 287
	XXVI	The Cochin Co-operative Societies Act.	.. 287
	XXVII	The Cochin Maternity Benefit Act.	.. 328
	XXIX	The Cochin Nayar Act.	.. 333
	XXX	The Cochin Tea Cess Act.	.. 354
	XXXI	The Cochin Payment of Salaries and Allowances Act.	.. 356
	XXXIII	The Cochin Marumakkathayam Act.	.. 357

PART II.

AMENDING ACTS.

	XXII	The Civil Procedure Code (Amendment) Act.	.. 377
	XXIII	The Cochin Debt Conciliation (Amendment) Act.	.. 379

<i>Year.</i>	<i>No.</i>	<i>Short title.</i>	<i>Page.</i>
	XXIV	The Cochin Land Conservancy (Amendment) Act.	.. 380
	XXV	The Cochin Village Panchayat (Amendment) Act.	.. 383
	XXVIII	The Cochin Debt Conciliation (Amendment) Act.	.. 384
	XXXII	The Cochin Income-tax (Amendment) Act.	.. 384
	XXXIV	The Cochin Dangerous Drugs (Amend- ment) Act.	.. 392

II. ARRANGED ALPHABETICALLY.

PART I.

MAIN ACTS AND PROCLAMATIONS.

<i>Serial No.</i>	<i>Short title.</i>	<i>Year and Number.</i>	<i>Page.</i>
1	The Cochin Bar Council Act	XXI of 1113	.. 276
2	The Cochin Co-operative Soci- ties Act	XXVI of 1113	.. 287
3	The Government of Cochin Act	XX of 1113	.. 248
4	The Landing and Shipping Fees Proclamation	III of 1113	.. 287
5	The Cochin Marumakkathayam Act	XXXIII of 1113	.. 357
6	The Cochin Maternity Benefit Act	XXVII of 1113	.. 328
7	The Cochin Municipal Act	XVIII of 1113	.. 29
8	The Cochin Nayar Act	XXIX of 1113	.. 333
9	The Cochin Payment of Salaries and Allowances Act	XXXI of 1113	.. 356
10	The Cochin Tea Cess Act	XXX of 1113	.. 354
11	The Cochin Tenancy Act (As amended by XIX of 1113)	XV of 1113	.. 1

PART II.
AMENDING ACTS.

<i>Serial No.</i>	<i>Short title.</i>	<i>Year and Number.</i>	<i>Page.</i>
1	The Civil Procedure Code (Amendment) Act	XXII of 1113 ..	377
2	The Cochin Dangerous Drugs (Amendment) Act	XXXIV of 1113 ..	392
3	The Cochin Debt Conciliation (Amendment) Act	XXIII of 1113 ..	379
4	The Cochin Debt Conciliation (Amendment) Act	XXVIII of 1113 ..	384
5	The Cochin Income-tax (Amend- ment) Act	XXXII of 1113 ..	384
6	The Cochin Land Conservancy (Amendment) Act	XXIV of 1113 ..	380
7	The Cochin Village Panchayat (Amendment) Act	XXV of 1113 ..	383

ACTS AND PROCLAMATIONS

OF

COCHIN

VOLUME VI.

(Dhanu to Karkaaagam)

PART I (MAIN ACTS)

THE COCHIN TENANCY ACT, XV OF 1113.

(As amended by Act, XIX of 1113)

CONTENTS.

Preamble.

Sections.

PRELIMINARY.

1. Short title and extent.

CHAPTER I.

DEFINITIONS.

2. Definitions.

CHAPTER II.

COMPENSATION FOR IMPROVEMENTS.

3. What are presumed to be improvements.
4. Tenant entitled to compensation for improvements.
5. Decree in eviction to be conditional on payment of compensation.
6. Tenant's right to remove buildings, works or trees deemed not improvements.
7. Assessors for estimating the compensation.
8. Improvement producing an increase in the value of the annual net produce.

Sections

9. Trees or plants spontaneously grown.
10. Other kinds of improvements.
11. Value of improvements to be ascertained in the way most favourable to the tenant.
12. Improvement consisting of the protection and maintenance of trees and plants.
13. Power to frame tables of maximum and minimum rates of compensation.
14. Power to prepare tables of prices of produce, etc.
15. Value how ascertained when no table has been prepared or the presumption is rebutted.
16. Tables to be published.
17. Compensation refused when area is over-planted.
18. Invalid contracts affecting compensation for improvements.

CHAPTER III.

CREATION AND RENEWAL OF KANAMS AND EVICTION.

19. Creation and renewal of kanams.
20. Particulars which the instrument should contain.
21. Appeal from the order of the Registrar.
22. Stamp and Registration charges for kanam instruments.
23. Application of sections 24 to 36.
24. Surrender of kanams.
25. Eviction of kanams.
26. Renewal of kanams.
27. Dues payable on renewal.
28. Rate of renewal fee.
29. Suit for execution of renewal deed.
30. Effect of failure to comply with the order under the last section.
31. Execution of renewal deed by Court.
32. Legal effect of deed executed by Court.
33. Enhancement and reduction of michavaram.
34. When pattam may be enhanced or reduced.
35. Time for suit under section 29.
36. Land-lord entitled to renewal fee even if no suit is brought under section 29.

Sections

37. Applicability of the rule in section 36 to subsequent period.

CHAPTER IV.

PAYMENT OF RENT, MICHAVERAM AND OTHER DUES.

38. Payment of rent and other dues.
Place of payment.
39. Tenant's right to a receipt.
40. What is a sufficient description of the holding.
41. Burden of proof in the absence of particulars.
42. Procedure when landlord fails to grant receipt.
43. Exemption from stamp duty.

CHAPTER V.

JURISDICTION OF COURTS.

44. Jurisdiction of Courts and court-fee for suits.
45. Summary Jurisdiction of Munsiffs' Courts.
46. Recognised agent of landlord.
47. Decision non-appealable.
48. Application to Tahsildar for recovery of arrears.
49. Application to Court when landlord refuses to accept a tender.
50. Procedure on such application.

CHAPTER VI.

MISCELLANEOUS.

51. Tenant's liability to pay taxes, etc.
52. Tenant's rights to be heritable and alienable.
53. Priority of claim for arrears of pattam, etc.
-

THE COCHIN TENANCY ACT,

XV of 1113.

HISTORY OF LEGISLATION.

Year	Number	Short title	Amendment
1113	XV	The Cochin Tenancy Act	Amended by Act XIX of 1113

Passed by His Highness the Maharaja of Cochin on the 16th day of Makaram 1113, corresponding to the 29th day of January 1938.

Preamble

Whereas it is expedient to define, declare, alter and amend, to the extent, in the manner and for the purposes hereinafter appearing, the law relating to landlord and tenant, including the law relating to compensation for improvements made by the tenant, it is hereby enacted as follows:—

PRELIMINARY.

Short title and extent.

1.—(1) This Act may be called the “Cochin Tenancy Act, XV of 1113.”

¹[(2) It extends to the whole of Cochin State excepting ‘the Willingdon Island’.

Explanation.—‘The Willingdon Island’ is all that land north and west of Venduruthi Island made by spoil dredged up by the Cochin Harbour Authority and now measuring 775 acres bounded on the west and south by the Mattancheri channels, on the east by both the Ernakulam channel and the aforesaid Venduruthi Island and on the north and north-west by the dredged area between the Mattancheri and Ernakulam channels.]

¹ Substituted by section 2 of Act, XIX of 1113.

(3) The Cochin Tenancy Act, II of 1090, is hereby repealed.

(4) The explanation to sub-section (d) of section 2 of this Act shall apply to all suits pending in the Court of first instance or in appeal on the date of the passing of this Act.

Suits instituted after the 15th Medam 1107 for the eviction of kanam tenants shall be governed by this Act.

Subject to the foregoing provisions, nothing herein contained shall render not maintainable any suit pending on the date of the passing of this Act which was maintainable while the said Act, II of 1090, was in force.

(5) Save as herein otherwise provided, in all suits for eviction pending in the Court of first instance which could have been governed by the provisions of this Act had it been in force at the time of their institution, the rights and obligations of the parties concerned shall be regulated by the provisions of this Act.

(6) The provisions of this Act shall also apply to suits decreed before the passing of this Act so far as the valuation or re-valuation of improvements under section 5 hereof is concerned.

CHAPTER I.

DEFINITIONS.

2. In this Act, unless there is something repugnant in the subject or context: Definitions

(a) "Eviction" means the recovery of possession of land from a tenant.

(b) "Holding" means a parcel or parcels of land held under a single engagement by a tenant from

a landlord and shall include any portion of a holding as above defined which the landlord and tenant have agreed to treat as a separate holding.

(c) "Improvement" means any work or product of a work which adds to the value of the holding, is suitable to it and consistent with the purpose for which the holding is let, mortgaged or occupied, but does not include such clearances, embankments levelings, enclosures, temporary wells and water channels as are made by the tenant in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from the ordinary operations of husbandry.

(d) "Kanam" means a demise with the following incidents:—

(1) an initial lump sum consideration in money or in kind or both given or deemed to be given by the tenant to the landlord which is mentioned as such in the demise and bears a specified interest;

(2) the payment of michavaram, if any, by the tenant to the landlord;

(3) the right of the tenant to occupy the property demised for 12 years or for any other longer period which is specified.

(4) the liability to pay a renewal fee on renewal of the demise.

Explanation.—A transaction called 'panayam' in the document evidencing it may create a kanam within the meaning of this section.

(e) "Kanam amount" means the amount specified in sub-clause (1) of sub-section (d) of this section in respect of a kanam.

(f) "Landlord" means a person immediately under whom a tenant holds.

(g) "Michavaram" means the balance of money or produce or both accruing due periodically to the landlord after deducting from the pattam the interest due on the kanam amount and puramkadam, if any.

(h) "Nilam" means land adapted for the cultivation of paddy.

(i) "Paramba" means cultivable land other than nilam.

(j) "Pattam" means the landlord's share as fixed by the contract of tenancy of the produce of the holding whether in money or in kind or both, but does not include renewal fee.

(k) "Pay", with its grammatical variations includes "deliver".

(l) "Puramkadam" means a further sum of consideration received by the landlord subsequently to the kanam amount from a kanam-tenant in respect of the holding.

(m) "Puravaka dues" means whatever is payable in money or in kind or both by the terms of a demise other than pattam, or michavaram and renewal fee.

(n) "Renewal fee" means fee or fees payable by a kanam-tenant to his landlord for the renewal of the legal relationship under which the tenant has been holding any land.

(o) "Tenant", with its grammatical variations and cognate expressions, includes a person who, as kanam-tenant, lessee, sub-lessee, mortgagee or sub-mortgagee or in good faith believing himself to be kanam-tenant, lessee, sub-lessee, mortgagee or sub-mortgagee of land is in possession thereof or who, with

the *bonafide* intention of attorning and paying a reasonable rent to the person entitled to cultivate or let waste land, but without the permission of such person brings such land under cultivation and is in occupation thereof as cultivator.

CHAPTER II.

COMPENSATION FOR IMPROVEMENTS.

What are
presumed to
be improve-
ments.

3. Until the contrary is shown, the following works or the products of such works shall be presumed to be improvements for the purposes of this Act:—

(a) the erection of dwelling houses, buildings appurtenant thereto and farm buildings;

(b) the construction of tanks, wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes;

(c) the preparation of land for irrigation;

(d) the conversion of one crop into two crop land;

(e) the drainage, reclamation from rivers or other waters or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or waste land which is culturable;

(f) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(g) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto; and

(h) the planting or protection and maintenance of fruit trees, timber trees and other useful trees and plants.

4.—(1) Every tenant shall, on eviction, be entitled to compensation for improvements which were made by him, his predecessor-in-interest or by any person not in occupation at the time of the eviction who derived title from either of them and for which compensation has not already been paid; and every tenant to whom compensation is so due shall, notwithstanding the determination of the tenancy or the payment or tender of the kanam amount and puramkadam, if any, or the mortgage money or premium, be entitled to remain in possession until eviction in execution of a decree or order of Court:

Tenant entitled to compensation for improvements

[Provided that nothing herein contained shall be construed as affecting the provisions of the Cochin Land Conservancy Act, IV of 1096.]

(2) A tenant so continuing in possession shall during such continuance, hold subject to the terms of his kanam, lease or mortgage, if any.

5.—(1) In a suit for eviction instituted against a tenant in which the plaintiff succeeds and the defendant establishes a claim for compensation due under section 4 for improvements, the Court shall ascertain, as provided in sections 8 to 17, the amount of the compensation and shall pass a decree declaring the amount so found due and ordering that, on payment by the plaintiff into the Court of the amount so found due and also the kanam amount and puramkadam, if any, or the mortgage money or the premium, as the case may be, the defendant shall put the plaintiff into possession of the land with the improvements thereon.

Decree in eviction to be conditional on payment of compensation.

(2) If in such suit the Court finds any sum of money due by the defendant to the plaintiff for rent, michavaram or otherwise in respect of the tenancy,

1. Substituted for the original proviso by section 3 of Act, XIX of 1113.

the Court shall set off such sum against the sum found due under sub-section (1) and shall pass a decree declaring as the amount payable to him on eviction the amount, if any, remaining due to the defendant after such set-off.

(3) The amount of compensation for improvements made subsequent to the date up to which compensation for improvements was adjudged in the decree and the re-valuation of an improvement, for which compensation was so adjudged, when and in so far as such re-valuation may be necessary, with reference to the condition of such improvement at the time of eviction as well as any sum of money accruing due to the plaintiff subsequent to the said date for rent, michavaram or otherwise in respect of the tenancy shall be determined by order of the Court executing the decree and the decree shall be varied in accordance with such order.

(4) Every matter arising under sub-section (3) shall be deemed to be a question relating to the execution of a decree within the meaning of sub-section (1) of section 41 of the Cochin Code of Civil Procedure, Act XXIX of 1111.

Tenant's
right to re-
move build-
ings, works
or trees
deemed not
improve-
ments.

6. Whenever a Court passes a decree or order for eviction against a tenant and such tenant has erected any building, constructed any work or planted any tree which, the Court finds is not an improvement for which compensation can be claimed, but which, the Court finds can be removed without substantial injury to the holding, such tenant may remove such building, work or tree within a time to be fixed by the Court in its decree or order. The Court may, from time to time, extend the time so fixed.

Assessors
for estimat-
ing the
compensa-
tion.

7. The Diwan may, with the sanction of His Highness the Maharaja, from time to time, make rules requiring the Court to associate with itself, for the

purpose of estimating the compensation to be awarded under section 5 for an improvement, such number of assessors, as the Diwan thinks fit, determining the qualification of those assessors, the mode of selecting them and the fee payable to them, and prescribing the procedure to be followed in case of difference of opinion between the Judge and one or more of such assessors. The rules so made shall be published in the Cochin Government Gazette and shall have the force of law.

8. When the improvement is not an improvement to which section 12 applies and has caused an increase in the value of the annual net produce of the holding, the Court shall determine, as nearly as may be, the average net money value of such increase and shall award as compensation for the improvement, three-fourths of the amount arrived at by capitalising such net money value at 20 times.

Improvement producing an increase in the value of the annual net produce.

Explanation 1.—The value of the net produce means the amount remaining after deducting from the value of the gross produce the cost of cultivation and the Government assessment and local taxes.

Explanation 2.—In determining the net money value of the increase, regard shall also be had to the condition of the improvement and probable duration of its effects and the labour and capital required for making such improvement.

9. When the improvement is not an improvement to which section 8 applies but consists of timber trees or of other useful trees or plants spontaneously grown during the period of the tenancy or sown or planted by any of the persons mentioned in section 4, the compensation to be awarded shall be three-fourths of the sum which the trees or plants might reasonably be expected to realise if sold by public auction to be cut and carried away.

Trees or plants spontaneously grown.

Other kinds
of improve-
ments.

10. When the improvement is not an improvement to which section 8 or 9 applies, the compensation to be awarded shall be the cost of the labour including supervision thereof and of the materials together with other expenditure, if any, which would, at the time of the valuation, be required to make the improvement, less a reasonable reduction on account of the deterioration, if any, which may have taken place from age or other cause.

Value of
improve-
ments to be
ascertained
in the way
most favour-
able to the
tenant.

11. Notwithstanding anything contained in sections 8, 9 and 10, the amount of compensation to be awarded for an improvement shall be ascertained in the way prescribed by any of the said sections which is most favourable to the tenant.

Illustrations.—(a) The compensation to be awarded for a jack tree as a fruit tree is ascertained under section 8 to be Rs. 7, but for the same tree as a timber tree it is ascertained under section 9 to be Rs. 10.

(b) The compensation to be awarded for an immature casuarina plantation is ascertained under section 9 to be Rs. 20, but under section 10 to be Rs. 100.

In each case the Court shall award the higher amount.

Improvement
consisting of
the protec-
tion and
maintenance
of trees and
plants.

12. When the improvement consists of the protection and maintenance of timber or fruit trees or of other useful trees or plants not sown or planted by any of the persons, mentioned in section 4, or of such trees or plants spontaneously grown prior to the commencement of the tenancy, the compensation to be awarded shall be the proper cost of such protection and maintenance ascertained as provided in section 10.

Power to
frame tables
of maximum
and mini-
mum rates

13. The Diwan may prepare for the whole or any part of the State, tables showing the maximum and minimum rates of compensation to be awarded under

this Act, for all or any class of improvements and when such tables have been published, the amount awarded as compensation under sections 8, 9, 10 and 11 shall not ordinarily exceed such maximum rates nor shall it in any case be less than such minimum rates.

14.—(1) For the purpose of determining the amount of compensation to be awarded under this Act, the Diwan may prepare tables for the whole or any part of Cochin showing all or any of the following matters :—

(a) the price of cocoanuts, arecanuts, pepper and paddy;

(b) the cost of (i) cultivating and harvesting a crop of paddy; (ii) planting, protecting and maintaining a cocoanut tree, an arecanut tree, a jack tree and pepper vine, until the tree or vine is in bearing; (iii) protecting and maintaining a cocoanut tree, an arecanut tree, a jack tree and a pepper vine for one year when in bearing.

(2) The tables prepared under this section shall, on publication, be receivable in evidence and the rates and amounts therein specified shall be presumed to be the proper rates and amounts until the contrary is proved: provided that, in so far as such tables prescribe prices of products, the presumption shall not be rebuttable except by proof of the average price, as provided in section 15.

15. In respect of any product for which no table showing the price has been published and whenever the presumption under section 14 is rebutted, the Court shall adopt, as the money value for the purpose of awarding compensation under section 8, the average price, as nearly as may be ascertainable, in the taluk where the land is situated for a period of 10 years, immediately preceding the institution of the suit.

of compensation.

Power to prepare tables of prices of produce, etc.

Value how ascertained when no table has been prepared or the presumption is rebutted

Tables to be published.

16 The tables prepared under this Act shall be published in English and Malayalam in the Cochin Government Gazette and shall be kept publicly posted in the Civil Courts having jurisdiction over the area to which the tables apply.

The Diwan may, by like publication, cancel or vary, from time to time, the tables so published.

Compensation refused when area is overplanted.

17. When trees are planted in excess of the following scale, the Court, if satisfied that, in the circumstances of the particular case, the land is overplanted, may, notwithstanding anything hereinbefore contained, either refuse to grant compensation or may grant compensation at a lower rate, for so many of the trees as are in excess of the scale and are immature.

Cocoanut trees	120 per acre.
Arecanut trees	720 „
Jack trees	60 „

In the case of a mixed garden each tree shall be allowed a proportionate fraction of an acre according to the above scale.

Invalid contracts affecting compensation for improvements.

18. Nothing in any contract made after the 9th March 1912 (26th Kumbham 1087), shall take away or limit the right of a tenant to make improvements and to claim compensation for them in accordance with the provisions of this Act:

Provided that nothing herein contained shall affect any agreement in writing registered and made after the effecting of the improvements settling the amount of compensation due therefor at the date of such agreement.

CHAPTER III.

CREATION AND RENEWAL OF KANAMS
AND EVICTIONS.

19. No kanam can be created after this Act comes into force except by a registered instrument or renewed after such date except by such an instrument or by decree of Court.

Creation and renewal of kanams

20. No instrument by which a kanam is created or renewed or its counterpart shall be registered unless it contains:—

Particulars which the instrument should contain.

(a) the name, if any, and description and extent of the holding;

(b) the Government revenue and local taxes, if any, payable in respect of the holding;

(c) the kanam amount and puramkadam, if any;

(d) the rate or the amount of interest payable in respect of the kanam amount and puramkadam, if any;

(e) the renewal fee, if any, levied, and in case no such fee was levied, a statement to that effect;

(f) the amount of michavaram and puravaka dues, if any, payable in respect of the holding; and

(g) the relation that any para or other measure according to which the michavaram is to be paid bears to the standard measure prescribed by Government.

21. An order of the Registrar refusing registration on the ground of the absence of any of the particulars above mentioned shall be subject to appeal in accordance with the provisions of the Registration Act.

Appeal from the order of the Registrar.

v of 1084.

Stamp and registration charges for kanam instruments.

22. The stamp and registration charges for a kanam instrument and for its counterpart shall be borne by the tenant and the landlord respectively.

Application of sections 24 to 35.

23. The provisions contained in sections 24 to 36 both inclusive of this Act shall apply only to kanam tenants who by themselves or through their predecessors-in-interest have uninterruptedly held the holding under kanam tenures created on or before the 8th day of Thulam 1090.

Explanation 1.—The omission, addition or substitution of an item of land from, to or in a holding shall not be taken to have interrupted the continuity of the holding. The substituted item shall be considered to have been in the original demise in place of the item for which it was substituted.

Explanation 2.—Where a holding is by partition, assignment or otherwise severed, the severance shall not be taken to have interrupted the continuity of the holding and each of the severed portions shall be recognised as a distinct holding unless such recognition would materially affect the rights of the landlord.

Surrender of kanams.

24. A kanam tenant may, after the original term of the kanam, surrender the holding to his landlord by a registered document: provided—

(1) three months' notice of his intention to do so has been given in writing to the landlord;

(2) no portion of the holding is excluded except as the result of irresistible force;

(3) the renewal fee, if any, the arrears of michavaram and other accrued dues are tendered;

(4) the value or utility of the holding has not been materially and permanently impaired during the tenancy by acts of waste;

(5) in case the kanam includes nilam, the surrender is made within a month of the date on which michavaram is due.

The landlord may, within the period of three months mentioned in sub-clause (1), give notice in writing to the tenant that he will not accept the surrender. If such notice is given the tenant shall retain the holding without payment of renewal fee, michavaram or other dues but shall be bound to pay the taxes due on the land.

If no such notice is given by the landlord, he shall accept the surrender but shall not be bound to refund the kanam amount and puramkadam, if any, or to pay the value of improvements which he would otherwise be bound to pay under this Act.

Nothing in this section shall enable the kanam tenant to terminate the tenancy so as to prejudice the claims of his sub-tenant or any person having an interest in the holding as his mortgagee, attaching creditor or otherwise.

25.—(1) On the expiry of the demise, the kanam tenant shall be liable to eviction from the whole or a portion of his holding as the case may be, for any of the following causes:—

Eviction
of kanams.

(a) If the holding or a portion thereof is required by the landlord for the bonafide purposes of extending his own residential house or building a new house for his residence:

Provided that, if the landlord fails to extend his residence or build a new house for his residence within a period of three years from the date of eviction, the previous tenant shall be given the option to hold the same on the original tenure.

(b) If the kanam tenant wilfully denies the landlord's title,

Explanation.—A denial of the landlord's title under a bonafide mistake of fact is not wilful within the meaning of clause (b).

√(c) If the kanam tenant intentionally and wilfully commits such acts of waste as are calculated to materially and permanently impair the value and utility of the holding.

A suit for eviction on the ground stated in clause (c) should not be entertained unless the landlord has served a notice on the tenant specifying the particular act of waste complained of, and, when the waste is capable of remedy, requiring the tenant to remedy the same and in any case to pay reasonable compensation for the waste, and the tenant has failed to comply within a reasonable time, with that request.

(2) During the currency of the lease, the kanam-tenant shall also be liable to eviction under clauses (b) and (c) in the foregoing sub-section (1) of this section.

Renewal
of kanams.

26. Subject to the other provisions of this Act, it shall be obligatory on the part of the landlord to give and of the kanam-tenant to accept a renewal of the tenancy at the expiry of 12 years from the date of the last demise and thereafter at the end of every successive period of 12 years.

Exception.—When the period of the kanam is other than 12 years, such other period shall be read in lieu of 12 years in applying this section.

Dues payable
on renewal.

27. The following amounts shall be payable by the kanam-tenant at the time of renewal:—

(a) all arrears of michavaram and puravaka dues accruing for a period not exceeding 12 years;

(b) all arrears of Government or local taxes and other dues which he was bound to pay but which

were paid by the landlord irrespective of the time when they were paid.

28. In addition to the above amounts the kanam-tenant shall pay a renewal fee of $27\frac{1}{2}$ per cent of the kanam amount and 15 per cent of the puramkadam, if any. Rate of renewal fee.

Explanation 1.—For the purposes of this section, the term ‘renewal fee’ includes all dues such as Sakshiavakasam and Opputhoosi which are customarily payable on renewal.

Explanation 2.—The kanam amount mentioned in this section does not include the additional kanam amount levied under section 23 (e) of Act, II of 1900.

Nothing in this section shall make the kanam-tenant liable to pay as renewal fee anything more than 5 per cent of the kanam amount and puramkadam, if any, when there is no michavaram payable under the kanam to be renewed, or it is less than $12\frac{1}{2}$ per cent of the pattam fixed therein.

29.—(1) Subject to the other provisions of this Act, a suit may be brought by the kanam-tenant or the landlord for the execution of a renewal deed. Suit for execution of renewal deed.

(2) On the hearing of the suit, the Court shall determine:—

(a) the amounts due under sections 27 and 28;

(b) the enhancement of michavaram, if any, to which the landlord is entitled under section 33;

(c) the reduction of michavaram, if any, to which the kanam-tenant is entitled under the same section;

(d) the terms of the expiring kanam so far as they are in accordance with law;

and make an order for the payment of the amounts due to the landlord under sub-clause (a) of

sub-section (2) of this section and interest thereon from their due dates at such rates as the Court may determine and the execution of a renewal deed on the terms determined under sub-clause (d) with the variations, if any, under sub-clauses (b) and (c) within a time to be fixed by the Court :

Provided that arrears of michavaram shall bear interest at the contract rate, if any, and renewal fee at the rate of six per cent from their due dates unless the landlord has refused a valid tender of the renewal fee in which case, no interest thereon shall be payable.

Effect of failure to comply with the order under the last section.

30. If, within the time fixed by the Court or such further time as is allowed by it, the order made under the last section has not been complied with, the Court shall pass a decree for payment of the said amounts or so much as remains due with future interest, at such rate as it may think fit, or execute a renewal deed or, do both, as the case may require, and make such order as to the cost of the proceedings, as it may deem fit.

Execution of renewal deed by Court.

31. The renewal deed executed by the Court under the last section shall contain the terms determined under sub-clause (d) of section 29 with the variations, if any, under sub-clauses (b) and (c) of the said section.

Legal effect of deed executed by Court.

32. A renewal deed executed by the Court under section 30 shall have the same effect as if it were executed by the landlord or the tenant respectively.

Enhancement and reduction of michavaram.

33. The michavaram payable by a kanam-tenant may, at the time of renewal, be enhanced or reduced by enhancing or reducing the pattam as hereinafter provided.

When pattam may be enhanced or reduced.

34.—(a) The pattam may be proportionately enhanced if during the currency of the kanam or of the last renewal, as the case may be,—

(1) the area of the holding actually under cultivation has increased;

(2) the productive power of the land comprised in the holding has increased on account of a specific cause not merely temporary or casual;

(3) where the land demised is paramba, the number of trees in the holding on which pattam is assessable has increased; or

(4) the land being paramba, the average local price of the produce of the trees on which pattam is assessable has risen.

Where reclamation or other permanent improvement was effected at the expense of the kanam-tenant and has contributed to the increase in the area under cultivation, the productive power of the land or the number of assessable trees taken account of under this section, the cost of such improvement shall be determined in accordance with Chapter II of this Act and the enhancement of pattam shall be reduced by the amount of interest on such cost calculated at the same rate as on the kanam amount.

(b) The pattam may be proportionately reduced, if during the currency of the kanam or of the last renewal, as the case may be,—

(1) the area of the holding has been diminished by causes beyond the control of the tenant, such as action of the sea, river or lake;

(2) the soil of the holding has permanently deteriorated and such deterioration was not due to improper use or neglect by the tenant;

(3) where the land is paramba, the number of trees in the holding on which pattam is assessable has been diminished by causes beyond the control of the tenant; or

(4) the land being paramba, the average local price of the produce of the trees on which pattam is assessable has fallen.

Explanation 1.—Where the area comprised in the kanam is described in the kanam deed in terms of para and there is no other indication calculated to make the extent more definite, a para of land shall be taken, for the purposes of this section to measure 12 cents.

Explanation 2.—The trees on which pattam is assessable are the following:—

Cocoanut trees, arecanut trees and jack trees.

Time for
suit under
section 29.

35. The suit provided for by section 29 shall be dismissed unless it is brought within three years of the termination of the previous kanam, original or renewed, or within two years of the passing of this Act whichever is later.

Landlord en-
titled to
renewal fee
even if no
suit is
brought
under sec-
tion 29.

36. If no renewal is effected in the manner hereinbefore provided, the tenant shall, notwithstanding anything contained in section 19, be deemed to have obtained a renewal on the previous terms for 12 years from the termination of the previous kanam, original or renewed, and the landlord shall be entitled to the renewal fee as on renewal.

Exception.—When the period of the previous kanam is other than 12 years, such other period shall be read in lieu of 12 years in applying this section.

Applicability
of the rule
in section 36
to subse-
quent period.

37. At the expiry of the said renewed period and of every successive period of the same duration, the rule stated in the preceding section shall be applied in the same manner as if the last renewed period were the original period of the kanam.

CHAPTER IV.

PAYMENT OF RENT, MICHAVARAM AND OTHER DUES.

38. In the absence of a written agreement specifying the time and place at which rent, michavaram or other dues shall be paid to the landlord, they shall be paid in the manner following namely.— Payment of rent and other dues.

(1) The annual rent or michavaram shall be paid on or before the last day of Kumbham of each year except when the demise is of puncha and kole nilams, in which case it shall be paid on or before the last day of Edavam of each year.

Explanation.—Puncha and kole nilams are those harvested in or about the month of Medam.

(2) If the rent or michavaram is payable in money, it shall be paid at the residence of the landlord and if in kind at the residence or granary of the landlord within the village in which the holding is situate and if there be no such residence or granary, at such place within the village as may be indicated by the landlord by notice in writing given to the tenant. Place of payment.

(3) Puravaka dues, either at the time they are due by custom or on demand.

39. Every tenant paying rent, michavaram or puravaka dues shall be entitled to a receipt specifying.— Tenant's right to a receipt.

(a) a description of the holding in respect of which it is paid ;

(b) the date of payment ;

(c) the amount paid ;

(d) the period to which the amount paid relates; and

(e) the arrears, if any, remaining due from the tenant after the said payment.

What is a sufficient description of the holding.

40. A reference to the date and registration number of the document under which the holding is held and also the name of the registration district in which the said holding is situate shall be deemed to be a sufficient description of the holding for the purpose of the above section.

Burden of proof in the absence of particulars.

41. In the absence of the particulars specified in clause (e) of section 39, the burden of proving that the tenant is bound to pay any arrears of rent or michavaram which had accrued due previous to the date of the receipt shall be on the person claiming such arrears.

Procedure when landlord fails to grant receipt.

42. If the landlord refuses or neglects to grant a receipt as provided in section 39, the tenant shall be entitled to send by money order, after deducting the charges for doing so,—

(a) the money, if the rent, michavaram or other dues are payable in money ; or

(b) the money value of the rent, michavaram or other dues, if they are payable in kind.

Such money value shall be computed with reference to the rate published in the Cochin Government Gazette for the date on which the value is remitted or if no such rate is published for that date, at the rate for the next previous date for which a rate is so published.

Government shall cause to be published in the Cochin Government Gazette every month the price of paddy, cocoanut, arecanut, pepper and such other produces at each Taluk Head-quarters by a Gazetted officer.

Exemption from stamp duty.

43. A receipt granted under this chapter shall be exempt from stamp duty under the Stamp Act.

CHAPTER V.

JURISDICTION OF COURTS.

44. The suit provided for by section 29 of this Act may be brought in the Court having jurisdiction to entertain a suit for eviction of the holding.

Jurisdiction of Courts and court-fee for suits.

Notwithstanding anything contained in the Court-fees Act to the contrary, the court-fee payable on the plaint or memorandum of appeal in such a suit shall be *ad valorem* on the kanam amount but shall not exceed Rs. 10.

45. District Munsiffs may summarily try and dispose of suits by landlords for recovery of arrears of pattam, michavaram, renewal fee or other dues when the amount or value of the suit does not exceed Rs. 200.

Summary Jurisdiction of Munsiffs' Courts.

In such suits, the Court shall, except as hereinafter provided, follow the procedure prescribed in the Cochin Code of Civil Procedure for the trial of small cause suits.

Notwithstanding anything contained in the Court-fees Act, the court-fee payable on the plaint in such suits shall be the same as on an application when the arrears to be recovered have accrued due within 12 months of the date of the institution of the suit.

46 In respect of suits under section 45, the plaint may be signed by an agent of the landlord having written authority in that behalf and he shall be deemed to be the recognised agent of the plaintiff within the meaning of the Code of Civil Procedure.

Recognised agent of landlord.

In such suits the Court may decide any question of title to immovable property or status which may be necessary for the determination of the suit but such decision shall not be *Res Judicata* in any proceeding other than a suit under section 45.

Decision
non-
appealable.

47 The decision passed in a suit under section 45 shall not be appealable.

Application
to Tahsildar
for recovery
of arrears.

48.—(1) It shall be competent to the land-lord of any holding to which Chapter III applies, without prejudice to any other right of action that he may have, to make an application to the Tahsildar of the Taluk in which the holding is situated to recover the arrears of michavaram, tax or other dues in respect of that holding:

Provided that the arrears are not more than one year old on the date of the application and a demand in writing by registered anchal or post has been sent to the tenant for the payment of such arrears not less than seven days before the date of the application.

(2) The application shall be in such form and shall contain such particulars as may be prescribed by the Diwan and shall be signed and verified by the landlord, in the manner prescribed by the Code of Civil Procedure for the signing and verification of plaints.

XXIX
III

(3) The applicant shall, from time to time, pay to the Tahsildar such fees as may be prescribed by the Diwan for the several processes that may be necessary for realising the arrears. The applicant shall be entitled to a refund of any portion of such fees that may remain unexpended at the termination of the proceedings.

(4) If the Tahsildar is satisfied that the application has been duly presented, that the arrears are due from the tenant, that the applicant is entitled to recover them and that they are not more than one year old on the date of the application, he shall proceed to recover the amount of the arrears and interest and the fees paid under sub-section (3) by the applicant as if they were an arrear of land revenue due to Government and the provisions of the Revenue Recovery Act

IV of 1083, shall, *Mutatis Mutandis*, apply to all the proceedings.

(5) (a) The amount that is recovered shall be paid by the Tahsildar to the applicant on taking a receipt from him in a form as near as may be to that contemplated by section 39.

(b) A copy of the receipt with the attestation of the Tahsildar shall be given free of cost to the tenant if he applies for it.

Explanation.—Nothing in this section shall be deemed to bar the right of civil suit which any aggrieved party may have in law.

49. If the landlord refuses to accept a tender of any dues mentioned in Chapter IV of this Act or the tenant is doubtful as to the person entitled to receive the same and no suit has been brought against the tenant for recovery of the said dues, the tenant may apply to the Court having jurisdiction to entertain a suit for the eviction of the holding for permission to pay the same through the Court.

Application to Court when landlord refuses to accept a tender.

Along with the said application, the tenant shall deposit in Court the said dues together with interest, if any, accruing thereon.

50. When such application and deposit have been made, the Court shall examine the applicant and if it finds that the application has been made in accordance with the above section, bonafide and on justifiable grounds it shall allow the application and give notice, at the cost of the applicant, to every person who, in the opinion of the Court, is entitled to be heard as to the claim to receive the said amount, and may after hearing such of them as appear, pay the amount to the person found entitled to receive it.

Procedure on such application.

The Court may make such order as to the cost of the said proceeding as it may deem fit.

Nothing in this section shall affect the right of any person to recover the said amount by suit from the person to whom it is paid, but the order allowing the application shall be deemed a full acquittance to the tenant in respect of the amount covered by it.

CHAPTER VI.

MISCELLANEOUS.

Tenant's liability to pay taxes, etc.

51. In the absence of a contract to the contrary, the kanam-tenant shall be liable as between himself and the landlord to pay all Government and local taxes, in respect of the land comprised in his holding whether existing at the time of the demise or imposed afterwards.

Tenant's rights to be heritable and alienable.

52. Subject to the provisions of this Act, all rights which a tenant has in his holding shall be heritable and alienable.

Priority of claim for arrears of pattam, etc.

53. Arrears of pattam, michavaram, renewal fee and other dues owing to the landlord as well as arrears of revenue or other dues hereunder mentioned in this section, which are payable by the tenant but have been paid by the landlord, shall be a charge on the holding and shall have priority over all other charges on the same save arrears of revenue and any dues thereon payable to Government or to a local authority and made a charge thereon by any law for the time being in force.

THE COCHIN MUNICIPAL ACT, XVIII OF 1113.

CONTENTS.

SECTIONS.

PREAMBLE.

PART I.

CHAPTER I.—PRELIMINARY.

1. Title and extent
2. Repeal of enactments.
3. Definitions.

PART II.

ESTABLISHMENT, CONSTITUTION AND GOVERNMENT
OF MUNICIPALITIES.

CHAPTER II.—CREATION AND ABOLITION OF MUNICIPALITIES.

4. Creation of Municipalities.
5. Abolition of Municipalities.

CHAPTER III.—CONSTITUTION OF MUNICIPAL AUTHORITIES.

Authorities.

6. The Municipal authorities and their incorporation.
7. Constitution of Council.
8. Term of Councillors and filling up seats.
9. Procedure when no Councillor is elected.
10. No Councillor to receive remuneration.
11. The Chairman and the Vice-Chairman of the Municipality.
12. Procedure when no Chairman or Vice-Chairman is elected.
13. Commissioner of the Municipality.

The Chairman and the Executive Authority.

14. Functions of the Chairman.
15. Functions of the Executive Authority.
16. Chairman to report failure of the Executive authority to carry into effect resolutions of the Council.
17. Rights of Chairman where a Commissioner has been appointed.
18. Chairman to be member of every Committee of the Council.
19. Emergency powers of executive authority.

SECTIONS.

- 20. Delegation and devolution of functions of Chairman.
- 21. Rights and duties of the Commissioner.

The Council.

- 22. Functions of the Council.
- 23. Duties and powers of individual Councillors.
- 24. Council's power to call for records.
- 25. Appointment of Committees.
- 26. Appointment of special Committees.
- 27. Rules and regulations for proceedings of Council.
- 28. Notification of election.
- 29. Presidency of Council.
- 30. Councillor when to abstain from taking part in discussion and voting.
- 31. Power of Chairman, Vice-Chairman or Councillor to resign.
- 32. Act of Municipal Council, etc., not to be invalidated by informality, etc.

Administration Report.

- 33. Annual Administration Report.

The Government.

- 34. Power of Government for purposes of control.
- 35. Power to suspend action under the Act.
- 36. Power to authorise any officer in case of emergency to execute any work or to do any act,
- 37. Power to supervise Municipalities.
- 38. Power to undertake works for or to take action in default of a Municipality.
- 39. Lending of money from public funds to Municipalities.
- 40. Borrowing of money by Municipalities.
- 41. Power to remove Chairman or Vice-Chairman.
- 42. Power to remove Councillor.
- 43. Motion of no confidence in Chairman or Vice-Chairman.
- 44. Government's power to dissolve or supersede Council.

SECTIONS.

45. Powers of officers acting for, or in default of Municipal Council and liability of Municipal fund.
46. The rate payers.

CHAPTER IV.—ELECTION OF COUNCILLORS

47. Election of Municipal Councillors.
48. Publication of electoral roll.
49. Qualifications for voting.
50. Disqualifications of voters.
51. Qualification of candidates for membership of Council.
52. Disqualification of candidates.
53. Disqualification of Councillors.
54. Decision on questions of disqualifications of Councillors by District Judge.

Election Offences.

55. Infringement of secrecy of election.
56. Disqualifications of persons convicted of election offences.

CHAPTER V.—POWERS OF MUNICIPAL AUTHORITIES IN RESPECT OF PROPERTY, CONTRACTS AND ESTABLISHMENT.

Property.

57. Vesting of public streets and appurtenances in the Municipal Council.
58. Collected sewages, etc., to belong to Municipal Council.
59. Inventory of Municipal property.
60. Limitation of power to accept property in trust.
61. Objects not provided for by this Act.
62. Procedure for acquisition of immovable property.

Contracts.

63. Delegation of authority to contract and contractual powers of persons appointed by Government.

Establishment.

64. Power to fix the number and salaries of servants.

SECTIONS.

- 65. Appointment of officers and servants.
- 66. Appointment of Municipal Health officer and Municipal Engineer.
- 67. Appointment of Health officers or Municipal Engineers by Government.
- 68. Transfer of Municipal Officers or servants.
- 69. Punishment of servants.
- 70. Power of Council to frame service Regulations.
- 71. Special provisions regarding Government servants lent to Council.

PART III.

CHAPTER VI.—TAXATION AND FINANCE.

- 72. Enumeration of ordinary taxes and power of control of Government.
- 73. Notification of new taxes and tolls.

The Property Tax.

- 74. Description and classes of property tax.
- 75. Method of assessment of property.
- 76. Exemption.
- 77. Special exemptions and alternative basis of taxation.
- 78. Property tax a first charge on property.
- 79. Payment of property tax, in half-yearly instalments.
- 80. Vacancy remission.
- 81. Obligation of transferor and transferee to give notice of transfer.
- 82. Owner's obligation to give notice of construction, reconstruction or demolition of building.
- 83. Remission of tax in areas included or excluded in the middle of a half-year.
- 84. Executive authority's power to call for information and to enter upon premises.

Tax on Companies.

- 85. Taxation of Companies on their capital.

TAX ON PROFESSION AND OTHER SOURCES OF INCOME

- 86. Tax on profession and other sources of income.
- 87. Liability of members of firms and associations to pay tax.

ECTIONS.

*General Provisions Common To Tax On Companies And Tax On Profession
And Other Sources Of Income.*

- 88. Liability of servants or agents to company tax or tax on profession and other sources of income.
- 89. Service of notice on failure of payment of tax.
- 90. Statements, returns, etc., to be confidential.
- 91. Requisition on owner or occupier to furnish list of persons liable to tax.
- 92. Requisition on employers or their representatives to furnish such list.

Tax On Carriages And Animals.

- 93. General provisions regarding tax on carriages and animals.
- 94. Liability to tax according to period for which carriage or animal has been kept.
- 95. Exemptions.
- 96. Composition.
- 97. Forms to be sent to and returned by tax-payers.
- 98. Grant of license on payment of tax.
- 99. Power to require numbers to be affixed to bicycles, etc.

Tax On Carts.

- 100. General provisions regarding cart tax.
- 101. Power to remit tax.

Taxes Leviable Under Sections 93 And 100.

- 102. Registration of Hackney Carriages.

Powers To Seize Carriages And Carts Not Bearing Numbers.

- 103. Seizure of vehicles not bearing numbers.

Tolls.

- 104. General provisions for tolls on vehicles and animals.
- 105. (1) Construction of toll bars and collection of tolls
(2) Composition.
- 106. Procedure in case of non-payment of tolls.

SECTIONS.

107. Attempts to evade payment of toll.
 108. Table of tolls.
- General Provisions Regarding Taxation and Finance.*
109. Power to exempt from taxes or tolls.
 110. Council's power to write off irrecoverable taxes and tolls.
 111. Definition of Municipal Fund
 112. Budget estimate.
 113. Control of Government over Municipal Budget.
 114. Appointment of auditors of accounts.
 115. Power of Government to make rules.
 116. Contributions to expenditure incurred by other local authorities.

PART IV

PUBLIC HEALTH, SAFETY, AND CONVENIENCE.

CHAPTER VII—WATER, LIGHTING AND DRAINAGE.

Water Supply—Vesting of Works and Powers of Municipal Authorities.

117. Vesting of works in Municipal Council
 118. Construction and maintenance of water works.
 119. Trespass on premises connected with water supply.
 120. Prohibition of building over water mains.
 121. Meddling with the water main.

Supply for Domestic Use.

122. Council to provide water for domestic use.
 123. Control over house connections.
 124. Private water supply for consumption and domestic use and powers of executive authority to enforce provision of water supply.

Private-Water Supply for Non-domestic Purposes.

125. Executive authority's power to supply water for non-domestic purposes at rates fixed by Council.

Supply Beyond Limits of Municipality.

126. Supply without the Municipality.

ECTIONS.

Cutting of Water Supply.

- 127. Power to cut off water supply.
- 128. Non-liability of Council for reduction of stoppage of supply in certain cases.

Lighting.

- 129. Provision for lighting public streets.

Public Drainage.

- 130. Maintenance of system of drainage by Council.

Private Drainage.

- 131. Control over house drains, privies and cess-pools.
- 132. Connection of house drains with public drains.
- 133. Executive authority may close or limit the use of existing private drains.
- 134. Power of executive authority to drain premises in combination.
- 135. Buildings, etc., not to be erected without permission over drains.
- 136. Construction of culverts or drain coverings by owner or occupier.
- 137. Maintenance of troughs and pipes for catching water.

Public Latrines.

- 138. Provision of public latrines and urinals.

Private Latrines.

- 139. Provision of latrines by owner or occupier.
- 140. Provision of latrines for labourers.
- 141. Provision of latrines for markets, cartstands, cattle-sheds, etc.
- 142. Latrines to be screened from view and kept clean.

General Powers.

- 143. Power to carry wire, pipe, drains, etc., through private property.
- 144. Prohibition against making connection with mains without permission.
- 145. Power to require level of culvert, cable, etc., to be raised or lowered.

SECTIONS.

146. Powers in respect of works outside the Municipality.

CHAPTER VII.—SCAVENGING.

147. Municipality to arrange for the removal of rubbish and filth.
 148. Scavenging on occasions of fairs and festivals and contributions from persons having control over places of pilgrimage.
 149. Prohibition of improper disposal of carcasses, rubbish and filth.
 150. Prohibition of failure to deposit filth in receptacle, etc.
 151. Prohibition against keeping filth on premises too long, etc.
 152. Prohibition against allowing outflow of filth.
 153. Prohibition against using any cart without cover in the removal of filth, etc.
 154. Prohibition against throwing rubbish or filth into drains.

CHAPTER IX.—STREETS.

Public Streets.

155. Maintenance and repair of streets.
 156. Powers of Municipal authorities.
 157. Power to dispose of permanently closed streets.
 158. Acquisition of land and building for the improvement of street.
 159. Power to prescribe building line and street alignment.
 160. Buildings not to be constructed within street alignment or building line.
 161. Setting back projecting buildings or walls.
 162. Setting buildings forward to improve line of street.
 163. Projected streets.
 164. Watering of streets.
 165. Temporary closure of streets.
 166. Protection of appurtenances and materials of streets.
 167. Power of Municipality to recover expenses caused by extraordinary traffic.
 168. Licensing of motor vehicles plying for hire and motor lorries.

SECTIONS.

Private Streets

- 169. Owners' obligation to make a street when disposing of land as building sites.
- 170. Making of new private streets.
- 171. Alteration or demolition of street made in breach of section 170.
- 172. Power of executive authority to order work to be carried out or to carry it out himself in default.
- 173. Right of owners to require street to be declared public.

Encroachment on Streets.

- 174. Prohibition against obstructions in or over streets.
- 175. Public streets open to all.
- 176. Prohibition and regulation of doors, ground-floor, windows and bars opening outwards.
- 177. Removal of encroachments.
- 178. Power to allow certain projections and erections.
- 179. Precautions during repair of streets.
- 180. Prohibition against removal of bars and lights.
- 181. Prohibition against making holes and causing obstruction.
- 182. Occupation of poramboke without license.
- 183. License for work on buildings likely to cause obstruction.
- 184. Clearing of debris of fallen houses, etc., by occupiers.

Regulation of Traffic, etc.

- 185. Regulation of traffic, etc.

Use of Public Parks, etc.

- 186. Use of public Parks, etc.

Naming of Streets.

- 187. Naming of public streets.

Numbers on Buildings.

- 188. Numbering of buildings.

SECTIONS.

CHAPTER X.—BUILDING REGULATIONS.

General Powers.

- 189. Building Rules.
- 190. Building site and construction or reconstruction of buildings.
- 191. Power of Council to regulate future construction of certain classes of buildings in particular street or localities.
- 192. Buildings at corner of streets.
- 193. Prohibition against use of inflammable materials for buildings without permission.
- 194. Prohibition against constructing doors, ground-floor, windows and bars so as to open outwards.

Buildings Other Than Huts,

- 195. Application to construct or reconstruct building.
- 196. Necessity for prior approval of site.
- 197. Prohibition against commencement of work without permission.
- 198. Period within which executive authority is to signify approval or disapproval.
- 199. Period within which executive authority is to grant or refuse to grant permission to execute work.
- 200. Reference to Council if executive authority delays grant or refusal of approval or permission.
- 201. Grounds on which approval of site for, or license to construct or reconstruct building may be refused.
- 202. Lapse of permission.
- 203. Power of executive authority to require alteration of work
- 204. Stoppage of work endangering human life.

Wells.

- 205. Application of certain sections to wells.

Huts.

- 206. Application to construct or reconstruct huts.
- 207. Prohibition against commencement of work without permission.
- 208. Period within which executive authority is to grant or refuse to grant permission to execute the work.

SECTIONS.

209. Reference to Council if executive authority delays passing orders
210. Grounds on which permission to construct or reconstruct hut may be refused.
211. Lapse of permission.

External Walls, Alterations and Additions.

212. Maintenance of external walls in repair.
213. Applications of provisions to alterations and additions.

Powers of the Executive Authority.

214. Demolition or alteration of building work unlawfully commenced, carried on or completed.

Exemptions.

215. Exemptions.

CHAPTER XI.—NUISANCES.

Dangerous Structures Trees and Places.

216. Precautions in case of dangerous structures.
217. Precautions in case of dangerous trees.
218. Precautions in case of dangerous tanks, wells, holes, etc.
219. Power to stop dangerous quarrying.
220. Precautions against fire.

Control Over Waters, etc.

221. Prohibition of construction of wells, tanks, etc., without the executive authority's permission.
222. Filling in of pools, etc., which are a nuisance.
223. Regulation or prohibition of certain kinds of cultivation.
224. Cleansing of insanitary private tank or well used for drinking.
225. Duty of Council in respect of public well or receptacle of stagnant water.
226. Public wells, etc., open to all.
227. Prohibition against or regulation of washing animals or cloths or fishing or drinking in public water courses, tanks, etc.

SECTIONS.

228. Provision of public wash-houses.
 229. Prohibition against washing by washermen at unauthorised places.
 230. Prohibition against defiling of water tanks, etc., whether public or private

Control Over Abandoned Lands Untrimmed Hedges, etc.

231. Untenanted buildings or land.
 232. Removal of filth or noxious vegetation.
 233. Securing trees adjacent to house or well.
 234. Fencing of buildings or lands.
 235. Pruning of hedges and trees.

Control Over Insanitary Buildings.

236. Lime-washing and cleansing of buildings.
 237. Further powers with reference to insanitary buildings.
 238. Buildings unfit for human habitation.
 239. Abatement of overcrowding in dwelling-house or dwelling-place.

Control Over Certain Animals.

240. Prohibition against feeding certain animals on filth.
 241. Prohibition of stray cattle in streets.
 242. Prohibition against keeping animal so as to be a nuisance or danger.
 243. Power to destroy stray pigs and dogs.

General.

244. Power of executive authority to use or sell materials of dangerous structure taken down, etc., and procedure when there is no owner or occupier.
 245. (1) Making noise by musical instruments or otherwise in public streets and other public places for purposes of advertisement prohibited.
 (2) Playing of musical instruments in hotels, restaurants, etc., prohibited between 10 p. m. and 5 a. m.
 246. Limitation of compensation.

CHAPTER XII.—LICENSES AND FEES.

General Provision as to Licenses.

247. Exemption of Government from taking out license.

SECTIONS

Keeping of Animals..

- 248. Licenses for places in which animals are kept.
- 249. General powers of control over stables, cattle-sheds and cow-houses.
- 250. Power to direct discontinuance of use of buildings as stable, cattle shed or cow-house.
- 251. Provision of public cattle-stands and sheds.
- 252. Prohibition of private landing-places, halting-places bus-stands and cart-stands.
- 253. Prohibition of use of public places or sides of public street as cart-stand, etc.
- 254. Recovery of cart-stand fees, etc.

Industries and Factories.

- 255. Purposes for which places may not be used without license.
- 256. Application to be made for construction, establishment or installation of factory, work-shop or work-place in which steam or other power is to be employed.
- 257. Council may issue directions for abatement of nuisance caused by steam or other power.
- 258. Power of the Government to pass orders or give directions to Municipal Councils.
- 259. The executive authority may enter any factory, work-shop or work-place.

Slaughtering.

- 260. Provision of Municipal slaughter houses.
- 261. License for slaughter houses.
- 262. Slaughter of animals during festivals and ceremonies.
- 263. Slaughter of animals for sale as food.

The Milk Trade.

- 264. Regulation of milk trade.

Markets, Butchers, Fish-Mongers, Hawkers.

- 265. Public markets.
- 266. (a) Powers in respect of public markets.
- (b) Right of establishing public markets in place of private markets.

SECTIONS.

267. Executive authority's control over public markets.
268. Licensing of private markets.
269. Fee for license.
270. Sale in unlicensed private market.
271. Powers of Council in respect of private markets.
272. Suspension or refusal of license in default.
273. Prohibition against nuisances in private markets.
274. Power to close private markets.
275. Acquisition of rights of private persons to hold private market.
276. Duty of expelling lepers, etc., from markets and power to expel disturbers.
277. Butcher's, fish monger's and poulterer's license.
278. Power to prohibit or regulate the sale of articles in public streets.
279. Decision of disputes as to whether places are markets.
- Inspection of Places for Sale, etc.*
280. Duty of executive authority to inspect.
281. Powers of executive authority for purposes of inspection.
282. Preventing inspection by executive authority.
283. Power of executive authority to seize diseased animal, noxious food, etc.
284. Removing or interfering with article seized.
285. Power to destroy article seized.
286. Production of articles, etc., seized before Magistrate and powers of Magistrate to deal with them.
- Disposal of the Dead.*
287. Registration or closing of ownerless places for disposal of the dead.
288. Licensing of places for disposal of the dead.
289. Provision of burial and burning grounds and crematoria within or without Municipality.
290. Register of registered, licensed and provided places and prohibition of use of other places.
291. Report of burials and burnings.

SECTIONS.

- 292. Prohibition against use of burial and burning grounds dangerous to health or overcrowded with graves.
- 293. Application of the above sections.
- 294. Prohibitions in respect of corpses.
- 295. Grave digger's License.
- 296. Enforcement of the licensing provisions;

CHAPTER XIII — VITAL STATISTICS AND THE PREVENTION OF DISEASES.

Vital Statistics.

- 297. Compulsory registration of Vital Statistics.

Dangerous Diseases.

- 298. Definition of Dangerous disease.
- 299. Obligation of medical practitioner or owner or occupier of house to report dangerous disease.
- 300. Power of entry into suspected places.
- 301. Disinfection of buildings and articles.
- 302. Provision of places for disinfection and power to destroy infected articles.
- 303. Prohibition against transfer of infected articles.
- 304. Power of Council to prohibit use of water likely to spread infection.
- 305. Executive authority may order removal of patients to hospital.
- 306. Prohibition against infected person carrying on occupation.
- 307. Prohibition against diseased person entering public conveyance.
- 308. Letting of infected buildings.
- 309. Powers to order closure of places of public entertainment.
- 310. Minor suffering from dangerous disease not to attend school.

Small-Pox.

- 311. Compulsory vaccination.
- 312. Obligation to give information of small-pox.
- 313. Prohibition of inoculation for small-pox.

SECTIONS.

PART V.

SUBSIDIARY LEGISLATION AND PENALTIES.

CHAPTER XIV.—RULES, SCHEDULES, AND BY-LAWS

314. Power of Government to frame forms and make rules.
315. Power of Government to alter schedules.
316. Effect of schedules.
317. Power of Council to make by-laws, etc.
318. Conditions precedent to making of by-laws.
319. Confirmation of by-laws by Government.
320. Copies of Act, Rules and by-laws to be sold at Municipal Office.

CHAPTER XV.—PENALTIES.

321. General provisions regulating penalties specified in the schedules.
322. Penalty for acting as Councillor, Chairman or Vice-Chairman when disqualified.
323. Penalty for acquisition by Municipal officer of interest in contract or work.
324. Penalty for omission to take out license for vehicle or animal.
325. Penalty for unlawful building.
326. (1) Notice to scavengers before discharge.
(2) Penalty for withdrawal of scavengers without notice.
(3) Application of sub-sections (1) and (2) to other Municipal servants.
327. Wrongful restraint of executive authority and his delegates.
328. Penalty for not giving or giving false information.

PART VI.

CHAPTER XVI.—PROCEDURE AND MISCELLANEOUS.

Appeals.

329. Appeals from Chairman or executive authority to the Council.

Power to Summon.

330. Summons to attend and give evidence or produce documents.

Notices, Etc.

331. Form of notices and permissions.
332. Signature on documents.
333. Publication of notifications.

SECTIONS.

334. Method of serving documents.

Relation of Occupier to Owner.

335. Recovery by occupier of sum leviable from owner.

336. Obstruction of owner by occupier.

337. Execution of work by occupier in default of owner.

Executive Authority's Power of Entry and Inspection.

338. Power of entry to inspect, survey or execute the work

339. Power of entry on lands adjacent to works.

340. Inspection and stamping of weights and measures.

Power to Enforce Licensing Provisions, Orders, Etc.

341. Consequences of failure to obtain licenses, etc. or of breach of the same.

342. Time for complying with order and power to enforce in default.

343. Recovery of expenses from persons liable and limitation of liability of occupier.

344. Relief to agent and to trustees.

345. Power of executive authority to agree to receive payment of expenses in instalments.

Payment of Compensation, Etc. by and to the Municipality.

346. Power of Municipality to pay compensation.

347. Recovery of sums due to the Council.

348. Limitation for recovery of dues.

349. Procedure in dealing with surplus sale proceeds.

350. Persons empowered to prosecute.

351. Imprisonment in default of payment and application of fines.

352. Payment of compensation for damage to Municipal property.

Legal Proceedings.

353. Institution of suits against Municipal authorities, officers and servants.

354. Provision respecting institution, etc. of Civil and Criminal actions and obtaining of legal advice.

SECTIONS.

355. Indemnity to Municipal authorities, officers and agents.
 356. Liability of Chairman, members and executive authority for loss, waste or mis-application.
 357. Sanction for prosecution of Chairman, councillor or executive authority.
 358. Assessment, etc. not to be impeached.

Police.

359. Duties of police officers.
 360. Power of police officer to arrest persons.
 361. Exercise of powers of police officer by Municipal servants.

Miscellaneous.

362. Application of term "Public Servant" to Municipal Officers' agents and sub-agents.
 363. Prohibition against obstruction of Municipal authorities, servants and contractors.
 364. Prohibition against removal of mark.
 365. Prohibition against removal or obliteration of notice.
 366. Summary powers of executive authority.
 367. Prohibition against unauthorised dealings with public place or materials.

Transitional and Transitory Provisions

368. Passing of property and rights to Municipality as constituted under this Act.
 369. Commencement of Act.
 370. Continuance in office of present Chairman and Councillors.
 371. Procedure for recovery of arrears of taxes, etc.

General Provisions.

372. Application in particular Municipalities.
 373. Special provisions in the case of newly constituted Municipal Councils.
 374. Special provision in the case of newly constituted and reconstituted Municipal Councils

Reference to Chairman in other Enactments, Notifications, Etc., Issued Thereunder.

375. References to Chairman in other enactments and Notifications etc.

Schedules I to VIII.

THE COCHIN MUNICIPAL ACT.

(XVIII Of 1113.)

*Passed by His Highness the Maharaja of Cochin
on the 8th day of Meenam 1113, corresponding
to the 21st day of March 1938.*

Whereas it is expedient to consolidate and amend Preamble.
the law relating to Municipalities in Cochin; It is here-
by enacted as follows:—

PART I.

CHAPTER I—PRELIMINARY.

1. (1) This Act may be called the Cochin Municipal Act, XVIII of 1113. Title and extent.
- (2) It extends to the whole of Cochin.
2. The Cochin Municipal Act, XI of 1096, and all its amending Acts are hereby repealed. Repeal of enactments
3. In this Act unless there is anything repugnant Definitions
in the subject or context.—
 - (i) *Appoint.*—Appoint includes to appoint temporarily or in an officiating capacity.
 - (ii) *Appointment.*— Appointment includes temporary and officiating appointments.
 - (iii) *Building.*—Building includes a house, out-house, stable, latrine, reservoir, shed, hut, wall other than a boundary wall (not exceeding eight feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever.
 - (iv) *Building line.*—Building line means a line which is in rear of the street alignment and to which the main wall of a building abutting on a street may lawfully extend.

(v) *Carriage*.—Carriage includes any wheeled vehicle with springs or other appliances acting as springs; and all kinds of motor cars, motor lorries, motor omnibuses, motor cycles, bicycles, tricycles, rickshaws and palanquins.

(vi) *Cart*.—Cart includes any wheeled vehicle which is not a carriage.

(vii) *Casual election*.—Casual vacancy means a vacancy occurring otherwise than by efflux of time and casual election means an election held on the occurrence of a casual vacancy.

(viii) *Company*.—Company means a company as defined in the Indian Companies Act, 1913 as amended by Act XXII of 1936, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent or of an Act of the Legislature of a British possession or under the Cochin Companies Act, IV of 1080, or under the Indian Companies Act, 1913 as amended by Act XXII of 1936 and as made applicable to Cochin by His Highness the Maharaja's Proclamation and includes any firm or association carrying on business in Cochin State, whether incorporated or not, and whether its principal place of business is situated in Cochin or not, but shall not include any co-operative society registered under the Cochin Co-operative Societies Act.

(ix) *Election authority*.—Election authority means such authority not being the Chairman or Vice-Chairman or a Councillor as may be prescribed.

(x) *European*.—European means any person of European descent who either was born in or has a domicile in the United Kingdom or in any British possession or in any State of India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile.

(xi) *Executive authority*.—Executive authority means the Commissioner in the case of Municipalities in which Government have under section 13 appointed Commissioners and the Chairman in the case of other Municipalities.

(xii) *Filth*.—Filth includes sewage, night-soil, dung, dirt, putrid and putrifying substances and all offensive matter.

(xiii) *Hut*.—Hut means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever material made which the Council may declare to be a hut for the purposes of this Act.

(xiv) *Latrine*.—Latrine includes privy, water closet and urinal.

(xv) *Market*.—Market means a place where persons assemble for selling and for buying meat, fish, fruit, grain, vegetables or any other article of food or commerce or any vendible article or for the sale or purchase of live-stock or poultry, and which every member of the public has, of common right, the liberty to enter and frequent for the purpose of bringing thither and there exposing for sale and selling or of buying such commodities as are vendible there.

(xvi) *Municipal Office*.—Municipal Office means the principal office of any Municipal Council.

(xvii) *Nuisance*.—Nuisance includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property.

(xviii) *Occupier*.—Occupier includes any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building

or part of the same in respect of which the word is used.

(xix) *Ordinary vacancy and ordinary election.*— Ordinary vacancy means a vacancy occurring by efflux of time and ordinary election means an election held on the occurrence of an ordinary vacancy.

(xx) *Owner.*—Owner includes —

(a) the person for the time being receiving or entitled to receive whether on his own account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purpose, the rent or profits of the property, in connection with which the word is used, and

(b) the person for the time being in charge of the animal or vehicle, in connection with which the word is used.

(xxi) *Palanquin.*—Palanquin includes tonjons, manchils and chairs carried by men by means of posts, but not slings or cots used for the conveyance of children or aged or sick people.

(xxii) *Prescribed.*—Prescribed means prescribed by the Government by rules made under this Act.

(xxiii) *Private Street.*—Private street means any street, road, square, court, alley, passage or riding path which is not a "public street" but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises.

(xxiv) *Public Street.*—Public street means any street, road, square, court, alley, passage or riding path, over which the public have right of way whether a thoroughfare or not and includes—

(a) the roadway over any public bridge or causeway;

(b) the footway attached to any such street, public bridge or causeway; and

(c) the drains attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, veranda, or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to Government.

(xxv) *Public water courses, etc.*—Public water courses, springs, wells and tanks include those used by the public to such an extent as to give a prescriptive right to such use.

(xxvi) *Reconstruction.*—Reconstruction of a building includes—

(a) the re-erection wholly or partially of a building after more than one half of its cubical contents has been taken down or burnt down, or has fallen down whether at one time or not;

(b) the re-erection wholly or partially of any building of which an outer wall has been taken down or burnt down or has fallen down to or within ten feet of the ground adjoining the lowest storey of the building, and of any frame building which has so far been taken down or burnt down or has fallen down as to leave only the frame work of the lowest storey;

(c) the conversion into a dwelling house or a place of public worship of any building not originally constructed for human habitation or for public worship, as the case may be, or the conversion into more than one dwelling house of a building originally constructed as one dwelling house only or the conversion of a dwelling house into a factory;

(d) the re-conversion into a dwelling house or a place of public worship or a factory of any building which has been discontinued as, or appropriated

for any purpose other than, a dwelling house or a place of public worship or a factory as the case may be.

(xxvii) *Residence—Reside.*—A person is deemed to have his residence or to reside in any house if he sometimes uses any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling in which he resides, if he is at liberty to return to such house at any time and has not abandoned his intention of returning.

(xxviii) *Rubbish.*—Rubbish means dust, ashes, broken bricks, mortar, broken glass and refuse of any kind which is not “filth”.

(xxix) *Salary.*—Salary means pay and acting pay or payment by way of commission and includes exchange compensation allowances, but not allowances for house rent, carriage hire or travelling expenses.

(xxx) *Scavenger.*—Scavenger means a person employed in collecting or removing filth, in cleansing drains or slaughter houses or in driving carts used for the removal of filth.

(xxxi) *Street alignment.*—Street alignment means a line dividing the lands comprised in and forming part of a street from the adjoining land.

(xxxii) *Water course.*—Water course includes any river, stream or channel, whether natural or artificial.

(xxxiii) *Year.*—Year means the financial year.

PART II.

ESTABLISHMENT, CONSTITUTION AND GOVERNMENT OF MUNICIPALITIES.

CHAPTER II.—CREATION AND ABOLITION OF MUNICIPALITIES.

4.—(1) The Government may, by notification, declare their intention.—

(a) to constitute as a Municipality any town, village, hamlet, bazaar, station or other local area or

any group of the same in the immediate neighbourhood of one another; or

(b) to exclude from a Municipality any local area comprised therein and defined in such notification; or

(c) to include within a Municipality any local area in the vicinity thereof and defined in such notification.

(2) Any inhabitant of a local area or taxpayer of a Municipality in respect of which any such notification has been published, may, if he desires to object to anything therein contained, submit his objection in writing to the Government within six weeks from the publication of the notification and the Government shall take all such objections into consideration.

(3) When six weeks from the publication of the notification have expired, and the Government have considered the objections, if any, which have been submitted, they may, as the case may be, by notification declare to be a Municipality, or exclude from or include in a Municipality, the local area or any portion thereof.

(4) This Act shall come into force in, or cease to apply to, any Municipality or part thereof, as the case may be, on such date as may be specified in the notification under sub-section (3).

5 —(1) The Government may, by notification, abolish any Municipality to which this Act applies:

Abolition of
Municipalities.

Provided as follows:—

(a) the Government shall before they issue such notification, communicate to the Municipal Council the grounds on which they propose to do so, fix a reasonable period for the Municipal Council to show cause against the proposal and consider its explanations and objections, if any:

(b) the notification shall contain a statement of the Governments' reasons and shall be laid on the table of the Legislative Council.

(2) From such date as may be specified in such notification, this Act and all notifications, rules, by-laws, regulations, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the area previously comprised in the Municipality; the balance of the municipal fund and all other property vested in the Municipal Council shall vest in the Government, and the liabilities of the Council shall be transferred to the Government.

(3) All property vested in the Government under sub-section (2) shall be applied by them to discharge the liabilities imposed on them by that sub-section or for the promotion of the safety, health, welfare and convenience of the inhabitants of the area previously comprised in the Municipality.

CHAPTER III.—CONSTITUTION OF MUNICIPAL AUTHORITIES.

Authorities.

6.—(1) The Municipal Authorities charged with carrying out the provisions of this Act are—

(a) A Council;

(b) A Chairman;

and (c) An Executive Authority.

(2) The Municipal Council shall, by the name of the Municipality, be a body corporate, shall have perpetual succession and a common seal and subject to any restriction or qualification imposed by this or any other enactment shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property movable

The Municipal
authorities
and their
incorporation

or immovable, of entering into contracts and of doing all things necessary for the purpose of its constitution.

7. (1) The Municipal Council shall consist of such number of Councillors as may be notified by the Government in accordance with the following table:—

	Number of Councillors.
Municipalities with a population—	
Not exceeding 20,000 at the last census ..	16
Exceeding 20,000 but not exceeding 30,000 ..	20
Exceeding 30,000 but not exceeding 40,000 ..	24
Exceeding 40,000 but not exceeding 50,000 ..	28
Exceeding 50,000 but not exceeding 1,00,000 ..	32
Exceeding 1,00,000 ..	36

(2) The Councillors shall be partly appointed by Government and partly elected by the Municipal electors, as the Government may determine by notification:

Provided that the number of Councillors appointed by the Government shall not exceed one-fifth of the total number and of the Councillors appointed by the Government not more than half shall be Government Officers.

8.—(1) The term of office of Councillors shall save as otherwise expressly provided in this Act be three years beginning and expiring at noon on the first day of Vrischigam.

Constitution
of Council.

Term of
Councillors
and filling
up seats.

(2) Vacancies in the office of Councillors appointed by the Government under section 7 (2) shall be filled up by the Government.

(3) Ordinary vacancies in the office of an elected Councillor shall be filled at ordinary elections which shall be fixed by the election authority to take place on such day or days in the months of Chingam and Kanni next preceding the vacancies as he thinks fit:

Provided that the Government may, for sufficient cause, direct or permit the holding of any ordinary election after the end of Kanni.

(4) A Councillor elected at an ordinary election held after the occurrence of a vacancy or appointed by the Government after the occurrence of the vacancy shall enter upon office forthwith, but shall hold office only so long as he would have been entitled to hold office if he had been elected or appointed before the occurrence of the vacancy.

(5) A casual vacancy in the office of an elected Councillor shall be filled at a casual election which shall be fixed by the election authority to take place as soon as may be after the occurrence of the vacancy:

Provided that no casual election shall be held to fill a vacancy occurring within three months before the ordinary date of retirement and that such vacancy shall be filled at the next ordinary election.

(6) A councillor elected or appointed at a casual vacancy shall enter upon office forthwith, but shall hold office so long only as the Councillor in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

9.—(1) If at an ordinary or casual election held under section 8 no Councillor is elected, a fresh election

shall be held on such day as the election authority may fix. Councillor is elected.

(2) If at such fresh election no Councillor is elected the Council may, in the manner prescribed, elect a qualified person to fill the vacancy.

(3) The term of office of a Councillor elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election as the case may be.

10. No Chairman, Vice-Chairman or Councillor shall receive or be paid from the funds at the disposal of or under the control of the Council any salary or other remuneration for services rendered by him in any capacity whatsoever. No Councillor to receive remuneration.

Explanation.—The words 'salary or other remuneration' in this section do not include such conveyance allowances to Chairman or travelling allowances as may be sanctioned by the Government.

11.—(1) Every Council shall elect one of its members to be its Chairman. The Chairman and the Vice-Chairman of the Municipality.

(2) The Council shall elect one of its members other than the Chairman to be its Vice-Chairman.

(3) A Chairman shall be deemed to have vacated his office on the expiry of his term of office as a Councillor or on his otherwise ceasing to be a Councillor.

(4) A Vice-Chairman shall be deemed to have vacated his office—

(i) on the expiry of his term of office as a Councillor or on his otherwise ceasing to be a Councillor, or

(ii) on his election as Chairman.

(5) When the office of Chairman is vacant the Vice-Chairman shall exercise the functions of the Chairman until a new Chairman assumes office.

(6) When the office of Chairman is vacant and there is either a vacancy in the office of Vice-Chairman or the Vice-Chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the Tahsildar of the Taluk shall, after giving notice of not less than seven clear days to the Councillors, convene a meeting for the election of a Chairman and until a new Chairman or Vice-Chairman is elected and assumes office, or the Vice-Chairman returns to jurisdiction or recovers from his incapacity as the case may be, the Tahasildar shall, notwithstanding anything contained in this Act or in the rules or notifications issued thereunder, be ex-officio member and Chairman of the Council.

(7) An out-going Chairman or Vice-Chairman is eligible for re-election.

Explanation.—A new Chairman or Vice-Chairman will be deemed to have assumed office on his being declared elected as such.

Procedure
when no
Chairman
or Vice-
Chairman is
elected.

12. If at an election held under section 11 no Chairman or Vice-Chairman is elected, a fresh election shall be held.

Commis-
sioner of the
Municipality.

13.—(1) The Government may, if they think it necessary, appoint by notification a Commissioner for any Municipality whose income is above seventy-five thousand rupees. Every notification issued under this sub-section shall specify the reasons therefor.

(2) The Commissioner shall, save as otherwise provided in this Act, hold office for a period of three years from the date of his appointment. An out-going Commissioner shall be eligible for reappointment if otherwise qualified.

(3) No person shall be appointed to be a Commissioner and no Commissioner shall continue to hold office as such, after he has attained the age of fifty-five.

(4) The Government may remove the Commissioner from office if he becomes incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient, and shall remove him, if such removal is recommended by a resolution of the Council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the Council.

(5) The Commissioner shall be a whole-time officer of the Municipality and shall not undertake any work unconnected with his office without the sanction of the Municipal Council and the Government.

(6) (a) The Commissioner shall be paid out of the Municipal fund such salary and allowances not exceeding rupees three hundred per mensem in the aggregate as the Government may fix for each Municipality from time to time.

(b) If the Commissioner is an officer in the service of the Government, the Municipal Council shall pay to Government such contribution towards his leave allowances, pension and provident fund as may be payable under the Cochin Service Regulation.

(7) Leave may be granted to the Commissioner by the Government. Whenever such leave is granted, the Government shall appoint some person to officiate in his office.

The Chairman and the Executive Authority.

14. The Chairman of the Municipal Council shall—

Functions of
the Chair-
man

(a) make arrangements for the election of the Vice-Chairman;

- (b) convene the meetings of the Council; and
- (c) perform all the duties and exercise all the powers specifically imposed or conferred on the Chairman by this Act.

Functions of
the execu-
tive autho-
rity.

15. The executive authority of the Municipal Council shall—

(a) carry into effect the resolutions of the Council provided that when the executive authority thinks that any resolution is open to objection on the grounds mentioned in section 35, he may report to the Chairman who may suspend the execution of the resolution and submit the case for orders of the Government, who may then deal with the case under section 35. The executive authority shall be bound to give effect to every resolution of the Council unless such resolution is modified or suspended or cancelled by the Government;

(b) furnish to the Council such periodical reports regarding the progress made in carrying out the resolutions of that body in the collection of taxes as the Council may direct; and

(c) perform all the duties and exercise all the powers specially imposed or conferred on the executive authority by this Act and subject, whenever it is hereinafter expressly so provided, to the sanction of the Council and subject to all other restrictions, limitations and conditions hereinafter imposed, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes of this Act.

Chairman
to report
failure of
the Execu-
tive autho-
rity to carry
into effect

16. If it appears to the Chairman that the executive authority has made default in carrying out the resolutions of the Council, the Chairman, after giving the executive authority a reasonable opportunity of explanation, shall send a report thereon together with the

explanation, if any, of the executive authority to the Government and at the same time forward a copy of the same to the Council.

resolutions
of the
Council.

17. In the case of Municipalities having Commissioners the Chairman shall have full access to all the records of the Municipal Council and no official correspondence between the Council and the Government shall be conducted except through the Chairman. The Chairman shall be bound to transmit communications addressed through him by the Commissioner to the Government or by the Government to the Commissioner.

Rights of
Chairman
where a
Commis-
sioner has
been ap-
pointed.

18. The Chairman shall, by virtue of his office, be a member of every Committee of the Council.

Chairman to
be member
of every
Committee
of the
Council.

19. The executive authority may, in cases of emergency, direct the execution of any work or the doing of any act which would ordinarily require the sanction of the Council and the immediate execution or doing of which is in his opinion, necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the Municipal Fund:

Emergency
powers of
executive
authority

Provided that—

(a) In the case of Municipalities having Commissioner as Executive Authority, he shall not act under this section, without bringing the matter to the notice of the Chairman in writing,

(b) he shall not act under this section in contravention of any order of the Council prohibiting the execution of any particular act, and

(c) he shall report the action taken under this section and the reasons therefor to the Council at its next meeting.

Delegation
and devolu-
tion of
functions of
Chairman.

20.—(1) The Chairman may, by an order in writing, delegate any of his functions including his functions as executive authority if he is also the executive authority, to the Vice-Chairman:

Provided that he shall not delegate any functions which the Municipal Council expressly forbids him to delegate.

(2) If the Chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions including where he is also the executive authority his functions as such, except those of promoting, withholding promotion from reducing, removing or dismissing any Municipal officer or servant, shall, during such absence or incapacity devolve on the Vice-Chairman:

Provided that where the absence from jurisdiction of the Chairman is within the State and is on business connected with the Municipality, the Chairman's functions shall not, except to the extent, if any, to which functions have been delegated by him under sub-section (1) devolve on the Vice-Chairman.

(3) If the Vice-Chairman also has been continuously absent from jurisdiction for more than fifteen days or is incapacitated or if the office of Vice-Chairman is vacant, the Chairman may, by an order in writing, delegate any of his functions including his functions as executive authority if he is also the executive authority, to any Councillor who shall be styled 'Chairman-delegate' during the period of delegation:

Provided that—

(i) when an order of delegation made under this sub-section is in force no further order of delegation of any functions shall be made in favour of any other

than the Councillor in whose favour the order in force was made;

(ii) no delegation under this sub-section shall, without the special sanction of the Council, be made for any period exceeding in the aggregate ninety days in any year; and

(iii) every order made under this sub-section shall be communicated forthwith to the Council and the Diwan.

(4) Subject to any restrictions that the Council may impose, the Chairman may, where he is also the executive authority, by an order in writing, delegate any of his executive functions to any officer or servant of the Council or to any officer of the Government.

(5) The exercise or discharge of any functions delegated under sub-sections (1), (3) and (4) shall be subject to such restrictions, limitations and conditions, if any as may be laid down by the Chairman and shall also be subject to his control and revision. The Chairman shall also have power to control and revise the exercise or discharge of any functions devolving on the Vice-Chairman under sub-section (2).

21.—(1) (a) The Commissioner shall have the right to attend the meetings of the Council or any Committee thereof, and take part in the discussions thereat but shall not have the right to move any resolution or to vote.

Rights and duties of the Commissioner.

(b) He shall attend any meeting of the Council or any Committee if required to do so by the Chairman.

(2) In the case of Municipalities having Commissioners, the officers and servants of the Municipal Council shall be subordinate to the Commissioner.

(3) Subject to any directions given or restrictions imposed by the Government or the Council the Commissioner may, by order in writing, delegate any of his functions to any officer or servant of the Council or to any officer of the Government. The exercise or discharge of any functions so delegated shall be subject to such restrictions, limitations and conditions as may be laid down by the Commissioner and shall also be subject to his control and revision.

The Council.

Functions of
the Council.

22. Subject to the provisions of this Act the Municipal administration shall vest in the Council, but the Council shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to the Chairman or executive authority.

Duties and
powers of
individual
Councillors.

23.—(1) Any Councillor may call the attention of the executive authority to any neglect in the execution of Municipal work, to any waste of Municipal property, or to the wants of any locality and may suggest any improvements which may appear desirable.

(2) Every Councillor shall have the right to move resolutions and to interpellate the Chairman on matters connected with the Municipal administration subject to such rules as may be framed by the Council.

(3) Every Councillor shall have access during office hours to the records of the Council after giving due notice to the executive authority provided that the executive authority may, in any particular case, for reasons given in writing, forbid such access.

Council's
power to call
for records.

24. The Council may, at any time, require the executive authority to produce any document which is in his custody. The executive authority shall comply with every such requisition unless in his opinion immediate compliance therewith would be prejudicial to the interests of the Council or of the public, in which

case he shall make a declaration in writing to that effect and shall, if required by the Council, refer the question to the Diwan whose decision shall be final.

25. A Council may constitute Committees for the purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them; or may appoint individual Councillors or Committees to enquire into and report or advise on any matters which it may refer to them.

Appointment
of Com-
mittees.

26.—(1) It shall be lawful for the Council from time to time by a resolution supported by not less than one half of the sanctioned strength of the Council to appoint as members of any Committee any persons who are not Councillors but who may, in the opinion of such Council, possess special qualifications for serving on such Committee. But the number of persons so appointed on any Committee shall not exceed one-third of the total number of members of such Committee. All the provisions of this Act relating to the duties, powers, liabilities and disqualifications and disabilities of Councillors shall, save as regards the disqualification on the ground of residence, be applicable, so far as may be, to such persons.

Appointment
of special
Committee.

(2) (a) A Council may and if so required by the Government shall, join with one, or more than one, other local authority in constituting a joint Committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible.

(b) A joint Committee may include persons who are not members of the local authorities concerned but who may, in their opinion, possess special qualifications or special interest for serving on such Committee:

Provided that the number of such persons shall not exceed one-third of the total number of members of the joint Committee.

(c) The constitution of a joint Committee shall be by means of rules which shall not except in the cases referred to in sub-clauses (f) and (g), have effect unless assented to by each of the local authorities concerned.

(d) The rules shall determine:—

- (i) the total number of members of the joint Committee;
- (ii) the number who shall be members of the local authorities concerned and the number who may be outsiders;
- (iii) the persons who shall be members of the joint Committee or the manner in which they shall be elected or appointed;
- (iv) the person who shall be Chairman of the joint Committee or the manner in which he shall be elected or appointed;
- (v) the term of office of members and Chairman;
- (vi) the powers being powers exercisable by one or more of the local authorities concerned, which may be exercised by the joint Committee; and
- (vii) the procedure of the joint Committee.

(e) Rules made under sub-clauses (c) and (d) may be varied or revoked provided that all the local authorities concerned assent to such variation or revocation.

(f) If the Government take action under sub-clause (a) they may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to in sub-clauses (c) and (d).

(g) If any difference of opinion arises between local authorities under any of the foregoing provisions of this section, it shall be referred to Government whose decision shall be final.

27. The Council with the approval of the Government may, after previous publication, make by-laws not inconsistent with this Act or with any rules framed by the Government in regard to the following matters:—

Rules and regulations for proceedings of Council.

(a) The time and place of the meetings of the Council.

(b) The manner in which notice thereof shall be given.

(c) The preservation of order and the conduct of proceedings at meetings, and the powers which the Chairman may exercise for the purpose of enforcing his decisions on points of order.

(d) The suspension of Councillors for a period not exceeding one month.

(e) The division of duties among the members of the Council.

(f) The constitution and procedure of Committees.

(g) The delegation of its powers, duties or functions.—

(i) to the Chairman, a Councillor, an officer or servant of the Council or an officer of Government, or

(ii) to a Committee constituted under clause (f) or to its Chairman or to any one or more of its members.

(h) The interpellations of the Chairman by the Councillors on matters connected with the Municipal administration

(i) All other similar matters.

Notification
of election.

28. All elections of Chairman, Vice-Chairman and members of Municipal Councils shall be notified in the Cochin Government Gazette.

Presidency
of Council.

29.—(1) Every meeting of the Council shall be presided over by the Chairman; in his absence by the Vice-Chairman; and in the absence of both the Chairman and the Vice-Chairman by a Councillor chosen by the meeting to preside for the occasion.

(2) The Chairman shall preserve order and shall decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the Chairman on any point of order shall, save as is otherwise expressly provided in this Act, be final.

(3) A Vice-Chairman or Councillor presiding for the occasion shall, for that meeting, and during the period that he presides over it have all the powers of the Chairman.

Councillor
when to
abstain from
taking part
in discussion
and voting.

30.—(1) No Councillor shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Council or any Committee, if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest by himself or his partner.

(2) The Chairman may prohibit any Councillor from voting or taking part in the discussion of any matter in which he believes such Councillor to have such interest or he may require such Councillor to absent himself during the discussion.

(3) Such Councillor may challenge the decision of the Chairman, who shall thereupon put the question to the meeting. The decision of the meeting shall be final.

(4) If the Chairman is believed by any Councillor present at the meeting to have any such

pecuniary interest in any matter under discussion, he may, if a motion to that effect be carried, be required to absent himself from the meeting during such discussion.

(5) The Councillor concerned shall not be entitled to vote on the question referred to in subsection (3) and the Chairman concerned shall not be entitled to vote on the motion referred to subsection (4).

Explanation.—Chairman in this section includes a Vice-Chairman or Councillor presiding for the occasion.

31.—(1) Any Councillor other than the Chairman and any Vice-Chairman may resign his office by giving notice to the Chairman; the Chairman may resign by giving notice to the Council. Such resignation shall take effect in the case of a Councillor or Vice-Chairman from the date on which it is received by the Chairman and in the case of a Chairman from the date on which it is placed before a meeting of the Council.

Power of
Chairman,
Vice-Chair
man or
Councillor
to resign

(2) Any person holding a salaried office under Government who is a Councillor of any Municipality shall, on being transferred permanently or temporarily from the Municipality or on quitting the Municipality with the intention of remaining absent therefrom for more than three months be deemed to have vacated his office of Councillor.

32. No act of a Municipal Council or of a Committee thereof or of any person acting as Chairman, Vice-Chairman or member of the Municipal Council or Committee shall be deemed to be invalid by reason only of a defect in the establishment of the Municipality or Committee or on the ground that the Chairman, Vice-Chairman or any member of the Council or Committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any

Act of
Municipal
Council, etc.,
not to be
invalidated
by informa-
lity, etc.

irregularity or illegality in his election or appointment or by reason of such act having been done during the period of any vacancy in the office of Chairman, Vice-Chairman or member of the Council or Committee.

Administration Report.

Annual
Adminstra-
tion Report.

33.—(1) As soon as may be after the first day of Kanni in every year and not later than such date as may be fixed by the Government, the Municipal Council shall submit to the Government a report on the administration during the preceding year in such form and with such details as the Government may direct.

(2) The executive authority shall prepare the report; the Municipal Council shall consider his report and forward it to the Government with its resolutions thereon, if any.

(3) The report and the resolutions thereon, if any, shall be published in such manner as the Council, subject to the approval of the Government, may direct.

The Government.

Power of
Government
for purposes
of control.

34. The Government may—

(a) call for any document in the possession or under the control of any Council or executive authority;

(b) require any executive authority or Council to furnish any return, plan, estimate or statement, account or statistics;

(c) require any executive authority or Council to furnish any information or report on any Municipal matter;

(d) record in writing for the consideration of any executive authority or Council any observations in regard to Municipal matters.

35.—(1) The Government may, by order in writing—

Power to suspend action under the Act.

(i) suspend or cancel any resolution passed, order issued or license or permission granted; or

(ii) prohibit the doing of any act which is about to be done or is being done in pursuance or under colour of this Act if in their opinion—

(a) such resolution, order, license, permission or act has not been legally passed, issued, granted or authorised, or

(b) such resolution, order, license, permission or act is in excess of the powers conferred by this Act or any other law, or

(c) the execution of such resolution or order, the continuance in force of such license or permission or the doing of such act is likely to cause obstruction, injury or annoyance to any person lawfully employed or danger to human life, health or safety or is likely to lead to a riot or an affray:

Provided that the Government shall, before taking action under this section on any of the grounds referred to in clauses (a) and (b) give the authority or person concerned an opportunity for explanation.

(2) If, in the opinion of the executive authority, immediate action is necessary on any of the grounds referred to in clause (c) of sub-section (1), the executive authority may suspend the resolution, order, license, permission or act as the case may be and report to the Government who may thereupon either rescind the order of the executive authority or after giving the authority or person concerned passing such resolution or order, issuing such license or permission or doing such act, a reasonable opportunity of explanation, direct that it continues in force with or without modification permanently or for such period as they think fit.

Power to
authorise
any officer
in case of
emergency
to execute
any work or
to do any
act

36.—(1) The Government may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which the Council or executive authority is empowered to execute or to do, and the immediate execution or the doing of which is, in their opinion, necessary for the safety of the public and may direct that the expense of executing such work or doing such act incurred as the emergency may require, shall be paid from the Municipal fund.

(2) If the expense is not so paid, the Diwan may direct the person having the custody of the Municipal fund to pay it in priority to any other charge against the fund.

(3) Such person shall, as far as the funds to the credit of the Municipal Council admit, be bound to comply with such direction.

Power to
supervise
Municipali-
ties.

37.—(1) The Government may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the Municipal Councils under this Act.

(2) All institutions maintained by any Municipal Council and all documents relating thereto shall at all times be open to inspection of such officers as the Government may appoint in that behalf.

(3) Municipal authorities and Municipal officers and servants shall be bound to afford to inspecting and superintending officers of the Government appointed under this section such access at all reasonable times to Municipal property or premises and to all documents which they may consider to be necessary to enable them to discharge their duties of inspection or superintendence.

(4) The Director of Public Health shall be the statutory Health Inspector of all Municipalities, concerning all matters relating to Public Health that are referred to in Part IV of this Act. He shall have access to such Municipal property or premises and

shall be entitled, subject to any rules that may be framed by the Government for his guidance, to inspect such registers, books, accounts and other documents and to require such information as he may consider necessary to enable him to discharge his duties as statutory Inspector. Such recommendations as may be made by him in connection with the matters referred to in Part IV of the Act shall be carried out by the Municipal Council concerned so far as possible and in cases where the Municipal Council disagrees with such recommendations or finds itself unable to carry them into effect that fact shall be promptly reported by the Municipal Council to the Government whose orders on the matter shall be final.

38.—(1) If at any time it appears to the Government that a Municipal Council, Chairman or executive authority has made default in performing any duty imposed by or under this or any other Act, they may, by order in writing, fix a period for the performance of such duty.

Power to undertake works for or to take action in default of a Municipality.

(2) If such duty is not performed within the period so fixed, the Government may appoint some person to perform it and may direct that the expense of performing it shall be paid by the Municipal Council.

(3) The Government may, with the consent of the Municipal Council, undertake on its behalf the construction of water supply, drainage or other works, appoint persons to carry out the construction of such works and direct that the expense including the pay of such persons be paid from the Municipal fund.

(4) If expenses which the Government have directed under sub-section (2) or (3) to be paid from Municipal fund, are not so paid, the Diwan may direct the person having the custody of the Municipal fund to pay it in priority to any other charge against such fund except charges for the service of authorised loans.

(5) Such person shall, so far as the funds to the credit of the Municipal Council admit, be bound to comply with such direction.

Lending of money from public funds to Municipalities.

39. The Government may direct by notification that any sum of money which may, in their opinion, be required for giving effect to their orders be lent from the public treasury at such rate of interest and on such terms as to repayment and otherwise as may be fixed for grant of loans from public funds to Municipalities generally.

Borrowing of money by Municipalities.

40.—(1) The Municipal Council may, in pursuance of a resolution passed at a meeting specially convened in that behalf and with the sanction of the Government and in accordance with the rules framed by the Government, borrow, by debenture or otherwise, on the security of its funds or any portion thereof, from the Government or from any person or persons any sum of money required for the carrying out of any works of a permanent nature which it is legally authorised to carry out or for the repayment of money previously borrowed under this Act.

(2) Except as provided by sub-section (1) of this section and by section 39 no Municipal Council shall, for any purpose, borrow money upon or otherwise charge its funds; and any contract otherwise made for that purpose shall be void.

(3) If any money borrowed in accordance with the provisions of this Act and any rules framed thereunder or any interest or costs due in respect thereof is or are not repaid according to the conditions of the loan, the Government, if themselves be the lenders, may, and if the Government are not the lenders, shall, on the application of the lender or lenders attach the funds on the security of which the loan was made. After such attachment, no person except an officer appointed in this behalf by the Government shall in any way deal with the attached funds; but such officer may do all acts in respect thereof which the borrowers might

have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability in pursuance of which the attachment is made.

41.—(1) The Government may, by notification, remove any Chairman or Vice-Chairman if he disobeys the provisions of this Act or any rules, by-laws, regulations or lawful orders issued thereunder or abuses the powers vested in him.

Power to
remove
Chairman
or Vice-
Chairman.

(2) The Government shall when they propose to take action under sub-section (1) give the Chairman or Vice-Chairman concerned an opportunity for explanation and the notification issued under the said sub-section shall contain a statement of the reasons of the Government for the action taken.

(3) The Government may determine a period during which a Chairman or Vice-Chairman removed under sub-section (1) shall not be eligible for re-election.

42.—(1) The Government may, by notification, remove any Councillor—

Power to
remove
Councillor.

(a) if at any time of his election or appointment he was not qualified to be or was disqualified from being elected or appointed Councillor,

(b) if he is an undischarged insolvent or has been convicted of any such offence or subjected by a Criminal Court to any such order as implies in the opinion of the Government a defect of character which renders him unfit to hold his office,

(c) if he has been dismissed from the public service or while he is debarred from practising as a lawyer or a medical man by order of competent authority,

(d) if he refuses to act or becomes incapable of acting, or

(e) if he without an excuse sufficient in the opinion of the Council neglects for more than three consecutive months to be present at the meetings of the Municipal Council.

(2) When the Government propose to take action under this section they shall give the Councillor concerned an opportunity of explanation and shall record the reasons for any action taken.

Motion of no confidence in Chairman or Vice-Chairman.

43.—(1) Subject to the provisions of this section, a motion expressing want of confidence in the Chairman or in the Vice-Chairman may be made in accordance with the procedure laid down herein.

(2) Written notice of intention to make the motion, in such form as may be fixed by the Government, signed by such number of Councillors as shall constitute not less than one-half of the sanctioned strength of the Council, together with a copy of the motion which is proposed to be made, shall be delivered by any two of the Councillors giving the notice in person together, to the Tahsildar of the Taluk.

(3) The Tahsildar shall then convene a meeting for the consideration of the motion, to be held at the Municipal Office, at a time appointed by him which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him. He shall give to the Councillors notice of not less than fifteen clear days of such meeting and of the time appointed therefor.

(4) The Tahsildar shall preside at the meeting convened under this section, and no other person

shall preside thereat. If within half an hour after the time appointed for the meeting the Tahsildar is not present to preside at the meeting, the meeting shall stand adjourned to a time to be appointed and notified to the Councillors by the Tahsildar under sub-section (5).

(5) If the Tahsildar is unable to preside at the meeting, he may, after recording his reasons in writing, adjourn the meeting to such other time as he may appoint. The date so appointed shall not be later than thirty days from the date appointed for the meeting under sub-section (3). Notice of not less than seven clear days shall be given to the Councillors of the time appointed for the adjourned meeting.

(6) Save as provided in sub-sections (4) and (5) a meeting convened for the purpose of considering a motion under this section, shall not, for any reason, be adjourned.

(7) As soon as the meeting convened under this section has commenced, the Tahsildar shall read to the Council the motion for the consideration of which it has been convened, and declare it to be open for debate.

(8) No debate on any motion under this section shall be adjourned.

(9) Such debate shall automatically terminate on the expiry of two hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of two hours, as the case may be, the motion shall be put to the vote of the Council.

(10) The Tahsildar shall not speak on the merits of the motion, nor shall he be entitled to vote thereon.

(11) A copy of the minutes of the meeting together with a copy of the motion and the result of the

voting thereon shall forthwith, on the termination of the meeting, be forwarded by the Tahsildar to the Government.

(12) If the motion is carried with the support of not less than three-fifths of the sanctioned strength of the Council, the Government shall, by notification, remove the Chairman or Vice-Chairman as the case may be.

(13) If the motion is not carried by such a majority as aforesaid, or if the meeting cannot be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same Chairman or Vice-Chairman shall be received until after the expiry of six months from the date of the meeting.

(14) No notice of a motion under this section shall be received within six months of the assumption of office by a Chairman or Vice-Chairman as the case may be.

Government's power to dissolve or supersede Council,

44.—(1) If, in their opinion, a Council is not competent to perform or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers the Government may, by notification, direct that the Council be dissolved and reconstituted on such dates as the Government may fix in that behalf; or they may, if they think necessary, supersede the Council for a specified period not exceeding two years. Such notifications shall be laid on the table of the Legislative Council:

Provided as follows:—

(a) for the purpose of completing the elections to a Council which has been dissolved, the Government may, in their discretion, from time to time, extend the time fixed by them under this sub-section for its reconstitution; and

(b) the Government shall not supersede a portion only of the Municipal Council.

(2) Before publishing a notification under sub-section (1), the Government shall communicate to the Council concerned the grounds on which they propose to do so, fix a reasonable period for the Council to show cause against the proposal and consider its explanations and objections, if any:

Provided that where a Council has disobeyed any order issued under section 35, the Government shall not be bound to follow the procedure laid down in this sub-section.

(3) On the date fixed for the dissolution of the Council under sub-section (1), all its members as well as its Chairman and Vice-Chairman shall forthwith be deemed to have vacated their offices and fresh elections shall be held in accordance with the provisions of this Act. The newly elected Councillors shall enter upon their offices on the date fixed for the reconstitution of the Council.

(4) Supersession shall take effect from the noon on the date of publication, of the notification if no date is therein specified, and thereupon the following consequences shall ensue:

(a) all the members of the Council as well as its Chairman and Vice-Chairman shall forthwith be deemed to have vacated their offices;

(b) all or any of the functions of the Council and of its Chairman including where the Chairman is also the executive authority his function as such, may, during the period of supersession, be exercised and performed as far as may be, and to such extent as the Government may determine, by such persons as the Government appoint in that behalf and any such person who is not a Tahsildar may, if the Government so direct, receive payment for his services from the Municipal fund; the Government may determine the relations of such person with other Municipal authorities and with themselves; and where there is a Commissioner, the Government may direct him to exercise or perform

any of the powers and duties of the Council in addition to his own.

(5) On or before the expiry of the period of supersession notified under sub-section (1), the Government may, by notification, for reasons to be stated in the notification, postpone the reconstitution of the Council for a further period not exceeding six months, or notwithstanding anything contained in proviso (a) to sub-section (1) of section 5, withdraw the area of the Municipality from the operation of this Act under that section.

(6) The Government may reconstitute the Council before the expiry of the period notified under sub-section (1), or sub-section (5).

(7) When a Council is dissolved or superseded under this section, the Government, until the date of the reconstitution thereof and the reconstituted Council thereafter, shall be entitled to all the assets and be subject to all the liabilities as on the date of the dissolution or supersession and on the date of the reconstitution respectively.

Powers of officers acting for, or in default of, Municipal Council and liability of Municipal fund.

45. When any person appointed by the Government lawfully takes action on behalf or in default of the Municipal Council under this Act he shall have all such powers as are necessary for the purpose, and shall be entitled to the same protection under this Act as the Municipal authority whose powers he is exercising and compensation shall be recoverable from the Municipal fund by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such Municipal authority.

The rate payers.

46.—(1) Meetings of the Council shall be open to the public, unless in any special case the house resolves otherwise. Every Council shall as far as possible provide facilities for visitors to attend meetings and for press reporters to report the proceedings.

(2) Any rate payer or association of rate payers shall be entitled to inspect the minute book in

which the proceedings of the Council are recorded, the assessment registers, and the accounts of revenue and expenditure of the Municipality on payment of a fee in each case of rupee one.

CHAPTER IV—ELECTION OF COUNCILLORS

47.—(1) For the purposes of election of Council-
 lers to a Municipal Council, the Government, after
 consulting the Council, may, by notification, divide the
 Municipality into wards. One Councillor shall be
 elected for each ward of the Municipality: provided
 however that the Government, after consulting the
 Municipality, may increase the elective seats for any
 particular ward to more than one and alter such num-
 ber from time to time.

Election of
 Municipal
 Councillors

(2) When issuing under sub-section (1) a noti-
 fication which materially alters the existing division of
 a Municipality into wards, the Government may direct
 that the alteration shall take effect from the date of the
 next ordinary elections.

(3) When the number of Councillors to be
 returned by a ward is altered or when a new ward is
 formed or when an existing ward is abolished, the elec-
 tion authority shall, with the approval of the Govern-
 ment determine—

(a) the ward which each Councillor then on the
 Council shall be deemed to represent; and

(b) the ward or wards in which elections shall
 be held to fill up the vacancies, if any, in the Council.

48.—(1) An electoral roll for every Municipality
 showing the names of persons qualified to vote therein
 shall be prepared and published by the election
 authority in the manner prescribed, before the end of
 Karkadagam of the year preceding that in which the
 ordinary vacancies are to occur.

Publication
 of electoral
 roll.

(2) The roll so prepared and published shall
 be revised and a list of amendments and corrections

thereto shall in like manner be prepared and published by the election authority before the end of Karkadagam of every year.

(3) When a Municipality has been divided into wards the electoral roll shall be divided into separate lists for each ward.

(4) The electoral roll published in any year shall remain as revised by the list of amendments and corrections, if any, in force till the publication of a fresh electoral roll.

(5) Every person whose name appears in the electoral roll as so revised shall so long as it remains in force be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election.

Qualifica-
tions for
voting.

49.—(1) No person shall be included in the electoral roll as qualified to vote unless—

(a) he is the subject of the State of Cochin or of British India or of a State in India other than Cochin: provided that the Government may exclude from the scope of this restriction any alien or class of aliens;

(b) he has attained the age of 21 years in the year preceding that in which the electoral roll is published;

(c) he has been assessed in such preceding year to any tax payable to Government or to the Municipal Council except tax on dogs; or has passed the S. S. L. C. Examination of Cochin or any like examination any where else or is an Ayurvedic practitioner recognised by the Government in this behalf or is the holder of any degree or license of having passed any examination in oriental languages recognised by any Indian University or by the Government of Cochin; and

(d) he has resided in the Municipality for one hundred and twenty days in the aggregate in such preceding year.

(2) If a company or association or the members of a family jointly or joint pattadars has or have been assessed to any tax the company or association or the family or joint pattadars shall be treated as possessing the qualification, and the person entitled to be registered in the electoral roll shall be the Secretary of the company or association or some other person duly authorised in that behalf or the member authorised by a majority of the family or of the joint pattadars or, in the case of a joint Hindu family, either a member so authorised or in default of such authorisation the manager thereof.

(3) A person may be qualified either in his personal capacity or in the capacity of a representative of a company or association or of a joint family or of joint pattadars, but not in both capacities.

(4) Save as provided in sub-section (2) no person shall be qualified as an elector unless he possesses the necessary qualifications in his personal capacity.

50. Notwithstanding anything contained in sub-section (5) of section 48 a person who is of unsound mind, a deaf-mute or a leper shall not be entitled to vote at any election to a Municipal Council.

Disqualifications of voters.

51.—(1) No person shall be qualified for election as a Councillor unless the name of such person appears on the electoral roll of the Municipality.

Qualification of candidates for membership of Council.

(2) No officer of Government and no teacher in an aided school shall be qualified for election as a Councillor.

52.—(1) A person who has been sentenced by a criminal court to imprisonment for a period of more than six months for any offence other than an offence of a political character or an offence not involving

Disqualification of candidates.

moral delinquency (such sentence not having been reversed or the offence pardoned) shall be disqualified for election as a Councillor while undergoing the sentence and for five years from the date of the expiration of the sentence.

(2) A person shall be disqualified for election as a Councillor if such person is at the date of nomination, or election

(a) of unsound mind, a deaf-mute or a leper ;

(b) an applicant to be adjudicated a bankrupt or insolvent or an uncertificated bankrupt or undischarged insolvent ;

(c) interested in a subsisting contract made with, or any work being done for the Municipal Council except as a share-holder (other than a director) in a company:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in—

(i) any lease, sale or purchase of immovable property or any agreement for the same; or

(ii) any agreement for the loan of money or any security for the payment of money only; or

(iii) any newspaper in which any advertisement relating to the affairs of the Council is inserted; or

(iv) the sale to the Council of any articles in which he regularly trades, or the purchase from the Council of any articles to a value in either case not exceeding fifteen hundred rupees in the aggregate in any year during the period of the contract or work ;

(d) employed as paid legal practitioner on behalf of the Council or as legal practitioner against the Council;

(e) an officer or servant holding office under this Act, or an honorary Magistrate for the Municipal town;

(f) already a Councillor whose term of office as such will not expire before his fresh election can take effect, or has already been elected a Councillor whose term of office has not yet commenced; or

(g) the servant or employer or the official subordinate or official superior of a Councillor holding office on the said date.

(3) Notwithstanding anything contained in sub-section (1) the Government may direct that such sentence shall not operate as a disqualification.

53.—(1) Subject to the provisions of section 54, a Councillor shall cease to hold his office, if he—

Disqualifi-
cation of
Councillors.

(a) is sentenced by a criminal court to such punishment and for such offence as is described in sub-section (1) of section 52;

(b) becomes of unsound mind, a deaf-mute, or a leper;

(c) applies to be adjudicated, or is adjudicated a bankrupt or insolvent;

(d) subject to the proviso to clause (c) of sub-section (2) of section 52 acquires any interest in any subsisting contract made with, or work being done, for the Council except as a share-holder (other than a director) in a company;

(e) is employed as paid legal practitioner on behalf of the Council or accepts employment as legal practitioner against the Council;

(f) is appointed as an officer or servant under this Act or as an honorary Magistrate for the Municipal town;

(g) accepts employment under (or becomes the official subordinate of) any other Councillor;

(h) ceases to reside in the Municipality or within two miles thereof; or

(i) absents himself from the meetings of the Council for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of his restoration to office as Councillor under sub-section (3), as the case may be, or if within the said period, less than three meetings have been held, absents himself from three consecutive meetings held after the said dates :

Provided that no meeting from which a Councillor absents himself shall be counted against him under this clause, if due notice of that meeting was not given to him.

(2) Notwithstanding anything contained in clause (a) of sub-section (1) the Government may direct that such sentence shall not operate as a disqualification.

(3) Where a person ceases to be a Councillor under clause (a) of sub-section (1) or under section 56, he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision or the disqualification caused by the sentence is removed by an order of the Government. And any person elected to fill the vacancy in the interim shall on such restoration vacate office.

(4) Where a person ceases to be a Councillor under clause (i) of sub-section (1), the executive authority shall at once intimate the fact in writing to such person and report the same to the Council at its next meeting. If such person applies for restoration *suo moto* to the Council on or before the date of its next meeting or within fifteen days of the receipt by him of

such intimation, the Council may at the meeting next after the receipt of such application restore him to his office of Councillor:

Provided that a Councillor shall not be so restored more than twice during his term of office.

54.—(1) Whenever it is alleged that any person who has been elected as a Councillor was or has become disqualified under sub-section (1) of section 51 or sections 52, 53 or 56 and such person does not admit the allegation or whenever any Councillor is himself in doubt whether or not he was or has become disqualified for office under section 53 or section 56 such Councillor or any other Councillor may and the executive authority, at the request of the Council, shall, apply to the District Judge of the district in which the Municipality is situated.

Decision on questions of disqualifications of Councillors by District Judge.

(2) The said Judge, after making such inquiry as he deems necessary, shall determine whether, or not such person was or has become disqualified under sub-section (1) of section 51 or sections 52, 53 or 56 and his decision shall be final.

(3) Pending such decision the person shall be deemed to be qualified.

Election Offences.

55. Every polling officer, clerk or other person in attendance at the polling room who except for some purpose authorised by law, communicates to any person any information showing directly or indirectly for which candidate any voter has voted and every person who, by any improper means, procures any such information, shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Infringement of secrecy of election.

56. Every person convicted of an offence punishable under section 55 or under Chapter VIII-A of the Cochin Penal Code shall be disqualified from voting or from being elected in any election to which this

Disqualifications of persons convicted of election offences.

Act applies or from holding the office of Municipal Chairman, Vice-Chairman or councillor for a period of five years from the date of his conviction or for such shorter period as the court may, by order, determine.

CHAPTER V.—POWERS OF MUNICIPAL AUTHORITIES
IN RESPECT OF PROPERTY, CONTRACTS,
ESTABLISHMENT

Property.

Vesting of public streets and appurtenances in the Municipal Council.

57.—(1) All public streets in any Municipality, with the pavements, stones and other materials thereof and all works, materials and other things provided for such streets, all sewers, drains, drainage works, tunnels and culverts whether made at the cost of the Municipal fund or otherwise, in, alongside or under any street, whether public or private, and all works, materials and things appertaining thereto shall vest in the Municipal Council.

(2) The Government may, by notification, withdraw any such street, sewer, drain, drainage work, tunnel or culvert from the control of the Council.

(3) It shall be competent for Government to resume from time to time by notification any property, transferred by Government to the Councils under section 103 (2) (e) of Act I of 1985, or to lay down such terms as to their management as Government may determine:

Provided that resumption cannot be effected without payment of the cost or present value, whichever is less, of any buildings erected or other works executed on the property by the Municipal Council.

Collected sewages, etc., to belong to Municipal Council.

58. All rubbish and filth and other matter collected by a Municipal Council under this Act shall belong to the Council.

Inventory of Municipal property.

59.—(1) The executive authority shall maintain an inventory of all immovable property owned by the

Municipal Council or to which the Council has a reversionary right.

(2) A copy of the said inventory shall be deposited in the office of the Superintendent of Survey and Land Records and all changes shall be forthwith communicated to the said officer.

60. The Council may, with the sanction of the Government, accept trusts relating exclusively to the furtherance of any purpose to which the Municipal fund may be applied.

Limitation of power to accept property in trust.

61. The Government may, with the consent of a Municipal Council, transfer to the Council the management of any institution or the execution of any work not provided for by this Act and it shall thereupon be lawful for the Council to undertake such management or execution:

Objects not provided for by this Act.

Provided that in every such case the funds required for such management or execution shall be placed at the disposal of the Council by the Government.

62. Any immovable property which any Municipal authority desires to acquire for the purpose of this Act may be acquired under the provisions of the Land Acquisition Act and on payment of the compensation awarded under the said Act in respect of such property and of any other charges incurred in acquiring it, the said property shall vest in the Council.

Procedure for acquisition of immovable property

Contracts.

63.—(1) The Municipal Council shall be competent to make on its behalf, or may delegate to the Chairman or a Committee consisting of two or more members of the Council the power of making on its behalf any contract whereof the value or amount does not exceed two thousand rupees:

Delegation of authority to contract and contractual powers of persons appointed by Government.

Provided that in the case of Municipalities having Commissioners the power of making on behalf of the Council all contracts whereof the value or amount

does not exceed two thousand rupees shall be exercised by a Committee consisting of the Chairman, the Commissioner and one member of the Council elected by it; and the Council shall not exercise or delegate the power of making such contracts:

Provided further that with regard to contracts above one thousand rupees and below two thousand rupees none but the lowest tender may be accepted without obtaining the sanction of the Diwan.

(2) In respect of a contract whereof the value or amount exceeds two thousand rupees, the sanction of the Diwan should be obtained before the same is made.

(3) Notwithstanding anything contained in the two preceding sub-sections any person appointed by the Government to carry any work into execution on behalf of a Municipal Council may, subject to such control as the Government may prescribe, make such contracts as are necessary, for the purpose of carrying such work into execution, to the extent of the sum provided for such work and the Municipal Council shall pay to the person so appointed such sums as may be required for the said purpose to the extent aforesaid.

(4) Every contract made by or on behalf of a Council, whereof the value or amount exceeds one hundred rupees, shall be in writing and except in the case of contracts made under sub-section (3) shall be signed by two Municipal Councillors and also by the Commissioner if there is a Commissioner appointed for the Municipality.

(5) A contract executed or made otherwise than in conformity with the provisions of this section shall not be binding on the Municipal Council.

Establishment.

Power to fix
the number

64. The Council may, from time to time, with the sanction of the Government previously obtained in

each case, fix or alter the number, designation and grade of its officers or servants and the salaries, fees and allowances payable to them: and salaries of servants,

Provided that the Government shall always have power to fix, alter the number, designation and grades of, and the salaries, fees and allowances payable to, the officers and servants of any Municipal Council, or any class of such officers and servants.

65. The appointment of such officers and servants as shall have been provided in the manner aforesaid shall be made by the Government, the Council or the Chairman as the case may be under such rules as may be framed by the Government from time to time. Appointment of officers and servants,

66.—(1) Any Municipal Council by special resolution and with the approval of the Government may, and every Council which during three consecutive years has realised an income of one hundred thousand rupees from ordinary receipts shall, if so required by the Government, sanction a post of Municipal Health Officer and a post of Municipal Engineer. Appointment of Municipal Health Officer and Municipal Engineer.

(2) The salaries of these officers shall be fixed by the Municipal Council subject to the approval of the Government.

(3) These officers shall devote their whole time to the duties of their offices and shall not engage in any other profession, trade or business :

Provided that

(1) on the occurrence of a vacancy in, or after the creation of, an office of Health Officer or Engineer an appointment shall be made thereto by the Council subject to the approval of the Government within four months from the date on which the vacancy occurred or the office was created or, in the event of any appointment so made by the Council not being confirmed by the Government, within thirty days of the

date of receipt by the Council of the orders of the Government;

(2) in default of an appointment being made by the Council as aforesaid, the Government may appoint a person to hold the office, and such appointment shall for all purposes, be deemed to have been made by the Municipal Council;

(3) pending the settlement of an appointment under proviso (1) or (2) the Municipal Council may appoint a person to hold the office temporarily and may direct that the person so appointed shall receive such salary not exceeding the sanctioned salary of the post as it shall think fit;

(4) no such officer shall be removed from office except with the consent of the Government. Such consent shall be given if the removal is recommended by a resolution of the Council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the Council.

Appointment
of Health
Officers or
Municipal
Engineers by
Government.

67. Notwithstanding anything contained in this Act—

(a) the Government may ask a Municipality to appoint a Health Officer or a Municipal Engineer and in case the Municipality fails to do so, may, by notification, take power to appoint the Health Officer or the Municipal Engineer in the case of any Municipality or class of Municipalities;

(b) the Government may recover from the Municipal Council concerned the whole or such portion of the salary and allowances paid to any Health Officer or Engineer and such contribution towards his leave allowance, pension and provident fund as the Government may, by general or special order, determine;

(c) the Government may, at any time, withdraw any such Health Officer or Engineer and appoint another in his place; and

(d) the Government shall have power to regulate the methods of recruitment, conditions of service, pay and allowances and discipline and conduct of the Health Officers and Engineers appointed under clause (a).

68.—(1) Notwithstanding anything contained in this Act or any rule thereunder the Government shall have power to transfer any officer or servant of a Municipality to the service of any other Municipality:

Transfer of
Municipal
Officers or
servants.

Provided that that power shall be exercised after consulting the Municipal Councils concerned.

(2) The Government shall have power to issue such general or special directions as they may think necessary for the purpose of giving due effect to transfers made under sub-section (1).

69. The officers and servants appointed under section 65 may be fined, suspended, reduced or dismissed under such rules as may be framed by the Government from time to time.

Punishment
of servants.

70. The Council may frame regulations in respect of officers and servants on the Municipal staff—

Power of
Council
to frame
Service Re-
gulations.

(a) fixing the amount and nature of the security to be furnished;

(b) prescribing educational or other qualifications;

(c) regulating the grant of leave, leave allowances, acting allowances and travelling allowances;

(d) regulating the grant of pensions and gratuities;

(e) establishing and maintaining Provident Fund and making contribution thereto compulsory;

(f) regulating conduct, and

(g) generally prescribing conditions of service:

Provided that every regulation framed shall require the sanction of the Government and shall not be

repugnant to any rules framed in this behalf by the Government.

Special provisions regarding Government servants lent to Council.

71.—(1) The Government may, on application of any Municipal Council, place the services of any Government servant at the disposal of the Council to be employed by it for the purposes of this Act. The Council shall pay any Government servant so employed the salary he may be entitled to receive from time to time if he had been under Government service and also pay the Government such contribution towards the pension and leave allowances of such servant as may be payable under the regulations in that behalf for the time being.

(2) If such servant, while employed by the Municipal Council or if any other servant of the Council does any work for the Government, the Government shall contribute to the Municipal fund so much of the salary of such servant as the Government may consider to be an equivalent for such work.

(3) No Government servant employed by the Municipal Council under this section shall be dismissed from such employment without the consent of the Government.

(4) No Government servant employed by the Municipal Council shall, except in cases of emergency, be withdrawn from service without the consent of the Municipal Council, unless and until the Government shall have given three months' notice in writing to that effect to the Municipal Council, or unless some other Government servant has been deputed to replace the one withdrawn.

(5) Government servants employed by Municipal Councils shall be entitled to leave and other privileges in accordance with the regulations for the time being in force under the Government.

PART III.

CHAPTER VI.—TAXATION AND FINANAE.

72.—(1) Every Municipal Council may levy—

- (a) a property tax ;
- (b) a tax on companies ;
- (c) a tax on profession and other sources of income ;
- (d) a tax on carriages and animals ;
- (e) a tax on carts ;
- (f) tolls on vehicles and animals entering the Municipality :

Enumeration
of ordinary
taxes and
power of
control of
Government.

Provided that no tax under clause (b) or (c) shall be levied on any co-operative society registered under the Cochin Co-operative Societies Act.

(2) Any resolution of a Municipal Council determining to levy a tax or toll shall specify the rate at which any such tax or toll shall be levied and the date from which it shall be levied :

Provided that before passing a resolution imposing a tax or toll for the first time in the Municipality or increasing the rate of an existing tax or toll, the Council shall publish a notice in the Government Gazette of their intention, fix a reasonable period not being less than one month for submission of objections and consider objections, if any, received within the period specified :

Provided also that no resolution abolishing an existing tax or toll or reducing the rate at which a tax or toll is levied shall be carried into effect without the sanction of the Government :

Provided also that where any resolution under this section has taken effect for a particular year, no proposals to alter the rates or date fixed in such resolution

so far as that year is concerned shall be taken into consideration by the Council.

Notification
of new taxes
and tolls.

73. When a Municipal Council shall have determined subject to the provisions of section 72 to levy any tax or toll for the first time or at a new rate, the executive authority shall forthwith publish by a notification in the Government Gazette and by beat of drum, specifying the rate at which, the date from which and the period of levy, if any, for which such tax or toll shall be levied.

The Property Tax.

Description
and classes
of Property
Tax.

74.—(1) The property tax which shall be levied at a consolidated rate on all buildings and lands within Municipal limits save those exempted by or under this Act or any other law, shall comprise a tax for general purposes and may also comprise—

(a) a water and drainage tax to provide for expenses connected with the construction, maintenance, repair, extension or improvement of water or drainage works heretofore provided or hereafter to be provided;

(b) a lighting tax to provide for expenses connected with the lighting of the Municipality by gas or electricity;

(c) a scavenging tax to provide for expenses connected with the removal of rubbish, filth or the carcasses of animals from private premises.

(2) The tax for general purposes, the water and the drainage tax, the lighting tax and the scavenging tax shall, save as otherwise provided in this Act, be levied at such percentages of the annual value of all lands or buildings or both as may be considered by the Municipal Council sufficient to provide for the expenses which the taxes are intended to meet. Without the

special sanction of the Government, however, no Council shall, depart from the following minima and maxima:—

	Minimum.	Maximum.
Tax for general purposes	4 per cent	7 per cent
Water and drainage tax	2½ „	5 „
Lighting tax	1 „	2 „
Scavenging tax	1 „	2 „

Provided that where the water and drainage tax is levied the Municipal Council shall declare what proportion of the tax is levied in respect of water works and the remainder shall be deemed to be levied in respect of drainage works and the proportion so declared shall also be specified in the notification under section 73.

75.—(1) Every building shall be assessed together with its site and other adjacent premises occupied as an appurtenance thereto unless the owner of the building is a different person from the owner of such site or premises.

Method of
assessment
of property.

(2) The annual value of lands and buildings shall be deemed to be the gross annual rent at which they may reasonably be expected to let from month to month or from year to year less an allowance of 10 per cent for repairs:

Provided that in the case of any building of a class not ordinarily let, the gross annual rent of which cannot, in the opinion of the executive authority, be estimated the annual value of the premises shall be deemed to be 6 per cent of the total of the estimated value of land and the estimated present cost of erecting the building after deducting for depreciation a reasonable amount which shall in no case be less than 15 per cent of such cost.

(3) In the case of lands mainly used for agricultural purposes the annual value shall not exceed twice the full pandaravaka verumpattam assessment.

(4) In the case of irredeemable tenures the liability for land tax will be on the tenant.

Exemption.

76. The following buildings and lands shall be exempt from the property tax:—

(a) Places set apart for public worship and either actually so used or used for no other purpose, choultries, buildings used for educational purposes, hostels attached to educational institutions, public buildings and places used for the charitable purposes of sheltering the destitute or animals, libraries and playgrounds which are open to the public;

(b) Charitable hospitals and dispensaries and such hospitals and dispensaries maintained by railway administration as may, from time to time, be notified by the Government;

(c) Burial and burning grounds;

(d) Public land and buildings or lands belonging to the Government or Municipal Council;

(e) Palaces owned by members of the Cochin Ruling Family;

(f) Any building or land the annual value of which is not more than Rs. 24 or, where the Government specially notifies, Rs. 36, if it be the owner's sole property liable to taxation under this Act.

Explanation.—The exemption granted under this section shall not extend to residential quarters attached to Schools and Colleges, not being hostels or to residential quarters attached to hospitals, dispensaries and libraries.

77. The Council shall levy the property tax at a uniform rate:

Provided that—

(a) The water and drainage tax shall not be levied upon any land exclusively used for agricultural

Special exemptions and alternative basis of taxation.

purposes and not deriving any benefit from the water or drainage works on account of which the tax is imposed.

(b) The Municipal Council may, with the previous sanction of the Government, exempt any particular part of a Municipality from the payment of the whole or a portion of the water and drainage tax or of the lighting tax on the ground that such area is not deriving full benefit from the water supply and drainage, or from the lighting system.

(c) The Municipal Council may exempt any building or land from the whole or any portion of the scavenging tax if it is satisfied that the owner or occupier has made efficient arrangements for the daily removal therefrom of rubbish, filth and carcasses of animals or if it is satisfied that such removal of rubbish etc., is not necessary.

(d) The Municipal Council may, subject to the sanction of the Government, which may at any time be withdrawn in respect of all or any lands, assess any land which is not used solely for agricultural purposes or appurtenant to any building, or which is occupied by or appurtenant to huts, with reference to extent in lieu of annual value subject to a maximum of four annas for every 80 square yards for the tax for general purposes, of a maximum of two annas for every 80 square yards for the water and drainage tax and a maximum of one anna for every 80 square yards for the lighting tax and the scavenging tax.

(e) The rate of any class of property tax on lands when levied on their annual value may be lower than the rate of the same class of property tax on buildings:

Provided that the aggregate property tax leviable in the case of light-houses, piers, wharves, jetties and passenger sheds, latrines, cart-stands, retiring rooms and platforms belonging to a railway administration shall not exceed 4 per cent of their annual value.

Property tax
a first charge
on property.

78. The property tax on buildings and lands shall, subject to the prior payment of land revenue, if any, due to the Government thereon, be a first charge upon the said buildings or lands and upon the movable property, if any found within or upon the same and belonging to the person liable to such tax.

Payment of
property tax,
in half-yearly
instalments.

79. The property tax shall be paid by the owner of the assessed premises in two equal instalments, each instalment being payable within 30 days after the commencement of the half-year to which it relates.

Vacancy
remission.

80.—(1) When any building whether ordinarily let or occupied by the owner himself has been vacant and unlet for thirty or more consecutive days in any half-year, the executive authority shall remit so much not exceeding one-half of such portion of the tax as relates to the building only as is proportionate to the number of days during which the building was vacant and unlet in the half-year.

(2) Every demand for remission under subsection (1) shall be made during the half-year in respect of which the remission is sought or in the following half-year and not afterwards.

(3) (a) No demand for such remission shall be entertained unless the owner of the building or his agent has previously thereto delivered notice to the executive authority—

(i) that the building is vacant and unlet, or

(ii) that the building will be vacant and unlet from a specified date either in the half-year in which notice is delivered or in the succeeding half-year.

(b) The period in respect of which the remission is made shall be calculated—

(i) if remission is sought in respect of the half-year in which notice is delivered, from the date of

delivery of the notice or from the date on which the building became vacant and unlet, whichever is later; and

(ii) if remission in respect of the half-year succeeding that in which the notice is delivered, from the commencement of the half-year in respect of which remission is sought or from the date on which the building became vacant and unlet, whichever is later.

(c) Every notice under clause (a) shall expire with the half-year succeeding that during which it is so delivered, and shall have no effect thereafter.

81.—(1) Whenever the title of any person primarily liable to the payment of property tax on any premises to or over such premises is transferred, the person whose title is transferred and the person to whom the same shall be transferred shall, within three months after the execution of the instrument of transfer or after its registration if it be registered or after the transfer is effected, if no instrument be executed, give notice of such transfer to the executive authority.

Obligation of transferor and transferee to give notice of transfer.

(2) In the event of the death of any person primarily liable as aforesaid the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give written notice of such transfer to the executive authority within one year from the death of the deceased.

(3) The notice to be given under this section shall be in such form as the executive authority may direct and the transferee or the person to whom the title passes, as the case may be, shall, if so required, be bound to produce before the executive authority any documents evidencing the transfer or succession.

(4) Every person who makes a transfer as aforesaid without giving such notice to the executive authority shall, in addition to any other liability which he incurs through such neglect, continue liable for the

payment of property tax assessed on the premises transferred until he gives notice or until the transfer shall have been recorded in the Municipal registers, but nothing in this section shall be held to affect—

(a) the liability of the transferee for the payment of the said tax, or

(b) the prior claim of the Municipal Council under section 78.

Owner's obligation to give notice of construction, reconstruction or demolition of building.

82.—(1) (a) If any building in a Municipality is constructed or reconstructed, the owner shall give notice thereof to the executive authority within fifteen days from the date of completion or occupation of the building whichever is earlier.

(b) If such date falls within the last two months of a half-year the owner shall, subject to notice being given under clause (a), be entitled to a remission of the whole of the tax or enhanced tax, as the case may be, payable in respect of the building only for that half-year.

(c) If such date falls within the first four months of a half-year, the owner shall, subject to notice being given under clause (a), be entitled to a remission of so much not exceeding a half of the tax or enhanced tax, as the case may be, payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(2) (a) If any building in a Municipality is demolished or destroyed, the owner shall, until notice thereof is given to the executive authority, be liable for the payment of the property tax which would have been leviable had the building not been demolished or destroyed.

(b) If such notice is given within the first two months of a half-year, the owner shall be

entitled to a remission of the whole of the tax payable in respect of the building only, for that half-year.

(c) If such notice is given within the last four months of a half-year, the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding the demolition or destruction as the case may be.

83.—(1) If any area is included within a Municipality the owner of every building or land in such area shall—

Remission
of tax in
areas
included or
excluded in
in the
middle of a
half-year.

(a) if the date of such inclusion falls within the last two months of a half-year, not be liable to pay any property tax in respect thereof for that half-year; and

(b) if such date falls within the first four months of a half-year, be entitled to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year as is proportionate to the number of days in that half-year preceding such date.

(2) If any area is excluded from a Municipality the owner of every building or land in such area shall be entitled—

(a) if the date of such exclusion falls within the first two months of a half-year, to a remission of the whole of the property tax payable in respect thereof for that half-year; and

(b) if such date falls within the last four months of a half-year, to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(3) No remission shall be granted under subsection (2) in respect of any building or land unless an

application for such remission is made to the executive authority within three months from the date of the exclusion of the area in which the building or land is situated.

Executive authority's power to call for information and to enter upon premises

84.—(1) For the purpose of assessing the property tax, the executive authority may, by notice, call on the owner or occupier of any land or building to furnish him within thirty days after the service of the notice, where the notice is served upon a railway administration or a company, and within seven days after such service in other cases, with returns of the rent payable for the land or building, the cost of erecting the building and a measurement of the land and with such other information as the executive authority may require; and every owner and occupier on whom such notice is served shall be bound to comply with it and to make a true return to the best of his knowledge or belief.

(2) For the purpose aforesaid the executive authority or the revision officer authorised in writing by the executive authority may enter, inspect, survey and measure such building or land after giving twenty-four hours' notice to the owner or occupier.

Tax On Companies.

Taxation of Companies on their capital.

85. If the Council with the previous sanction of the Government by resolution decides that a company's tax shall be levied, every company transacting business within the Municipality for profit or as a benefit society or as a Kuri shall pay a half-yearly tax on its capital or funds on the scale shown in Schedule I, if, and as soon as, it has transacted business in the Municipality for a period of 60 days.

Tax on Profession and Other Sources of Income.

Tax on profession and other sources of income.

86.—(1) If the Council by a resolution determines that a tax on profession and other sources of income shall be levied—

every company not made liable to the company's tax under section 85 which after the date specified in

the notification published under section 73, transacts business in the Municipality for not less than sixty days in the aggregate in any-half year; and every person, not made liable to the company's tax under section 85, who after the said date, in any half-year—

(a) exercises a profession, art, or calling or transacts business or holds any appointment, public or private—

(i) within the Municipality for not less than sixty days in the aggregate, or

(ii) without the Municipality but who resides in the Municipality for not less than sixty days in the aggregate, or

(b) resides in the Municipality for not less than sixty days in the aggregate and is in receipt of any pension or income from investments,

shall pay a half-yearly tax assessed in accordance with the rates shown in Schedule II.

(2) A person shall be chargeable under the class appropriate to his aggregate income from all sources specified in sub-section (1):

Provided that the allowances payable to the members of the Cochin Ruling Family shall not be taxable under that sub-section.

(3) If a company or person proves that it or he has paid the sum due on account of the tax on profession and other sources of income levied under this Act, for the same half-year to any Municipal Council, such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other Municipal Council more than the difference between such sum and the amount to which if or he is otherwise liable for the tax on profession and other sources of income for the half-year under this Act.

(4) Nothing contained in this section shall be deemed to render a person who resides within the limits of one Municipality and exercises his profession, art or calling or transacts business or holds any appointment within the limits of any other Municipality liable to tax on profession and other sources of income for more than the higher of the amounts of the tax leviable by any of the Municipal Councils. In such a case the Diwan shall apportion the tax between the two Municipal Councils in such manner as he may deem fit and the decision of the Diwan shall be final.

Explanation.—The word 'person' in this section includes also the manager of a joint Hindu or Marumakkathayee family.

Liability of members of firms and associations to pay tax.

87. The tax leviable from a firm or association may be levied from any adult member of the firm or association.

General Provisions Common to Tax on Companies and Tax on Profession and other sources of Income.

Liability of servants or agents to company tax or tax on profession and other sources of income.

88.—(1) If a company or person employs a servant or agent to represent it or him for the purpose of transacting business, or exercising profession, art or calling, as the case may be, in a Municipality, such company or person shall be deemed to transact business in the Municipality, and such servant or agent shall be liable for the company tax or the tax on profession and other sources of income, in respect of the business of such company or person, whether or not such servant or agent has power to make binding contracts on behalf of such company or person.

(2) Where one company or person, is the agent of another company or person, the former company or person shall not be liable separately to the company tax or tax on profession and other sources of income as the case may be, on the same income as that of the principal.

89. If the company tax or tax on profession and other sources of income due from any company or person is not paid, the executive authority shall cause a notice to be served on such company or person to pay it within fifteen days of the date of such service.

Service of notice on failure of payment of tax.

90. All statements made, returns furnished or accounts or documents produced in connection with the assessments of company tax or tax on profession and other sources of income by any company or person shall be treated as confidential and copies thereof shall not be granted to the public.

Statements, returns, etc., to be confidential.

91. The executive authority may, by notice, require the owner or occupier of any building or land and every secretary or manager of a hotel, boarding or lodging house, club or residential chambers to furnish within a specified time a list in writing containing the names of all persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers and specifying the profession, art, calling or appointment of every such person and the rent, if any, paid by him and the period of such occupation.

Requisition on owner or occupier to furnish list of persons liable to tax.

92. The executive authority may, by notice, require any employer or the head or secretary or manager of any public or private office, hotel, boarding house or club or of a firm or company—

Requisition on employers or their representatives to furnish such list.

(a) to furnish within a specified time a list in writing of the names of all persons employed by such employer or by such office, hotel, boarding house, club, firm or company as officers, servants, dubashes, agents, suppliers, or contractors, with a statement of the salary or income of such employed persons, and

(b) to furnish particulars in regard to any company of which such employer, head, secretary or manager, as the case may be, is the agent.

Tax on Carriages and Animals.

93. If the Council by resolution decides that a tax on carriages and animals shall be levied the

General provisions regarding

tax on carriages and animals

executive authority shall levy the said tax by half-yearly instalments on carriages and animals kept within the Municipality at the rates not exceeding those mentioned in Schedule III. This section shall not apply to motor vehicles plying with G. permits issued under rule 31 of the Cochin Motor Vehicles Rules framed by the Diwan in pursuance of the powers conferred upon him by section 11 of the Cochin Motor Vehicles Act excepting I of 1094 motor cars seating not more than seven persons.

Liability to tax according to period for which carriage or animal has been kept.

94.--(1) Every person having possession, custody or control of any taxable carriage or animal shall be liable for the full half-yearly tax if the carriage or animal has been kept within the Municipality for an aggregate period of not less than 60 days in the half-year.

(2) If such aggregate period exceeds 15 days but is less than 60 days a moiety only of the half-yearly tax shall be leviable.

(3) If such aggregate period does not exceed 15 days no tax is leviable for the half-year.

(4) Every person having possession, custody or control of any taxable carriage or animal within the Municipality shall until the contrary is shown, be presumed to have kept the same within the Municipality for 60 days in the half-year.

(5) Notwithstanding anything contained in sub-sections (1) and (2) no person shall be liable to tax during any half-year on account of any carriage or animal in respect of which the full tax for the same half-year has already been paid by some other person.

(6) No person who shall prove that he has paid in any half-year the tax levied under this Act on account of any carriage or animal in one Municipality, shall be liable by reason merely of change of place to more than the difference between the amount of such tax and the tax to which he is otherwise liable on account of such carriage or animal for the same half-year in any other Municipality. In such a case the

Diwan shall apportion the tax between the Municipalities concerned in such manner as he may deem fit and the decision of the Diwan shall be final.

95. The carriage and animal tax shall not be levied on— Exemptions.

(a) carriages and animals belonging to Government and used for military purposes ;

(b) carriages and animals kept solely for sale by carriage makers and dealers ;

(c) carriages which have been under repair or standing at a carriage maker's during the whole of the half-year ;

(d) animals which during the whole of the half-year have been kept in any institution for the reception of infirm animals or which are certified by a veterinary surgeon to have been unfit for use during the whole of the half-year ;

(e) carriages and animals belonging to Municipal Councils ;

(f) cattle used exclusively for agricultural purposes.

96. With the sanction of the Council or in accordance with the regulations framed by that body, the executive authority may compound, for any period not exceeding one year, with any livery stable keeper or other person keeping carriages and animals for sale or hire, for a certain sum to be paid in lieu of the carriage and animal tax. Composi-
tion.

97.—(1) The executive authority shall send to every person supposed to have become liable to the payment of the tax on carriages and animals a printed table to be filled up with such information respecting the carriages and animals kept by him as the executive authority considers necessary for the assessment of the tax. Forms to be
sent to and
returned by
tax-payers.

(2) Such table shall be filled up with such information in writing, and signed and dated, and returned within one week of its receipt to the Municipal Office by the person to whom it has been sent.

(3) On the expiry of the period of one week referred to in sub-section (2) the executive authority shall cause a notice to be served on such person requiring him to pay within fifteen days of the date of such service the sum for which, in the opinion of the executive authority, such person is liable on account of the tax on carriages and animals.

Grant of license on payment of tax.

98. When any person pays the amount of tax due in respect of any carriage or animal, the executive authority shall grant him a license to keep such carriage or animal for the period to which the payment relates.

Power to require numbers to be affixed to bicycles, etc.

99.—(1) The executive authority may direct that a municipal number shall be affixed to every carriage, bicycle or tricycle kept within the Municipality:

Provided that no municipal number shall be requisite in the case of carriages to which a number must be affixed under the provisions of any special Act.

(2) The numbers affixed under sub-section (1) shall be registered in the Municipal Office.

Tax on Carts.

General provisions regarding cart tax.

100.—(1) If the Council by resolution decides that a tax shall be levied on carts the executive authority shall levy the said tax by half-yearly instalments at the rates which shall not exceed Rs. 4 per cart per half-year fixed by the Council in respect of all carts kept within the Municipality.

(2) Every owner of any such cart shall register it once in every half-year in the Municipal Office.

(3) The Council may direct that a Municipal number shall be affixed to every registered cart.

(4) The executive authority shall notify certain days in every half-year for the registration and numbering of carts and the payment of the tax.

(5) All registrations made and numbers affixed under this section shall be entered in a book to be kept for the purpose at the Municipal Office.

(6) Such book shall be open to the inspection of any person who pays any tax to the Municipality at all reasonable times without charge.

(7) This section shall not apply to carts belonging to the Government and used for military purposes or belonging to Municipal Councils or carts kept solely for sale by cart makers and dealers.

101. The executive authority may remit any portion of the cart tax in respect of any cart which is known to his satisfaction to have been kept within the Municipality for an aggregate period not exceeding 15 days in the half-year, or to have been under repair or standing at a cart maker's during the whole of the half-year.

Power to remit tax.

Taxes leviable under sections 93 and 100.

102. Where the Cochin Hackney Carriage Act, 1098, is in force in any area of a Municipality, the person appointed to perform the functions of the Commissioner under the said Act in respect of such area shall before registering any Hackney Carriage thereunder satisfy himself that the Municipal Council has received payment of tax, if any, due under Section 93 or Section 100, as the case may be, on account of the last preceding half-year and the current half-year.

Registration of Hackney Carriages.

Powers to Seize Carriages and Carts not Bearing Numbers.

103.—(1) If a Municipal number is not affixed to a carriage or cart in pursuance of a direction issued under section 99 or section 100, as the case may be,

Seizure of vehicles not bearing numbers.

the executive authority or any Municipal servant authorised by him in writing may at any time seize and detain the vehicle and the animal, if any, by which it is drawn:

Provided that no vehicle other than a bicycle, tricycle or motor bicycle shall be seized or detained when actually employed in the conveyance of any passenger or goods.

(2) If the vehicle or animal seized be not claimed and the tax due thereon be not paid within ten days from the date of seizure, the executive authority may direct that the vehicle or animal shall be sold in public auction and the proceeds of the sale applied to the payment of—

(i) the tax, if any due, on the vehicle or animal sold;

(ii) such penalty not exceeding the amount of the tax as the executive authority may direct; and

(iii) a sum of one rupee on account of charges incurred in connection with the seizure, detention and sale.

(3) If the owner of the vehicle or animal or other person entitled thereto claims the same within ten days from the date of seizure or at any time before the sale, it shall be returned to him on payment of—

(i) the tax due thereon;

(ii) such penalty not exceeding the amount of the tax as the executive authority may direct; and

(iii) a sum of eight annas on account of charges incurred in connection with the seizure and detention.

Tolls.

General provisions for

104. If the Council by resolution decides that tolls shall be levied on vehicles and animals entering

the Municipality such tolls shall be levied at the rates shown in Schedule IV: tolls on vehicles and animals.

Provided that no toll shall be levied on any vehicle or animal—

(a) licensed or registered by the Municipal Council;

(b) belonging to the Government and used for military purposes or belonging to Municipal Councils or by special notification exempted by Government;

(c) carrying troops;

(d) carrying any person or property in the custody of a police or excise officer.

105.—(1) The Council shall construct toll-stations and may construct toll-bars on or within the Municipal boundary, and Construction of toll-bars and collection of tolls

(a) may place the collection of the tolls under the management of such persons as it thinks fit, or

(b) may farm them out on such terms and conditions as it thinks fit, with liberty to the farmer to exercise all or any of the powers conferred by or under this Act for the levy and collection of tolls:

Provided that—

(a) no toll-stations shall be constructed on the boundary between contiguous Municipalities, and

(b) the Government may either generally or in any particular case issue such orders as they may deem fit for regulating the number and location of toll-stations, and determining in the case of neighbouring local authorities which of the local authorities shall be in charge of particular toll-stations and how much of the revenue realised by any such local authority from a toll-station or toll-stations in its charge shall be paid to another neighbouring local authority.

(2) With the sanction of the Council or in accordance with regulations framed by that body, the executive authority may whether the tolls have been farmed out or not compound with any person living outside the Municipality for a certain sum to be paid yearly or half-yearly in lieu of all tolls payable under the provisions of this Act.

Procedure
in case of
non-payment
of tolls.

106.--(1) If the toll leviable on a vehicle or animal is not paid on demand, the person appointed to collect it may seize and detain such portion of the appurtenances or load of such vehicle or animal as will, in his opinion, suffice to defray the amount due; in the absence of any such appurtenances or load or in the event of their value being insufficient to defray the amount due, he may seize and detain the vehicle or animal.

(2) All property seized under sub-section (1) shall be sent within twenty-four hours to the executive authority or to such person as he may have authorised to receive and sell such property and the executive authority shall forthwith give notice to the proprietor of the property seized, or, if the proprietor is not known or is not resident within the Municipality, to the person who was in charge of the said property at the time when it was seized, or, if such person cannot be found, publish by beat of drum, that, after the expiry of two days, exclusive of Sunday, from the date of service or publication of such notice the property will be sold in auction at a place to be specified in the notice.

(3) If at any time before the sale has begun the amount due on account of the toll, together with a sum of four annas on account of charges incurred in connection with the seizure and detention, is tendered to the executive authority or other person authorised as aforesaid, the property seized shall be forthwith released.

(4) If no such tender is made, the property may be sold and the proceeds of the sale applied to the payment of—

- (i) the amount due on account of the toll;
- (ii) such penalty not exceeding the amount of the toll as the executive authority may direct; and
- (iii) a sum of eight annas on account of charges incurred in connection with the seizure, detention and sale.

107. No person shall with intent to evade payment of toll cause a vehicle or animal—

Attempts to evade payment of toll.

(a) to pass a toll-station in a rapid or surreptitious manner;

(b) to pass a toll-station without stopping if he is required by the toll-keeper to stop; or

(c) to leave a street on which a toll-station has been placed and pass over any adjacent land, not being either a public street or land of which such person is the owner or occupier.

108.—(1) At every toll-bar or toll-station, a table of the tolls leviable shall be put up legibly written or painted in English and in Malayalam in some conspicuous place near such toll-station and in the absence of such table no tolls shall be leviable at the toll-station.

Table of tolls.

(2) (a) The payment of a toll in respect of any vehicle covers the animals engaged in drawing it.

(b) Tolls are leviable upon vehicles irrespective of the means of traction employed

(c) Not more than a single payment of a toll may be demanded in respect of any vehicle or animal during any one period of twenty-four hours counted from 6 a. m. to 6 a. m. and on such payment being made

a receipt in such form as the Council may prescribe shall be granted by the toll-keeper.

General Provisions Regarding Taxation and Finance.

Power to exempt from taxes or tolls.

109. With the sanction of the Government the Municipal Council may exempt any person or class of persons wholly or in part from payment of any tax or toll.

Council's power to write off irrecoverable taxes and tolls.

110. If in the opinion of the Municipal Council, any tax or toll, fee or other amount whatsoever due to it, whether under a contract or otherwise, is irrecoverable the Council may write off the same together with any sum payable in connection therewith.

Definition of Municipal Fund.

111. All moneys received by the Municipal Council shall constitute a fund which shall be called the Municipal Fund and shall be applied and disposed of subject to the provisions of this Act or other laws. The funds shall be lodged in the Government treasury or such other place as the Government may direct.

Budget estimate.

112. The Municipal Council shall furnish, for the sanction of the Government, an annual statement or estimate showing the probable receipts and the expenditure which it is proposed by the Municipal Council to incur during the next year and the items in respect of which it is proposed to incur such expenditure.

Control of Government over Municipal Budget.

113. The Government may pass such orders as they think fit upon the budget estimates submitted to them under section 112 and such orders shall be binding on the Municipal Council. When the Government pass orders under this section, they shall have due consideration for the liabilities in respect of loans contracted by the Council, and for the maintenance of a working balance.

Appointment of auditors of accounts.

114. The Government shall appoint auditors of the accounts of receipts and expenditure of the Municipal fund. Such auditors shall be deemed to be public

servants within the meaning of section 15 of the Code in Penal Code. All expenses incurred on account of the audit staff shall be charged to Municipal Councils in such proportion as the Government may fix.

115. The Government may, after previous publication, make rules regarding—

Power of Government to make rules.

- (a) the assessment of property taxes;
- (b) the assessment of the tax on Companies and tax on profession and other sources of income;
- (c) the levy of the carriage and animal tax and of tolls;
- (d) the revision of assessment;
- (e) the collection of taxes, dues and tolls;
- (f) other miscellaneous matters connected with taxation under this Act;
- (g) the auditing of the accounts and surcharge and disallowance by auditors; and
- (h) the purposes to which the Municipal Fund may be applied.

Such rules shall be read as part of this Chapter and shall have the force of law.

116.—(1) If the expenditure incurred, by the Government or by any other Municipality to which this Act applies, or by any other local authority for any purpose authorised by or under the rules framed under clause (h) of section 115 is such as to benefit the inhabitants of a Municipality, the Municipal Council may, with the sanction of the Government, make a contribution towards such expenditure.

Contributions to expenditure incurred by other local authorities.

(2) The Government may direct a Municipal Council to show cause within a month after a receipt

of the order containing the direction, why any contribution described in sub-section (1) should not be made.

(3) If the Municipal Council fails to show cause within the said period to the satisfaction of the Government, the Government may direct it to make such contribution as they shall name and it shall be paid accordingly.

PART IV.

PUBLIC HEALTH, SAFETY AND CONVENIENCE.

CHAPTER VII—WATER SUPPLY, LIGHTING AND DRAINAGE.

Water Supply—Vesting of Works and Powers of Municipal Authorities.

Vesting of
works in
Municipal
Council.

117.—(1) All public water courses and springs and all public reservoirs, tanks, cisterns, fountains, wells, standpipes, and other water works existing at the time of the coming into force of this Act or afterwards made, laid or erected and whether made, laid or erected at the cost of the Municipal Council or otherwise and also any adjacent land (not being private property) appertaining thereto shall vest in the Council and be subject to their control:

Provided that nothing contained in this section shall apply to any work which is or is connected with a work of irrigation or to any adjacent land appertaining to any such work.

(2) The Government may, by notification, limit or define such control or may assume the administration of any public source of water supply and public land adjacent and appertaining thereto after consulting the Municipal Council and giving due regard to its objections, if any.

118.—(1) The Council may, with the sanction of the Government, direct the construction of such works as it deems fit without the limits of the Municipality for supplying it with water and may provide channels, tanks, reservoirs, cisterns, engines, mains, wells, fountains, standpipes and other works as it may deem fit within the said limits for the use of the inhabitants.

Construction and maintenance of water works.

(2) The Council may cause existing works for the supply of water to be maintained and supplied with water, or it may close any such works and substitute other such works and may cause them to be maintained and supplied with water.

119. It shall not be lawful for any person except with permission duly given and obtained to enter upon land belonging to or vested in a Municipal Council along which a conduit or pipe runs or upon any premises connected with the water supply.

Trespass on premises connected with water supply.

120.—(1) Without the permission of the Council no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any Municipal water mains.

Prohibition of building over water mains.

(2) If any building, wall or other structure be so erected or any street or railway be so constructed, the Council may cause the same to be removed or otherwise dealt with as shall appear to it fit and the expenses thereby incurred shall be paid by the persons offending.

(3) Nothing contained in sub-section (1) or (2) shall apply to the construction of railway lines taken up and executed under the direction of Government:

Provided that any person executing such work shall not cause any damage or injury or do anything which would tend to cause any damage or injury to such water mains and shall execute all additional work necessary for their safety, preservation and retention to the satisfaction of the Council.

(4) Any person who fails to comply with any of the provisions in sub-section (3) shall be liable to pay to the Council such compensation as the Council may fix.

Meddling
with the
water main.

121. Whoever—

(1) unlawfully breaks, injures or causes damage to any public channel, tank, reservoir, cistern, well, fountain or standpipe or diverts water of the work connected with the water supply or without due authority opens or removes any lock, cock or pipe belonging to or under the management or control of the Municipal Council, or

(2) unlawfully draws off or takes water from any water works belonging to the Municipal Council or under their management or control,—

shall for every such offence be liable to a fine not exceeding Rs. 20.

Supply for Domestic Use.

Council to
provide
water for
domestic
use.

122. The Council shall so far as the funds at its disposal may admit provide a sufficient supply of water fit for the domestic use of the inhabitants.

Control over
house con-
nections.

123. All house connections, whether within or without the premises to which they belong, with any water supply mains which may have been constructed by a Municipal Council shall be under the control of the Council, but shall be altered, repaired and kept in proper order if the Council so require, at the expense of the owner of the premises to which they belong or for the use of which they were constructed, and in conformity with by-laws and regulations framed by the Council in this behalf.

Private
water supply

124.—(1) In Municipalities in which there is a pipe supply of water the executive authority may, at

his discretion, on application by the owner or occupier of any building arrange in accordance with the by-laws, to supply water thereto for domestic consumption and use.

for consumption and domestic use and powers of executive authority to enforce provision of water supply.

(2) Whenever it appears to the executive authority that any masonry dwelling house assessed at an annual value of not less than Rs. 200 is without a proper supply of water for domestic consumption and use and that such a supply can be furnished from a main not more than 100 feet distant from any part of such building the executive authority may by notice require the owner to obtain such supply and to execute all such works as may be necessary for that purpose in accordance with the by-laws and regulations:

Provided that no action shall be taken under this sub-section if the owner satisfies the executive authority that he is too poor to bear the cost of the said works.

(3) The cost of making the connection and the cost or hire of meters shall be borne by the owner or applicant and shall be recoverable in the same manner as the property tax.

Explanation.—Supply of water for domestic consumption and use shall not be deemed to include a supply—

(a) for any trade, manufacture, or business,

(b) for gardens or for purposes of irrigation,

(c) for building purposes,

(d) for fountains, swimming baths, public baths, tanks, in or near temples, churches, synagogues and mosques within the Municipality or for any ornamental or mechanical purpose, and

(e) for animals or for washing vehicles, where such animals or vehicles are kept for sale or hire;

but shall be deemed to include a supply—

- (i) for flushing water closets and latrines,
- (ii) for all baths other than swimming baths or public baths,
- (iii) for the consumption and use of inmates of hotels, boarding houses and the like and for baths used by such inmates.

(4) For all water supplied under this section in excess of a maximum determined by by-laws made by the Council, payment shall be made at such times and on such conditions as may be laid down in such by-laws and shall be recoverable in the same manner as the property tax.

Private Water Supply For Non-domestic Purposes.

Executive authority's power to supply water for non-domestic purposes at rates fixed by Council.

125.—(1) The executive authority may, at his discretion, supply water for any purpose other than domestic consumption and use on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed.

(2) For all water supplied under sub-section (1) payment shall be made at such rates and such conditions shall be imposed as may be determined by the Council by general or special order.

Supply Beyond Limits Of Municipality.

Supply without the

126. The Council may, with the sanction of and on such terms (if any) as may be approved by the

Government, supply water to a local authority or other person without the Municipality. Municipality.

Cutting Off Water Supply.

127.—(1) The executive authority may cut off the supply of Municipal water from any premises— Power to cut off water supply.

(a) if the premises are unoccupied;

(b) if any water-tax or any sum due for water, for the cost of making a connection or for the cost or hire of a meter or for the cost of carrying out any work or test connected with the water supply which is chargeable to any person by or under this Act, is not paid within 15 days after a bill for such tax or sum has been presented;

(c) if, after receipt of a notice from the executive authority requiring him to refrain from so doing, the owner or occupier continues to use the water or to permit it to be used in contravention of any by-law made under this Act;

(d) if the owner or occupier neglects within a period specified in any notice issued by the executive authority under any by-law made under this Act to put up a meter or to comply with any other lawful order or requisition;

(e) if the owner or occupier wilfully or negligently damages his meter or any pipe or tap carrying Municipal water;

(f) if the occupier refuses to admit the executive authority into premises which he proposes to enter for the purpose of executing any work or of placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or prevents the executive authority doing

such work, placing or removing such apparatus or making such examination or inquiry:

(*g*) if any pipes, taps, works, or fittings connected with the Municipal water supply are found on examination by the executive authority to be out of repair to such an extent as to cause waste or contamination of water ;

(*h*) if the owner or occupier causes pipes, taps, works or fittings connected with the Municipal water supply to be placed, removed, repaired or otherwise interfered with in violation of the by-laws:

Provided that in cases under clauses (*e*), (*f*), (*g*) and (*h*) the executive authority shall not take action unless notice of not less than 24 hours has been given to the owner or occupier of the premises.

(2) The expense of cutting off the supply shall be paid by the owner or occupier of the premises.

(3) In cases under clause (*b*) as soon as any money for non-payment of which water has been cut off together with the expense of cutting off the supply, has been paid by the owner or occupier, the executive authority shall cause water to be supplied as before on payment of the cost (if any) of re-connecting the premises with the Municipal water works.

(4) No action taken under this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

Non-liability
of Council
for reduc-
tion or
stoppage of
supply in
certain
cases.

128. The Council shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water (save in the case of express stipulation in an agreement for the supply of water for other than domestic purposes) in the case of any draught or other unavoidable cause or accident or the necessity for relaying or repairing pipes.

Lighting.

129. The Council shall, so far as the funds at its disposal permit, cause the public streets to be lighted and for that purpose shall provide such lamps and works as it thinks necessary.

Provision
for lighting
public
streets.

Public Drainage.

130. The Council shall, so far as the funds at its disposal may admit, provide and maintain a sufficient system of public drains.

Maintenance
of system of
drainage by
Council.

Private Drainage.

131 All house drains whether within or without the premises to which they belong and all private latrines and cess-pools within the Municipality shall be under the control of the Municipal Council but shall be altered, repaired, cleansed and kept in proper order at the expense of the owner of the premises to which the same belong or for the use of which they were constructed and in conformity with any by-laws and regulations that may be framed by the Council in this behalf.

Control over
house drains,
privies and
cess-pools.

132.—(1) The executive authority shall, on application by the owner or occupier of any premises or the owner of a private street, arrange in accordance with the by-laws for the connection of the applicant's drain with any public drain at a distance not exceeding 300 feet therefrom at the applicant's expense.

Connection
of house
drains with
public drains.

(2) If there is a public drain or outfall within a distance not exceeding 100 feet of the nearest point on any premises the executive authority may, by a notice, direct the owner of the said premises to construct a drain leading therefrom to such drain or place of outfall and to execute all such works as may be necessary in accordance with the by-laws and regulations at such owners' expense.

(3) If any premises are in the opinion of the executive authority without sufficient means of effectual drainage, but no part thereof is situated within 100 feet of a public drain or its place of outfall, the executive authority may, by notice, direct the owner of the said premises to construct a cess-pool or septic tank or filters of such material, dimensions and description, in such position and at such level as the executive authority thinks necessary, and to construct a drain or drains emptying into such cess-pool, tank or filters and to execute all such works as may be necessary in accordance with the by-laws and regulations:

Provided that –

(a) No requisition shall be made under this section on any person who has been exempted from payment of the property tax under section 76 clause (f);

(b) No person shall be required under this section to expend a sum exceeding five times the property tax on any such building with the land assessed with it as part of the same premises; or, in the case of buildings exempted under section 76, five times the property tax which would be payable on such building with the land which would be assessed with it to the property tax if such building were not exempt; and if any amount exceeding the said sum is expended, the excess shall be borne by the Council.

Executive authority may close or limit the use of existing private drains.

133.—(1) Where a drain connecting any premises with a public drain or other place set apart by the Municipal Council for the discharge of drainage is sufficient for the effectual drainage thereof and is otherwise unobjectionable, but is not in the opinion of the executive authority adapted to the general drainage system of the Municipality or of the part of the

Municipality in which such drain is situated the executive authority with the approval of the Council may—

(a) subject to the provisions of sub-section (2) close, discontinue or destroy the said drain and do any work necessary for that purpose, or

(b) direct that such drain shall from such date as he specifies in this behalf, be used for sullage and sewage only, or for water un-polluted with sullage or sewage only and by notice require the owner of the premises to make at his own expense an entirely distinct drain for water un-polluted with sullage or sewage or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the executive authority under clause (1) (a) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with a public drain or other place aforesaid and the expense of the construction of any drain so provided by the executive authority and of any work done under clause (1) (a) shall be paid by the Council.

134.—(1) When the executive authority is of opinion that any group or block of premises any part of which is situate within 100 feet of a Municipal drain already existing or about to be constructed may be drained more economically or advantageously in combination than separately, the executive authority may with the approval of the Council cause such group or block of premises to be drained by such method as appears to the executive authority to be best suited therefor and the expenses incurred by the executive authority in so doing shall be paid by the owners in such proportions as the Council may decide.

Power of executive authority to drain premises in combination.

(2) Not less than 15 days before any work under this section is commenced the executive authority shall give written notice to the owners of—

(a) the nature of the intended work,

(b) the estimated expenses thereof, and

(c) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed or continued for the special use and benefit only of such premises and shall in the proportion in which it is determined that they are to contribute to the expenses incurred by the executive authority under sub-section (1) be responsible for the expense of maintaining every such drain in good repair and efficient condition.

Building,
etc., not to
be erected
without
permission
over drains.

135.—(1) Without the permission of the Council no person shall place or construct any fence, building, culvert, drain-covering, drain or other structure or any street, or cable over, under, in or across any public drain or stop up, divert, obstruct or in any way interfere with any public drain, whether it passes through public or private ground.

(2) The executive authority may remove or otherwise deal with anything placed or constructed in contravention of sub-section (1) as he shall think fit, and the cost of so doing shall be recoverable from the owner thereof in the manner provided in section 347.

Construction
of culverts
or drain
coverings
by owner or
occupier.

136.—(1) The executive authority may, by notice, require the owner or occupier of any building or land adjoining a public street to construct culverts or drain coverings over the side channels or ditches at the entrance to the said building or land.

(2) All culverts or drain coverings or pials maintained over side channels or ditches by the owners or occupiers of adjacent buildings or lands shall be of such form and size and consist of such materials and be provided with such means of ventilation as the

executive authority may, by notice, require and shall be maintained and kept free from all obstruction at the expense of the said owners or occupiers.

137. The owner or occupier of any building in a public street shall, within 15 days after receipt of notice in that behalf from the executive authority, put up and thenceforward maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building and for discharging such water in such manner as the executive authority may permit.

Maintenance of troughs and pipes for catching water.

Public Latrines.

138. The Council shall, as far as the funds at its disposal may admit, provide and maintain in proper and convenient places sufficient number of public latrines and shall cause the same to be daily cleansed and kept in proper order.

Provision of public latrines and urinals.

Private Latrines.

139.—(1) The owner or occupier of every building shall within 14 days after receiving notice from the executive authority provide a latrine for the use of the persons employed in or about or occupying such building or alter or remove from an unsuitable to a more suitable place, any existing latrine in accordance with the directions contained in such notice.

Provision of latrines by owner or occupier.

(2) Every owner or occupier of the ground on which any group of six or more huts stands shall provide latrines of such description and number and in such position as the executive authority may, by notice, require within such time as may be fixed in the notice for the use of the inhabitants of such huts.

140. Every person employing workmen, labourers or other persons exceeding 10 in number, shall provide and maintain for the separate use of persons of

Provision of latrines for labourers.

each sex so employed, latrines of such description and number and in such position as the executive authority may by notice require, within such time as may be fixed in the notice.

Provision of latrines for markets, cart-stands, cattle sheds, etc,

141. Every owner or manager of a market, cart-stand, cattle-shed, choultry, theatre, railway station, dock, wharf or other places of public resort or entertainment shall, within 14 days after receiving notice from the executive authority, provide and maintain for the separate use of persons of each sex, latrines of such description and number and in such position as may be specified in the notice.

Latrines to be screened from view and kept clean.

142. All latrines shall be so constructed as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood and shall be kept clean and in proper order.

General Powers.

Power to carry wire, pipe, drains, etc., through private property:

143. The executive authority may carry any cable, wire, pipe, drain, or channel of any kind to establish or maintain any system of drainage, water supply or lighting, through, across, under, or over any road, street or place laid out for a road or street, and after giving reasonable notice to the owner or occupier through, across, under, over or up the side of, any land or building in the Municipality, and may place and maintain posts, poles, standards, brackets or other contrivances to support wires and lights on any pole or post in the Municipality not owned by the Government of India or the Cochin Government and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, post, pole, standard, bracket or other similar contrivance in an effective state for the purpose for which it is intended to be used or for removing the same:

Provided that such work shall be done so as to

cause the least practicable nuisance or inconvenience to any person:

Provided further that the executive authority shall, with the sanction of the Council, pay compensation to any person who sustains damage by the exercise of such power.

144.—(1) No person shall, without the permission of the executive authority make any connection with any Municipal cable, wire, pipe, drain, or channel or with the house connection of any other person.

Prohibition against making connection with mains without permission.

(2) The executive authority may, by notice, require any connection made in contravention of subsection (1) to be demolished, removed, closed, altered or re-made.

145. If the Council conduct any pipe or drain or other work connected with the water supply or drainage of the Municipality across a culvert, cable or drain it may, with the sanction of the Government and at the cost of the Municipal fund, require the owners of the same to raise or lower the level thereof.

Power to require level of culvert, cable, etc. to be raised or lowered.

146.—(1) The Municipal Council shall not undertake new works beyond the limits of the Municipality without the sanction of the Government.

Powers in respect of works outside the Municipality

(2) The Council may, in the execution and for the purpose of any works beyond the limits of the Municipality sanctioned by the Government whether before or after the passing of this Act, exercise all the powers which it may exercise within the Municipality, throughout the line of the country through which conduits, channels, pipes, lines of posts and wires and the like run, and with the sanction of the Government—

(a) over any lake, tank or reservoir, from which a supply of water for drinking, for producing electric energy or for other purposes is derived, and

over all lands within one mile of the high water level of any such lake, tank or reservoir;

(b) over any water course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which water is taken for such use; and,

(c) over any lands used for sewage, farms, sewage disposal tanks, filters and other works connected with the drainage of the Municipality.

CHAPTER VIII.—SCAVENGING

Municipality
to arrange for
the removal
of rubbish
and filth.

147. Every Municipal Council shall, so far as the funds at its disposal admit, make adequate arrangements for:—

(a) the regular sweeping and cleansing of the streets and removal of sweepings therefrom;

(b) the daily removal of filth and the carcasses of animals from private premises; and

(c) the daily removal of rubbish from dust-bins and private premises; and with this object it shall so far as the funds at its disposal admit provide—

(i) depots for the deposit of filth, rubbish and the carcasses of animals;

(ii) covered vehicles or vessels for the removal of filth;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish; and

(iv) dust-bins for the temporary deposit of rubbish.

Scavenging
on occasions
of fairs and
festivals and

148. The Council shall make any special scavenging arrangements that may be necessary on occasions

of fairs, festivals or other large assemblies of people and in the case of such assemblies held in connection with any place of pilgrimage in or within one mile of the Municipality, the Council may require the persons having control over such place of pilgrimage to make such contribution as the Government may, on each such occasion, fix towards the cost of such arrangements.

contributions from persons having control over places of pilgrimage.

149. No person shall, after due provision has been made under section 147 by the Municipal Council for the deposit and removal of the same,

Prohibition of improper disposal of carcasses, rubbish and filth.

(a) deposit the carcasses of animals, rubbish or filth in any street or on the verandah of any building or on any unoccupied ground alongside any street or on any public quay, jetty or landing place or on the bank of a water course or tank; or

(b) deposit filth or carcasses of animals in any dust-bin or in any vehicle not intended for the removal of the same; or

(c) deposit rubbish in any vehicle or vessel intended for the removal of filth save for the purpose of deodorising or disinfecting the filth.

150. No occupier of any building shall, after a receptacle has been provided, fail to deposit therein all filth that has not been removed from the building or to keep such receptacle in readiness, screened from public view, at the times fixed by the Council, or deposit in such receptacle any matter other than filth.

Prohibition of failure to deposit filth in receptacle, etc.

151. No owner or occupier of any premises shall keep or allow to be kept for more than 24 hours any filth on such premises or any building or on the roof thereof or in any out-building or any place belonging thereto, or fail to comply with any requisition of the executive authority as to the construction, repair,

Prohibition against keeping filth on premises too long, etc.

paving or cleansing of any latrine on or belonging to his premises.

Prohibition against allowing outflow of filth.

152. No owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable, or any other filth to flow out of such premises to any portion of a street except a drain or a cesspool or to flow out of such premises in such manner as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of a drain forming a portion of a street.

Prohibition against using any cart without cover in the removal of filth, etc.

153. No person shall, in the removal of filth, use any cart or receptacle not having a covering proper for preventing the escape of the contents thereof, or of the stench therefrom, or intentionally or negligently spill any filth in the removal thereof, or omit carefully to sweep and clean every place in which any such filth has been spilled, or place or set down in any public place any filth whether in a vessel closed or open.

Prohibition against throwing rubbish or filth into drains.

154. No person shall put or cause to be put any rubbish or filth into any public drain not intended for rubbish or filth or into any drain communicating with any such public drain.

CHAPTER IX—STREETS.

Public Streets.

Maintenance and repair of streets.

155. The Municipal Council except when otherwise directed by the Government, shall, at the cost of the Municipal fund, cause the public streets and bridges to be maintained and repaired and may from the same fund meet the cost of all improvements to the same which are necessary or expedient for the public safety or convenience.

Powers of Municipal authorities.

156.—(1) The Council may, with the sanction of the Government,

- (a) lay out and make new streets;
- (b) construct bridges and sub-ways;
- (c) turn, divert or permanently close any public street or part thereof;
- (d) widen, open, extend or otherwise improve any public street.

(2) Reasonable compensation shall be paid to the owners and occupiers of any land or buildings which are required for or affected by any such purposes.

157.—(1) When a public street is permanently closed under section 156 (1) (c) the Municipal Council may with the sanction of the Government, dispose of the site or of so much thereof as is no longer required, in such manner as may be approved by the Government, provided that due compensation is made to any person injured by such closing.

Power to dispose of permanently closed streets.

(2) In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street at or about the same time that the public street on account of which the compensation is paid, is closed.

158.—(1) The Council may move the Government to acquire under the Land Acquisition Act—

(a) any land required for the purpose of opening, widening, extending or otherwise improving any public street, or of making any new public street and the building, if any, standing upon such land, and

(b) any land outside the proposed street, alignment with the buildings, if any, standing there upon:

Acquisition of land and building for the improvement of street.

Provided that, in any case in which acquisition is made in respect of any land described in this clause,

the owner of such land may retain it by paying to the Municipal Council an annual sum to be fixed by the Council in that behalf, or a lump sum to be fixed by the Council, not being less than 25 times such annual sum and subject to such conditions as the Council thinks fit as to the removal of the existing building (if any), the description of the new building (if any), to be erected, the period within which the new building (if any), shall be completed and any other similar matters.

(2) If any sum payable in pursuance of the proviso to sub-section (1) in respect of any land be not duly paid, it shall be recoverable in the manner provided by this Act for the collection of taxes, and, if not so recovered, the executive authority may enter upon the land, and sell it, with any erection standing thereon by public auction subject to the conditions (if any), imposed under sub-section (1) above and may deduct the said sum and the expenses of the sale from any, proceeds of the sale and shall pay the balance (if any), to the defaulter.

(3) Any sum paid in pursuance of the proviso to sub-section (1) or recovered under sub-section (2) in respect of any land shall be left out of account in determining the annual value of such land for the purpose of assessing it to the property tax.

(4) Any land or building described in clause (b) of sub-section (1) after it has been handed over to the Council on acquisition by Government may be sold, leased or otherwise disposed of after public advertisement, and any conveyance made for that purpose may comprise such conditions as the Council thinks fit as to the removal of the existing building (if any), the description of the new building (if any), to be erected, the period within which the new building (if any), shall be completed and any other similar matters.

(5) The Council may require any person to whom any land or building is transferred under sub-section (4) to comply with any condition comprised in the said conveyance before it places him in possession of the land or building.

159. The Council may—

(a) prescribe for any public street a building line or a street alignment or both;

Power to prescribe building line and street alignment.

(b) from time to time define a fresh line in substitution for any line so defined or for any part thereof:

Provided that in either case—

(i) at least one month before the meeting of the Council at which the matter is decided, public notice of the proposal has been given and special notice thereof has also been put up in the street or part of the street for which such fresh line is proposed to be defined; and

(ii) the Council has considered all objections to the said proposal made in writing and delivered at the Municipal Office not less than 3 clear days before the day of such meeting.

160.—(1) No person shall construct any portion of a building within a street alignment defined under section 159.

Buildings not to be constructed within street alignment or building line.

(2) No person shall erect or add to any building between a street alignment and a building line defined under section 159 except with the permission of the executive authority, who may when granting permission impose such conditions as the Council may lay down for such cases.

161.—(1) When any building or part thereof abutting on a public street is within a street alignment

Setting back projecting

buildings or
walls.

defined under section 159, the executive authority may, whenever, it is proposed,

(a) to rebuild such building or take it down to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet; or

(b) to remove, reconstruct or make any addition to any portion of such building which is within the street alignment;

in any order which he issues concerning the rebuilding, alteration or repair of such building, require such building to be set back to the street alignment.

(2) When any building or any part thereof within the street alignment falls down or is burnt down or is, whether by order of the executive authority or otherwise, taken down, or when any private land without any building thereon lies within the street alignment, the executive authority may forthwith take possession on behalf of the Council of the portion of land within the street alignment and, if necessary, clear it.

(3) Land acquired under this section shall be deemed a part of the public street and shall vest in the Municipal Council.

(4) When any building is set back in pursuance of any requisition made under sub-section (1), or when the executive authority takes possession of any land under sub-section (2), the Council shall forthwith make full compensation to the owner for any direct damage which he may sustain thereby.

Explanation.—The expression 'direct damage' as used in sub-section (4) with reference to land means the market value of the land taken and the depreciation,

if any, in the ordinary market value of the rest of the land resulting from the area being reduced in size; but does not include damage due to the prospective loss of any particular use to which the owner may allege that he intended put the land, although such use may be injuriously affected by the reduction of the site.

162. The Council may upon such terms as it thinks fit allow any building to be set forward for the purpose of improving the line of a public street and may, by notice, require any building to be so set forward in the case of reconstruction thereof or of a new construction.

Setting buildings forward to improve line of street.

Explanation.—For the purpose of this section a wall separating any premises from a public street shall be deemed to be a building and it shall be deemed a sufficient compliance with permission or requisition to set forward a building to the street alignment if a wall of such material and dimensions as are approved by the executive authority is erected along the said line.

163.—(1) The Council may prepare schemes and plans of proposed public streets, showing the direction of such streets, the street alignment and building line on each side of them, their intended width and such other details as may appear desirable.

Projected streets.

(2) The width of such proposed streets shall not ordinarily be less than 40 feet or in any area covered by huts, 20 feet.

(3) It shall be the duty of the Council to lay out public streets in areas covered by huts, so far as may be practicable, both for the purpose of securing proper ventilation for huts in such areas, and in view to the contingency of buildings being erected therein.

(4) When any plan has been prepared under sub-section (1) the street to which it refers shall be deemed to be a projected public street, and the provisions of section 161 shall apply to all buildings so far as they stand across the street alignment or building line of the projected street.

Watering of streets.

164. The Council shall, so far as it considers requisite for the public convenience and so far as funds permit, cause the chief public streets to be watered and for that purpose may provide such water-carts, animals and apparatus as it thinks necessary.

Temporary closure of streets.

165. The executive authority may by an order in writing temporarily close any street to traffic for repair, or in order to carry out any work connected with drainage, water supply or lighting or any of the purposes of this Act:

Provided that such work shall be completed and such street re-opened to traffic with all reasonable speed.

Protection of appurtenances and materials of streets.

166. It shall not be lawful for any person without the permission of the executive authority to displace, take up or make any alteration in the fences, posts, pavement, flags or other materials of any public street.

Power of Municipality to recover expenses caused by extraordinary traffic.

167. When by a certificate of an officer of the Public Works Department of a rank not below that of an Assistant Engineer it appears to the Council that having regard to the average expense of repairing roads in the neighbourhood extraordinary expenses have been incurred by the Municipal Council in repairing a street by reason of the damage caused by excessive weight passing along the street or extraordinary traffic thereon, the Council may recover in the District Court having jurisdiction from any person by or in

consequence of whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of such Court to have been incurred by such Council by reason of the damage arising from such weight or traffic as aforesaid:

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with the Council for the payment to it of a composition in respect of such weight or traffic and thereupon the persons so paying shall not be subject to any proceedings under this section.

168.—(1) Subject to sub-section (5) of this section no person shall use—

Licensing
of motor
vehicles ply-
ing for hire
and motor
lorries.

(a) any motor vehicle for carrying passengers for hire, or

(b) any motor lorry

on any public street in any Municipality except on a license obtained from the executive authority.

(2) The Municipal Council may, with the previous approval of the Government, make rules determining the rates of fares for passengers and of freight for goods carried in such vehicles and specifying the other conditions on which such licenses may be granted

(3) Every license granted under sub-section (1) shall expire at the end of the year in which it is granted.

(4) (a) Any person aggrieved by an order of the executive authority under sub-section (1) may appeal against such order to the Municipal Council.

(b) The period of limitation for such appeal shall be—

- | | |
|--|---|
| (i) When the appeal is against an order refusing a license. | 15 days from the date of communication of the order of the applicant, and |
| (ii) When the appeal is against an order granting a license. | 30 days from the date of publication of the order on the notice board of the Municipal Council. |

(5) When a motor vehicle has been licensed under the Cochin Motor Vehicles Act to be used for hire partly outside Municipal limits and partly within such limits no fee shall be charged for a license granted under sub-section (1) in respect of such vehicle, and the conditions specified in such license shall relate only to the regulation of the use of the public streets in the Municipality by such vehicle.

Private Streets.

Owners' obligation to make a street when disposing of land as building sites.

169. If the owner of any land utilises, sells, leases or otherwise disposes of such land or any portion or portions of the same as sites for the construction of buildings he shall, save in such cases as the site or sites may abut on an existing public or private street, lay down and make a street or streets or road or roads giving access to the site or sites and connecting with an existing public or private street.

Making of new private streets.

170.—(1) Any person intending to make or lay out a new private street shall send to the Municipal Office a written application with plans and section showing the following particulars, namely—

- (a) the intended level, direction and width of the street,
- (b) the street alignment and the building line, and

(c) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving and lighting the street.

(2) The provisions of this Act and of any rules or by-laws made under this Act as to the level and width of public streets and the height of buildings abutting thereon shall apply also in the case of streets referred to in sub-section (1); and all the particulars referred to in that sub-section shall be subject to approval by the Municipal Council.

(3) Within 60 days after the receipt of any application under sub-section (1) the Council shall either sanction the making of the street on such conditions as it may think fit, or disallow it, or ask for further information with respect to it.

(4) Such sanction may be refused—

(i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the Council likely to be made for carrying out any general scheme for the laying out of streets;

(ii) if the proposed street does not conform to the provisions of the Act, rules and by-laws referred to in sub-section (2); or

(iii) if the proposed street is not designed so as to connect at one end with a street which is already open.

(5) No person shall make or lay out any new private street without or otherwise than in conformity with the orders of the Council. If further information is asked for, no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information:

Provided that the passing of such order shall not in any case be delayed for more than 60 days after the Council has received all the information which it considers necessary to enable it to deal finally with the said application. Any application not disallowed within a period of 90 days from the date of receipt in the Municipal Office shall be deemed to have been sanctioned.

Alteration or
demolition
of street
made in
breach of
section 170.

171.—(1) If any person makes or lays out any street referred to in section 170, without or otherwise than in conformity with the orders of the Council, the executive authority may whether or not the offender be prosecuted under this Act by notice—

(a) require the offender to show sufficient cause by a written statement signed by him and sent to the executive authority on or before such day as may be specified in the notice why such street should not be altered to the satisfaction of the executive authority, or if such alteration be impracticable, why such street should not be demolished; or

(b) require the offender to appear before the executive authority either personally or by a duly authorised agent on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the executive authority why such street should not be so altered or demolished the executive authority may pass an order directing the alteration or demolition of such street.

Power of
executive
authority to
order work
to be carried
out or to

172.—(1) If any private street or part thereof is not levelled, paved, metalled, flagged, channelled, drained, conserved or lighted to the satisfaction of the executive authority he may by notice require the owners

or occupiers of buildings or lands fronting or abutting on such street or part thereof to carry out any work, which in his opinion may be necessary and within such time as may be specified in such notice.

carry it out himself in default.

(2) If such work is not carried out within the time specified in the notice, the executive authority may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners or occupiers in default according to the frontage of their respective buildings or lands and in such proportion as may be settled by the executive authority.

173. If any street has been levelled, paved, metalled, flagged, channelled, drained, conserved and lighted under the provisions of section 172 such street shall, on the requisition of not less than three-fourths of the owners thereof be declared a public street.

Right of owners to require street to be declared public.

Encroachment on Streets.

174. No one shall build any wall or erect any fence or other obstruction, or projection, or make any encroachment in or over any street except as hereinafter provided.

Prohibition against obstructions in or over streets,

175. All streets vested in or to be vested in or maintained by a Municipal Council shall be open to persons of whatever caste or creed.

Public streets open to all.

176.—(1) No door, gate, bar, or ground-floor window shall without a license from the executive authority be hung or placed so as to open outwards upon any street.

Prohibition and regulation of doors, ground-floor windows and bars opening outwards.

(2) The executive authority may, by notice, require the owner of such door, gate, bar or window to alter it so that no part thereof, when open, shall project over the street.

Removal of
encroach-
ments.

177. The executive authority may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground-floor window), situated against or in front of such premises and in or over any street.

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or license of any Municipal authority duly empowered in that behalf, and that the period, if any, for which the permission or license is valid has not expired, the Municipal Council shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

Power to
allow certain
projections
and erec-
tions.

178.—(1) The Council may grant a license, subject to such conditions and restrictions as it may think fit to the owner or occupier of any premises to put up verandahs, balconies, sun-shades, weather-frames and the like, to project over a street or in streets in which the construction of arcades has been sanctioned by the Council, to put up an arcade; or to construct any step or drain-covering necessary for access to the premises.

(2) The executive authority may grant a license, subject to such conditions and restrictions, as he may think fit, for the temporary erection of pandals and other structures in a public street vested in the Council or in any other public place the control of which is vested in the Council.

(3) The Council shall have power to lease road-sides and street margins vested in it for the occupation on such terms and conditions and for such period as the Council may fix.

(4) But neither a license under sub-section (1) nor a lease under sub-section (3) shall be granted if the projection, construction or occupation is likely to be injurious to health or cause public inconvenience or otherwise materially interfere with the use of the road as such.

(5) The Government may, by notification, restrict and place under such control, as they may think fit, the exercise by Municipal Councils in general or by any Municipal Council in particular, of the powers under sub-sections (1) and (3).

(6) On the expiry of any period for which a license has been granted under this section, the executive authority may, without notice, cause any projection or construction put up under sub-section (1) or (2) to be removed, and the cost of so doing shall be recoverable in the manner provided in section 347, from the person to whom the license was granted.

179.—(1) The executive authority shall, during the construction or repair of any street, drain or premises vested in the Municipal Council—

Precautions
during re-
pair of
streets.

(a) cause the same to be fenced and guarded,

(b) take proper precautions against accident by shoring up and protecting the adjoining buildings, and

(c) cause such bars, chains or posts to be fixed across or in any street in which any such work is under execution as are necessary in order to prevent the passage of vehicles or animals and avert danger.

(2) The executive authority shall cause such drain, street or premises to be sufficiently lighted or

guarded during the night while under construction or repair.

(3) The executive authority shall with all reasonable speed complete the said work, fill in the ground, and repair the said drain, street or premises and remove the rubbish occasioned thereby.

Prohibition
against
removal of
bars and
lights.

180. No person shall without lawful authority remove any bar, chain, post or shoring timber or remove or extinguish any light set up.

Prohibition
against
making holes
and causing
obstruction.

181.—(1) No person shall make a hole or cause any obstruction in any street unless he previously obtains the permission of the executive authority and complies with such conditions as that officer may impose.

(2) When such permission is granted, such person shall, at his own expense, cause such hole or obstruction to be sufficiently fenced and enclosed until the hole or obstruction is filled up or removed and shall cause such hole or obstruction to be sufficiently lighted during the night.

Occupation
of poram-
boke without
license.

182.—(1) If any person without the previous sanction of the Council occupies any land belonging to it or vested in it or under its control, he shall be bound to pay in respect of such occupation such sums as may be demanded by the Council by way of penalty from time to time.

(2) In default of payment of any such sum, the Magistrate on the requisition of the executive authority, shall recover it, if necessary, by issuing a warrant with all such powers of distress or sale as are vested in him by any law in force.

License for
work on
buildings
likely to
cause

183. If any person intends to construct or demolish any building or to alter or repair the outward part thereof and if any street or foot-way is likely to be

obstructed or rendered inconvenient by means of such work, he shall first obtain a license from the executive authority in that behalf and shall also—

(a) cause the said building to be fenced and guarded,

(b) sufficiently light it during the night, and

(c) take proper precautions against accidents during such time as the public safety or convenience requires.

184. If any obstruction is caused in any street by the fall of trees, structures or fences the owner or occupier of the premises concerned shall within 12 hours of the occurrence of such fall or within such further period as the executive authority may, by notice, allow, clear the street of such obstruction,

Clearing of debris of fallen houses, etc., by occupiers.

Regulation of Traffic, etc.

185. The Council shall have power, with the approval of the Government, to make, after previous publication, by-laws to regulate traffic in streets and traffic in the backwater or in canals and the use of wharves, jetties, landing places and the protection of all Government and Municipal works connected therewith.

Regulation of traffic, etc.

Use of Public Parks, etc.

186. The Council may, with the approval of the Government, after previous publication, make by-laws to regulate the use of parks, gardens, and other public or Municipal places.

Use of public parks, etc.

Naming of Streets.

187.—(1) The Council shall give names to new public streets and may alter the name of any public street.

Naming of public streets.

(2) The executive authority shall cause to be put up or painted in English and in Malayalam on a conspicuous part of some building, wall or place, at or near each end, corner or entrance the name of every public street.

(3) No person shall, without lawful authority, destroy, pull down, or deface any such name or put up any name different from that put up by order of the executive authority.

Numbers on Buildings.

Numbering
of Buildings.

188.—(1) The executive authority may cause a number to be affixed to the side or outer door of any building or to some place at the entrance of the premises.

(2) No person shall, without lawful authority, destroy, pull down, or deface any such number.

(3) When a number has been affixed under sub-section (1) the owner of the building shall be bound to maintain such number and to replace it if removed or defaced, and if he fails to do so, the executive authority may by notice require him to replace it.

CHAPTER X—BUILDING REGULATIONS.

General Powers.

Building
Rules.

189.—(1) The Government may after previous publication, make rules—

(a) for the regulation or restriction of the use of sites for building, and

(b) for the regulation or restriction of building.

(2) Without prejudice to the generality of the power conferred by sub-section (1) clause (a), rules

made under that clause may provide that no insanitary or dangerous site shall be used for building.

(3) Without prejudice to the generality of the power conferred by sub-section (1) clause (b) rules made under that clause may provide for the following matters:—

(a) information and plans to be submitted together with applications for permission to build ;

(b) height of building, whether absolute or relative to the width of streets ;

(c) level and width of foundation, level of lowest floor and stability of structure ;

(d) number and height of stories composing a building and height of rooms ;

(e) provision of sufficient open space external or internal and adequate means of ventilation ;

(f) provision of means of egress in case of fire ;

(g) provision of secondary means of access for the removal of filth ;

(h) materials and methods of construction of external and party walls, roofs and floors ;

(i) position, materials and methods of construction of hearths, smoke escapes, chimneys, staircases, latrines, drains, cess-pools ;

(j) paving of yards ;

(k) restrictions on the use of inflammable materials in building ; and

(l) in the case of wells, the dimensions of the well, the manner of enclosing it, and if the well is intended for drinking purposes, the means which shall be used to prevent pollution of the water.

Building site
and con-
struction or
re-construc-
tion of
buildings.

190. No piece of land shall be used as a site for the construction of a building and no building shall be constructed or re-constructed otherwise than in accordance with the provisions of this part and of any rules or by-laws made under this Act relating to the use of building sites or the construction or re-construction of buildings:

Provided that the Government may in respect of all Municipalities, exempt all buildings or any class of buildings from all or any of the provisions of this chapter or the said rules and in respect of any particular Municipality exempt, after consulting that particular Council, any class of buildings from all or any of the provisions of this chapter or the said rules.

Power of
Council to
regulate
future con-
struction
of certain
classes of
buildings in
particular
street or
localities.

191.—(1) The Council may give public notice of its intention to declare—

(a) that in any street or portion of streets specified in the notice,

(i) continuous building will be allowed,

(ii) the elevation and construction of the frontage of all buildings thereafter constructed or re-constructed, shall in respect of their architectural features be such as the Council may consider suitable to the locality, or

(b) that in any locality specified in the notice the construction of only detached buildings will be allowed, or

(c) that in any street, portion of street or locality specified in the notice, the construction of shops, warehouses, factories, huts or buildings of a specified architectural character or buildings destined for particular uses will not be allowed, without the special permission of the Council.

(2) No objection to any such declaration shall be received after a period of three months from the publication of such notice.

(3) The Council shall consider all objections received within the said period, and may then confirm the declaration, and before doing so, may modify it, but not so as to extend its effect.

(4) The executive authority shall publish any declaration so confirmed and it shall take effect from the date of publication.

(5) No person shall, after the date of publication of such declaration, construct or reconstruct any building in contravention of any such declaration.

192.—(1) The Council may require any building intended to be erected at the corner of two streets to be rounded off or splayed off to such height and to such extent otherwise as it may determine, and may acquire such portion of the site at the corner as it may consider necessary for public convenience or amenity.

Buildings at
corner of
streets.

(2) For any land so acquired the Municipal Council shall pay compensation.

(3) In determining such compensation allowance shall be made for any benefit accruing to the same premises from the improvement of the streets.

193. No external roof, verandah, pandal or wall of a building shall be constructed or reconstructed of grass, leaves, mats or other inflammable materials except with the permission of the executive authority.

Prohibition
against use
of inflamm-
able materi-
als for build-
ings without
permission.

194. No door, gate, bar, or ground-floor window which opens on any public street shall be constructed

Prohibition
against con-
structing

doors,
ground-
floor win-
dows and
doors so as to
open out-
wards,

or reconstructed so as to open outwards except with the license of the executive authority under section 176.

Buildings other than Huts.

Application
to construct
or recon-
struct build-
ing,

195.—(1) If any person intends to construct or reconstruct a building other than a hut he shall send to the executive authority—

(a) an application in writing for the approval of the site, together with a site plan of the land, and

(b) an application in writing for permission to execute the work together with a ground-plan, elevations and sections of the building, and specification of the work.

Explanation:—‘ Building ’ in this sub-section shall include a wall or fence of whatever height bounding or abutting on any public street.

(2) Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under rules or by-laws.

Necessity
for prior
approval of
site,

196. The executive authority shall not grant permission to construct or reconstruct a building unless and until he has approved of the site on an application made under section 195.

Prohibition
against com-
mencement
of work with-
out permis-
sion.

197. The construction or reconstruction of a building shall not be begun unless and until the executive authority has granted permission for the execution of the work.

Period within
which exe-
cutive

198. Within thirty days after the receipt of any application made under section 195 for approval of a

site or of any information or further information required under rules or by-laws the executive authority shall by written order either approve the site or refuse on one or more of the grounds mentioned in section 201 to approve the site.

authority is to signify approval or disapproval.

199. Within thirty days after the receipt of any application made under section 195 for permission to execute any work or of any information or of documents or further information or documents required under rules or by-laws, the executive authority shall, by written order, either grant such permission or refuse on one or more of the grounds mentioned in section 201 to grant it:

Period within which executive authority is to grant or refuse to grant permission to execute work.

Provided that the said period of thirty days shall not begin to run until the site has been approved under section 198.

200.—(1) If, within the period prescribed by section 198 or section 199, as the case may be, the executive authority has neither given nor refused his approval of a building site, or his permission to execute any work, as the case may be, the Council shall be bound, on the written request of the applicant, to determine by written order whether such approval or permission should be given or not.

Reference to Council if executive authority delays grant or refusal of approval or permission.

(2) If the Council does not, within one month from the receipt of such written request determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act.

201. The only grounds on which approval of a site for the construction or reconstruction of a building

Grounds on which approval of site

for, or
license to
construct or
reconstruct
building may
be refused.

or permission to construct or reconstruct a building may be refused are the following, namely:—

(1) that the work, or use of the site for the work or any of the particulars comprised in the site plan, ground plan, elevations, sections or specification would contravene some specified provision of any law or some specified order, rule, declaration or by-law made under any law;

(2) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or by-laws;

(3) that any of the documents referred to in section 195 have not been signed as required under rules or by-laws;

(4) that any information or documents required by the executive authority under rules or by-laws has or have not been duly furnished;

(5) that streets or roads have not been made as required by section 169; or

(6) that the proposed building would be an encroachment upon Government or Municipal land.

Whenever the executive authority or the Council refuses to approve a building-site for a building or to grant permission to construct or reconstruct a building, the reasons for such refusal shall be specifically stated in the order or resolution.

Lapse of
permission

202. If the construction or reconstruction of any building is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

203.—(1) If the executive authority finds that the work—

Power of executive authority to require alteration of work.

(a) is otherwise than in accordance with the plans or specifications which have been approved; or

(b) contravenes any of the provisions of this Act or any by-law, rule, order or declaration made thereunder,

he may, by notice, require the owner of the building within a period stated either—

(i) to make such alterations as may be specified in the said notice with the object of bringing the work into conformity with the said plans or provisions, or

(ii) to show cause why such alterations should not be made.

(2) If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) If the owner shows cause as aforesaid the executive authority shall, by an order, cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he may think fit.

204. Notwithstanding anything contained in any of the preceding sections, the executive authority may, at any time, stop the construction or reconstruction of any building, if in his opinion, the work in progress endangers human life.

Stoppage of work endangering human life.

Wells.

205. The provisions of section 195, section 196, section 197, section 202, section 203, and section 204 shall, so far as may be, apply to a well.

Application of certain sections to wells.

Huts.

Application
to construct
or recon-
struct huts.

206.—(1) Every person who intends to construct or reconstruct a hut shall send to the executive authority—

(a) an application for permission to execute the work, and

(b) a site plan of the land.

(2) Every such application and plan shall contain the particulars and be prepared in the manner required by rule or by-law.

Prohibition
against com-
mencement
of work
without per-
mission.

207. The construction or reconstruction of a hut shall not be begun unless and until the executive authority has granted permission for the execution of the work on an application sent to him under section 206.

Period with-
in which
executive
authority
is to grant
or refuse
to grant
permission
to execute
the work.

208. Within fourteen days after the receipt of any application made under section 206 for permission to construct or reconstruct a hut or of any information or plan or further information or fresh plan required under rules or by-laws, the executive authority shall, by written order, either grant such permission or refuse on one or more of the grounds mentioned in section 210 to grant it.

Reference
to Council
if executive
authority
delays
passing
orders.

209.—(1) If, within the period prescribed by section 208, the executive authority has neither granted nor refused to grant permission to construct or reconstruct a hut, the Council shall be bound, on the written request of the applicant to determine by written order whether such permission should be granted or not.

(2) If the Council does not, within thirty days from the receipt of such written request, determine

whether such permission should be granted or not, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work but not so as to contravene any of the provisions of this Act or any rules or by-laws made under this Act.

210. The only grounds on which permission to construct or reconstruct a hut may be refused are the following, namely:—

Grounds on which permission to construct or reconstruct hut may be refused.

(1) that the work or use of the site for the work would contravene some specified provision of any law or some specified order, rule, by-law or declaration made under any law;

(2) that the application for permission does not contain the particulars or is not prepared in the manner required under rules or by-laws;

(3) that any information or plan required by the executive authority under rules or by-laws has not been duly furnished;

(4) that streets or roads have not been made as required by section 169; or

(5) that the proposed building would be an encroachment upon Government or Municipal land.

Whenever the executive authority or the Council refuses to grant permission to construct or reconstruct a hut the reasons for such refusal shall be specifically stated in the order or resolution.

211. If the construction or reconstruction of any hut is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

Lapse of permission.

External walls, Alterations and Additions.

Maintenance
of external
walls in
repair.

212. The owner or occupier of any building adjoining a public street shall keep the external part thereof in proper repair with lime-plaster or other material to the satisfaction of the executive authority.

Application
of provisions
to alter
ations and
additions.

213.—(1) The provisions of this chapter and of any rules or by-laws made under this Act relating to construction and reconstruction of buildings shall also be applicable to any alteration thereof or addition thereto:

Provided that works of necessary repair which do not affect the position or dimension of a building or any room therein shall not be deemed an alteration or addition for the purposes of this section.

(2) If any question arises as to whether any addition or alteration is a necessary repair not affecting the position or dimension of a building or room such question shall be referred to the Council whose decision shall be final.

Powers of the Executive Authority.

Demolition
or alteration
of building
work unlaw-
fully com-
menced, car-
ried on or
completed.

214.—(1) If the executive authority is satisfied

(i) that the construction or reconstruction of any building or well—

(a) has been commenced without obtaining the permission of the executive authority or, (where an appeal or reference has been made to the Council) in contravention of any order passed by the Council, or

(b) is being carried on, or has been completed otherwise than in accordance with the plans or particulars on which such permission or order was based, or

(c) is being carried on, or has been completed in breach of any of the provisions of this Act or of any rule or by-law made under this Act or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

(ii) that any alterations required by any notice issued under section 203 have not been duly made, or

(iii) that any alteration of or addition to any building or any other work made or done for any purpose in, to or upon any building has been commenced or is being carried on or has been completed in breach of section 213,

he may make a provisional order requiring the owner or the builder to demolish the work done; or so much of it as, in the opinion of the executive authority, has been unlawfully executed or to make such alterations as may, in the opinion of the executive authority, be necessary to bring the work into conformity with the Act, by-laws, rules, direction or requisition as aforesaid, or with the plans and particulars on which such permission or order was based; and may also direct that until the said order is complied with the owner or builder shall refrain from proceeding with the building or well.

(2) The executive authority shall serve a copy of the provisional order made under sub-section (1) on the owner of the building or well together with a notice requiring him to show cause within a reasonable time to be named in such notice why the order should not be confirmed.

(3) If the owner fails to show cause to the satisfaction of the executive authority, the executive authority may confirm the order with any modification

he may think fit to make and such order shall then be binding on the owner.

Exemptions.

Exemptions.

215.—(1) Any building constructed and used, or intended to be constructed and used, exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, shall be exempted from the provisions of this chapter other than section 194, provided the building be wholly detached from, and situated at a distance of at least ten feet from the nearest adjacent building.

(2) The executive authority may grant permission at his discretion on such terms as he may decide in each case to erect for a specified period temporary huts or sheds for stabling, for watching crops, for storing tools or materials or for other similar purposes. On expiry of the period specified, the executive authority may, by notice, require the owner of such hut or shed to demolish it.

CHAPTER XI.—NUISANCES.

Dangerous Structures, Trees and Places.

Precautions
in case of
dangerous
structures.

216.—(1) If any structure appears to the executive authority to be in a ruinous state and dangerous to the passers-by or to the occupiers of neighbouring structures, the executive authority may, by notice, require the owner or occupier to fence off, take down, secure or repair such structure so as to prevent any danger therefrom.

(2) If immediate action is necessary, the executive authority shall himself before giving such notice or before the period of such notice expires, fence off, take down, secure or repair such structure or

fence off a part of any street or take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner or occupier in the manner provided in section 347.

(3) If, in the opinion of the executive authority, the said structure is imminently dangerous to the inmates thereof the executive authority shall order the immediate evacuation thereof and any person disobeying may be removed by any police officer.

217.—(1) If any tree or any branch of a tree or the fruit of any tree appears to the executive authority to be likely to fall and thereby endanger any person or any structure the executive authority may, by notice, require the owner of the said tree to secure, lop or cut down the said tree so as to prevent any danger therefrom.

Precautions
in case of
dangerous
trees.

(2) If immediate action is necessary the executive authority shall himself before giving such notice or before the period of such notice expires secure, lop or cut down the said tree or remove the fruits thereof or fence off a part of any street or take such other temporary measures, as he thinks fit to prevent danger and the cost of so doing shall be recoverable from the owner of the tree in the manner provided in section 347.

218.—(1) If any tank, pond, well, hole, stream, dam, bank or other place appears to the executive authority to be for want of sufficient repair, protection or enclosure, dangerous to the passers-by or to persons living in the neighbourhood, the executive authority may, by notice, require the owner to fill in, remove, repair, protect or enclose the same so as to prevent any danger therefrom.

Precautions
in case of
dangerous
tanks, wells,
holes, etc.

(2) If immediate action is necessary, he shall before giving such notice or before the period of

notice expires, himself take such temporary measures, as he thinks fit, to prevent danger, and the cost of doing so shall be recoverable from the owner in the manner provided in section 347.

Power to
stop dan-
gerous
quarrying.

219. If, in the opinion of the executive authority, the working of any quarry or the removal of stone, earth or other material from any place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, or is likely to damage any public street or road the executive authority may require the owner or person having control of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place or to take such order with such quarry or place as he shall deem necessary for the purpose of preventing danger or damage or of abating the nuisance arising or likely to arise therefrom.

Precautions
against fire.

220. - (1) The executive authority may, by notice, require the owner of any structure, booth or tent partly or entirely composed of or having any external roof, verandah, pandai or wall partly or entirely composed of cloth, grass, leaves, mats, or other highly inflammable materials to remove or alter such tent, booth, structure, roof, verandah, pandal or wall or may grant him permission to retain the same on such conditions as the executive authority may think necessary to prevent danger from fire.

(2) The executive authority may, by notice, require any person using any place for the storage for private use of timber, firewood, or other combustible things to take special steps to guard against danger from fire.

(3) Where the executive authority is of opinion that the means of egress from any building are insufficient to allow of safe exit in the event of fire, he may, with the sanction of the Council, by notice, require

the owner or occupier of the building to alter or reconstruct any staircase in such manner or to provide such additional or emergency staircase as he may direct, and when any building, booth or tent is used for purposes of public entertainment he may require, subject to such sanction as aforesaid, that it shall be provided with an adequate number of clearly indicated exits so placed and maintained as readily to afford the audience ample means of safe egress, that the seating be so arranged as not to interfere with free access to the exits and that gang-ways, passages and staircases leading to the exits shall during the presence of the public, be kept clear of obstructions.

Control over Waters, etc.

221.—(1) No new well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the executive authority.

Prohibition of construction of wells, tanks, etc., without the executive authority's permission.

(2) The executive authority may grant permission subject to such conditions as he may deem necessary, or may for reasons to be recorded by him, refuse it.

(3) If any such work is begun or completed without such permission the executive authority may either:—

(a) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the executive authority shall direct, or

(b) grant permission to retain such work, but such permission shall not exempt such owner from proceedings for contravening the provisions of subsection (1).

222.—(1) If, in the opinion of the executive authority,

Filling in of pools, etc., which are a nuisance.

(a) any pool, ditch, tank, well, pond, bog, swamp, quarry, hole, drain, cess-pool, pit, water course or any collection of water, or

(b) any land on which water may, at any time, accumulate

is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the executive authority may, by notice, require the owner or person having control thereof to fill up, cover over, weed and stock with larvicidal fish, petrolize, drain, or drain off the same in such manner and with such materials as the executive authority shall direct or to take such order with the same for removing or abating the nuisance as the executive authority shall direct.

(2) If a person on whom a requisition is made under sub-section (1) to fill up, cover over or drain off a well, delivers to the executive authority within the time specified for compliance therewith written objections to such requisition, the executive authority shall report such objections to the Council, and shall make further inquiry into the case, and he shall not institute any prosecution for failure to comply with such requisition except with the approval of the Council, but the executive authority may nevertheless, if he deems the execution of the work called for by such requisition to be of urgent importance proceed in accordance with section 342 and, pending the Council's disposal of the question whether the said well shall be permanently filled up, covered over or otherwise dealt with, may cause such well to be securely covered over so as to prevent the ingress of mosquitoes and in every such case the executive authority shall determine with the approval of the Council whether the expenses of any work already done as aforesaid shall be paid by such person or by the executive authority out of the Municipal fund or shall be shared and, if so, in what proportion.

223. The Council on the report of the Director of Public Health that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any place within the limits of the Municipality is injurious to the public health may, with the previous sanction of the Government, by public notice regulate or prohibit the cultivation, use of manure, or irrigation so reported to be injurious:

Regulation or prohibition of certain kinds of cultivation.

Provided that when such cultivation, or irrigation has been practised during the five years preceding the date of such public notice with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the Municipal fund to all persons interested for any damage caused to them by absolute prohibition.

224 —(1) The executive authority may, by notice, require the owner of or person having control over any private water course, spring, tank, well or other place, the water of which is used for drinking, bathing or washing clothes to keep the same in good repair and to cleanse it of silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the executive authority may think fit.

Cleansing of insanitary private tank or well used for drinking.

(2) If the water of any place which is used for drinking, bathing or washing clothes, as the case may be, is proved to the satisfaction of the executive authority to be unfit for the purpose, the executive authority may, by notice, require the owner or person having control thereof to—

(a) refrain from using or permitting the use of such water, or

(b) close or fill up such place or enclose it with a substantial wall or fence.

225. The Municipal Council shall maintain in a cleanly condition all wells, tanks and reservoirs which

Duty of Council in respect of

public well
or receptacle
of stagnant
water.

are not private property, and may fill them up or drain them when it appears necessary to do so.

Public wells,
etc., open
to all.

226. All such wells, tanks and reservoirs when maintained by the Municipal Council shall be open to use and enjoyment by persons of whatever caste or creed.

Prohibition
against or
regulation of
washing
animals or
clothes or
fishing or
drinking in
public water
courses,
tanks, etc.

227. The Council may, in the interests of the public health, regulate or prohibit the washing of animals, clothes or other things, or fishing in any public spring, tank, well, public water course or part thereof within the Municipality and may set apart any such place for drinking or for bathing or for washing clothes, or animals, respectively or for any other specified purpose.

Provision of
public wash-
houses.

228.—(1) The Council may construct or provide and maintain public wash-houses or places for the washing of clothes, and may require the payment of such rents and fees for the use of any such wash-house or place as it may determine.

(2) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time on such terms and conditions as it may think fit.

(3) If a sufficient number of public wash-houses or places be not maintained under sub-section (1), the Council may, without making any charge therefor appoint suitable places for the exercise by washermen of their calling.

Prohibition
against
washing by
washermen
at unauthor-
ised places.

229—(1) The Council may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling either within the Municipality or outside the Municipality within three miles of the boundary thereof, except at—

(a) public wash-houses or places maintained or provided under section 228, or

(b) such other places as it may appoint for the purpose.

(2) When any such prohibition has been made no person who is by calling a washerman shall, in contravention of such prohibition, wash clothes except for himself or for personal and family service or for hire on and within the premises of the hirer, at any place within or without Municipal limits other than a public wash-house or a place maintained or appointed under this Act:

Provided that this section shall apply only to clothes washed within or to be brought within the Municipality.

230. It shall not be lawful for any person to—

(a) bathe in or in any manner defile the water in any place set apart by the Council or by the owner thereof for drinking purposes; or

Prohibition against defiling water of tanks, etc., whether public or private.

(b) deposit any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes; or

(c) wash clothes in any place set apart as aforesaid for drinking or bathing; or

(d) wash any animal or any cooking utensil or wool, skins or other foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing or washing clothes; or

(e) cause or suffer to drain into or upon any place set apart as aforesaid for drinking, bathing or washing clothes or, cause or suffer anything to be brought thereinto or do anything whereby the water may be fouled or corrupted.

Control over Abandoned Lands, Untrimmed Hedges, etc.

Untenanted
buildings or
land.

231. If any building or land by reason of abandonment, disputed ownership or other cause remains untenanted and thereby becomes a resort of idle and disorderly persons or, in the opinion of the executive authority becomes a nuisance, the executive authority may, after due enquiry, by notice require the owner or person claiming to be the owner to secure, enclose, clear or cleanse the same.

Removal of
filth or
noxious
vegetation.

232. The executive authority may, by notice, require the owner or occupier of any building or land which appears to him to be in a filthy or unwholesome state, or over-grown with any thick, prickly or noxious vegetation, trees or under-growth injurious to health or offensive to the neighbourhood, to clear, cleanse or otherwise put the land in proper state or to clear away and remove such vegetation, trees or under-growth within twenty-four hours or such longer period and in such manner as may be specified in the notice.

Securing
trees adja-
cent to
house or
well.

233. If any tree or branch of any tree appears to the executive authority to be likely to be a nuisance to the adjacent house or wells or tanks, the executive authority may, by notice, require the owner of the said tree to chop, secure or cut down the said trees so as to prevent the nuisance therefrom.

Fencing of
buildings or
lands.

234. The executive authority may, by notice, require the owner or occupier of any building or land near a public street to—

(a) fence the same to the satisfaction of the executive authority; or

(b) lower an enclosing wall or fence which by reason of its height and situation obstructs the view of traffic so as to cause danger.

235. The executive authority may without notice—

Pruning of hedges and trees.

(a) trim or prune any hedges bordering on a public street so that it may not exceed such height from the level of the adjoining road-way as the executive authority may determine, or

(b) cut and trim any hedges or trees overhanging the said street and obstructing it or the view of traffic or causing it damage.

Control over Insanitary Buildings.

236. The executive authority, if it appears to him necessary for sanitary purposes so to do, may by notice require the owner or occupier of any building to lime-wash or otherwise cleanse the building inside and outside, in the manner and within a period to be specified in the notice.

Lime-washing and cleansing of buildings.

237.—(1) Whenever the executive authority considers—

Further powers with reference to insanitary buildings.

(a) that any building or portion thereof is by reason of its having no plinth or having a plinth of insufficient height or by reason of the want of proper drainage or ventilation or by reason of the impracticability of cleansing, attended with danger of disease to the occupiers thereof or to the inhabitants of the neighbourhood or is, for any reason likely to endanger the public health or safety, or

(b) that a block or group of buildings is, for any of the said reasons or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid,

he may, by notice, require the owners or occupiers of such buildings or portions of buildings or at his option, the owners of the land occupied by such buildings or portions of buildings, to execute such

works or take such measures as he may deem necessary for the prevention of such danger.

(2) No person shall be entitled to compensation for damages sustained by reason of any action taken under or in pursuance of this section save when a building is demolished in pursuance of an order made hereunder, or so far demolished as to require reconstruction, in which cases the Municipal Council shall make compensation to the owner thereof.

(3) When any building is entirely demolished under this section and the demolition thereof adds to the value of other buildings in the immediate vicinity, the owners of such other buildings shall be bound to contribute towards the compensation payable to the owner of the first-named building in proportion to the increased value acquired by their own property to the full amount of such increased value.

(4) When any building is so far demolished under this section as to require reconstruction, allowance shall be made in determining the compensation for the benefit accruing to the premises from the improvement thereof.

Buildings
unfit for
human
habitation.

238.—(1) If any building or portion thereof intended for or used as a dwelling place appears to the executive authority to be unfit for human habitation, he may apply to the Council to prohibit the further use of such structure for such purpose and the Council may, after giving the owner and occupiers of the structure a reasonable opportunity of showing cause why such order should not be made, make a prohibitory order as aforesaid.

(2) When any such prohibitory order has been made, the executive authority shall communicate the purport thereof to the owner and occupiers of the structure and on expiry of such period as is specified in the notice, not being less than thirty days after the

service of the notice, no owner or occupier of such structure shall use or suffer it to be used for human habitation until the executive authority certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or the Council withdraws the prohibition.

(3) When such prohibitory order has remained in operation for three months the executive authority shall report the case to the Council, which shall, thereupon consider whether the structure should not be demolished. The Council shall give the owner not less than thirty days' notice of the time and place at which the question will be considered and the owner shall be entitled to be heard when the question is taken into consideration.

(4) If upon such consideration the Council is of opinion that the structure has not been rendered fit for human habitation and that the steps are not being taken with due diligence to render it so fit and that the continuance of the structure is a nuisance or dangerous or injurious to the health of the public or to the inhabitants of the neighbourhood, it shall record a decision to that effect, with the grounds of the decision, and the executive authority shall, in pursuance of the said decision, by notice, require the owner to demolish the structure.

(5) If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation the executive authority may postpone the execution of the decision of the Council for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

239.—(1) If it appears to the executive authority that any dwelling house or other building which is used as a dwelling place, or any room in such dwelling house or building, is so over-crowded as to endanger

Abatement
of over-
crowding
in dwelling-
house or
dwelling
place.

the health of the inmates thereof he may apply to a Magistrate to abate such over-crowding, and the Magistrate, after such inquiry as he thinks fit to make, may by written order, require the owner of the building, or room, within a reasonable time not exceeding four weeks to be specified in the said order, to abate such over-crowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(2) The Council may, by written order, declare what amount of superficial and cubic space shall be deemed for the purposes of sub-section (1) to be necessary for each occupant of a building or room.

(3) If any building or room referred to in sub-section (1) has been sub-let, the landlord of the lodgers, tenants or other actual inmates of the same, shall, for the purposes of this section, be deemed to be the owner of the building or room.

(4) It shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do, in pursuance of any requisition made under sub-section (1).

Control over Certain Animals.

Prohibition
against
feeding
certain
animals on
filth.

240. No person shall feed or permit any animal, which is kept for dairy purpose or may be used for food, to be fed on filth.

Prohibition
of stray
cattle in
streets.

241. Whoever tethers cattle or other animals or causes or suffers them to be tethered by any member of his family or household in any public street or place so as to obstruct or endanger the public traffic thereon or who causes or suffers such animals to stray about without a keeper shall be punished with fine which may amount to twenty-five rupees.

242. No person shall keep any animal on his premises so as to be a nuisance or so as to be dangerous.

Prohibition against keeping animal so as to be a nuisance or danger.

243.—(1) The Council may, and, if so directed by the District Magistrate, shall, give public notice that unlicensed pigs or dogs straying within specified limits will be destroyed.

Power to destroy stray pigs and dogs.

(2) When such notice has been given any person may destroy, in any manner not inconsistent with the terms of the notice, any unlicensed pig or dog (as the case may be) found straying within such limits.

General.

244.—(1) When the executive authority takes down any structure or part thereof or cuts down any tree or hedge or shrub or part thereof or removes any fruit in virtue of his powers under this chapter the executive authority may sell the materials or things taken down, cut down or removed, and apply the proceeds in or towards payment of the expenses incurred.

Power of executive authority to use or sell materials of dangerous structure taken down, etc., and procedure when there is no owner or occupier.

(2) If after reasonable inquiry it appears to the executive authority that there is no owner or occupier to whom notice can be given under any section in this chapter he may himself take such order with the property mentioned in such section as may appear to him to be necessary and may recover the expense incurred by the sale of such property (not being land) or of any portion thereof.

245.—(1) No person shall, for purposes of advertisement of any kind, create or cause to be created any noise by musical instruments or otherwise in or on any public street and other public places.

Making noise by musical instruments or otherwise in public streets and other public places for purposes of advertisement prohibited.

Playing of musical instruments in hotels, restaurants, etc., prohibited between 10 p. m. and 5 a. m.

(2) No person shall play or allow to be played gramophones or such like other musical instruments in hotels, restaurants, coffee or tea shops after 10 p. m. and before 5 a. m.

Limitation of compensation.

246. No person shall be entitled save as provided in sections 222 and 237 to compensation for any damages sustained by reason of any action taken by the Municipal authorities in pursuance of their powers under this chapter.

CHAPTER XII.—LICENSES AND FEES

General provision as to Licenses.

Exemption of Government from taking out license.

247. Nothing in this chapter shall be construed as requiring the Government to take out a license in respect of any place in the occupation or under the control of or any property belonging to the Government.

Keeping of Animals.

Licenses for places in which animals are kept.

248.—(1) The owner or occupier of any stable, veterinary infirmary, stand, shed, yard, or other place in which quadrupeds are kept or taken in for purposes of profit, shall, in the first month of every year or in the case of a place to be newly opened within one month before the opening of such place, apply to the executive authority for a license for the use of the same for any such purpose of profit.

(2) The executive authority, may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such license:

Provided that this section shall not apply to any such place licensed as a place of public entertainment or resort under the Places of Public Resorts Act.

(3) No person shall, without or otherwise than in conformity with a license, use any place for such a purpose.

249.—(1) All stables, cattle-sheds and cow-houses shall be under the survey and control of the executive authority as regards their site, construction, materials, and dimensions.

General powers of control over stables, cattle-sheds and cow-house.

(2) The executive authority may, by notice, require that any stable, cattle-shed or cow-house be altered, paved, drained, repaired, disinfected or kept in such a state as to admit of its being sufficiently cleaned or be supplied with water, or be connected with a sewer or be demolished.

(3) Every such notice shall be addressed to the owner of the building or land to which the stable, cattle-shed or cow-house belongs, or for the use of the occupants of which the same was constructed or is continued.

(4) The expense of executing any work in pursuance of any such notice shall be borne by the said owner.

250. If any stable, cattle-shed or cow-house is not constructed or maintained in the manner required by or under this Act, the executive authority may, by notice, direct that the same shall no longer be used as a stable, cattle-shed or cow-house. Every such notice shall state the grounds on which it proceeds.

Power to direct discontinuance of use of buildings as stable, cattle-shed or cow-house.

251.—(1) The Council may construct or provide and maintain public landing places, halting places and cart-stands and may levy rents and fees for the use of the same.

Provision of public cattle-stands and sheds.

(2) A statement in English and Malayalam of any fees fixed by the Council for the use of such place shall be put up in a conspicuous part of every such place where they are leviable.

(3) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

Explanation.—A cart-stand shall, for the purpose of this Act, include a stand for carriages and animals.

Prohibition of private landing-places, halting-places, bus-stands and cart-stands.

252. No person shall open for the purpose of hiring out a new private landing place, halting place, bus-stand or cart-stand or continue to keep open a private landing place, halting place, bus-stand or cart-stand within Municipal limits or at a distance within one mile from such limits.

Prohibition of use of public places or sides of public street as cart-stand, etc.

253. Where a Municipal Council has provided a public landing place, halting place or cart-stand the executive authority may prohibit the use for the same purpose by any person within such distance thereof, as may be determined by the Municipal Council, of any public place or the sides of any public street.

Recovery of cart-stand fees, etc.

254. If the fee leviable under section 251 is not paid on demand, it shall be recoverable in the manner laid down for the recovery of an unpaid toll.

Industries and Factories.

Purposes for which places may not be used without license.

255.—(1) The Council may publish by notification in the Cochin Government Gazette and by beat of drum that no place within Municipal limits or at a distance within one mile of such limits shall be used for any one or more of the purposes specified in Schedule V without the license of the executive authority and except in accordance with the conditions specified therein:

Provided that no such notification shall take effect—

(a) until sixty days from the date of publication, and

(b) except with the previous sanction of the Government in any area outside the Municipal limits.

(2) The owner or occupier of every such place shall within thirty days of the publication of such notification, apply to the executive authority for a license for the use of such place for such purpose.

(3) The executive authority may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such license.

(4) Every such license shall expire at the end of the year unless for special reasons the executive authority considers it should expire at an earlier date; when it shall expire at such earlier date as may be specified therein.

(5) Applications for renewal of such licenses shall be made not less than thirty days before the end of every year and applications for licenses for places to be newly opened shall be made not less than thirty days before they are opened.

256.—(1) Every person intending—

(a) to construct or establish any factory, work-shop or work-place in which it is proposed to employ steam-power, water-power or other mechanical power or electrical power, or

(b) to instal in any premises any machinery or manufacturing plant driven by steam, water or other power as aforesaid—

Application to be made for construction, establishment or installation of factory, work-shop or work-place in which steam or other power is to be employed.

shall before beginning such construction, establishment or installation, make an application in writing to the Municipal Council for permission to undertake the intended work.

(2) The application shall be accompanied by -

(i) a plan of the factory, work-shop, work-place or premises prepared in such manner as may be prescribed by rules made in this behalf by the Government, and

(ii) such particulars as to the power, machinery, plant or premises as the Municipal Council may require by by-laws made in this behalf.

(3) The Municipal Council shall, as soon as may be after the receipt of the application—

(a) grant the permission applied for, either absolutely or subject to such conditions as it thinks fit to impose, or

(b) refuse permission, if it is of opinion that such construction, establishment or installation is objectionable by reason of the density of the population in the neighbourhood or that it is likely to cause a nuisance.

(4) Before granting permission under subsection (3) the Municipal Council—

(a) shall obtain the approval of the Inspector of Factories appointed under the Cochin Factories Act, as regards the plan of the factory, work-shop, work-place or premises with reference to— II of III

(i) the adequacy of the provisions for ventilation and light,

(ii) the sufficiency of the height and dimensions of the rooms and doors,

(iii) the suitability of the exits to be used in case of fire, and

(iv) such other matters as may be prescribed by rules made by the Government, and

(b) shall consult and have due regard to the opinion of the Municipal Health Officer when the Municipal Council employs such an officer and of the Director of Public Health in other cases, as regards the suitability of the site of the factory, work-shop, work-place or premises for the purpose specified in the application.

(5) The grant of permission under this section shall not be deemed to dispense with the necessity for compliance with the provisions of the rules relating to the construction of buildings.

257.--(1) If in any factory, work-shop, or work-place in which steam power, water power, or other mechanical power or electrical power is used nuisance is, in the opinion of the Municipal Council, caused by reason of the particular kind of fuel employed or by reason of the noise or vibration created, the Municipal Council may issue such directions as it thinks fit for the abatement of the nuisance within a reasonable time to be specified for the purpose.

Council may issue directions for abatement of nuisance caused by steam or other power

(2) If there has been wilful default in carrying out such directions or if abatement is found impracticable, the Municipal Council may—

(a) prohibit the use of the particular kind of fuel employed; or

(b) restrict the noise or vibration by prohibiting the working of the factory, work-shop or work-place between the hours of 9-30 p. m. and 5-30 a. m.

258. The Government may, either generally or in any particular case make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under section 256 or section 257.

Power of the Government to pass orders or give directions to Municipal Councils.

The executive authority may enter any factory, work-shop or work-placc.

259.—(1) The executive authority or any person authorised by him in this behalf may enter any factory, work-shop or work-place,—

(a) at any time between sun-rise and sun-set;

(b) at any time when any industry is being carried on; and

(c) at any time by day or by night if he has reason to believe that any offence is being committed under section 256 or section 257.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for the purpose of effecting an entrance under this section.

Slaughtering.

Provision of Municipal slaughter houses.

260.—(1) The Municipal Council shall provide a sufficient number of places for use as Municipal slaughter houses and may charge rents and fees for their use.

(2) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

(3) Municipal slaughter houses may be situated within or with the sanction of the Government, without the Municipality.

License for slaughter houses.

261.—(1) The owner of any place within Municipal limits or at a distance within one mile of such limits which is used as a slaughter house for the slaughtering of animals or for the skinning or cutting up of any carcasses, shall in the first month of every year or in the case of a place to be newly opened, one month before the opening of the same, apply to the executive authority for a license:

Provided that this sub-section shall not take effect in any area outside the Municipal limits except with the previous sanction of the Government.

(2) The executive authority may by an order and subject to such restrictions and regulations as to supervision and inspection as he thinks fit, grant or refuse to grant such license.

262. The executive authority may allow any animal to be slaughtered in such places as he thinks fit on occasions of festivals and ceremonies or as a special measure.

Slaughter of animals during festivals and ceremonies.

263. No person shall slaughter within the Municipality except in a public or licensed slaughter house, any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass, without or otherwise than in conformity with a license from the executive authority, or dry or permit to be dried any skin in such a manner as to cause a nuisance:

Slaughter of animals for sale as food.

Provided that the executive authority may authorise any person to slaughter without license and without the payment of any fee, any animal for the purpose of a religious ceremony.

The Milk Trade.

264.—(1) No person shall without or otherwise than in conformity with a license from the executive authority—

Regulation of Milk trade.

(a) carry on within the Municipality the trade or business of a dealer in or importer or seller or hawker of milk or dairy produce;

(b) use any place in the Municipality for the sale of milk or dairy produce:

Provided that no such license shall be given to any person who is suffering from a dangerous disease.

(2) Such license may be refused or may be granted on such conditions as the executive authority

may deem necessary which may extend to the construction, ventilation, conservancy, supervision and inspection of the premises, whether within or without Municipal limits, where the animals from which the milk supply is derived are kept.

Markets, Butchers, Fish-mongers, Hawkers.

Public
markets.

265. All markets which are acquired, constructed, repaired or maintained out of the Municipal fund shall be deemed to be public markets and such markets shall be open to all persons of whatever caste or creed.

Powers in
respect of
public
markets.

266. (1) (a) The Council may provide places for use as public markets.

Right of
establishing
public
markets in
place of pri-
vate markets.

(b) The Council, if it considers that any private market is not amply serving the commercial needs of the public, may move the Government to acquire under section 275 of this Act the right of holding such private markets and shall after such acquisition establish a public market in place of such private market.

(2) The Council may in any public market levy any one or more of the following fees at such rates and may place the collection of such fees under the management of such person, as may appear to it proper or may farm out such fees on such terms and subject to such conditions as it may deem fit:—

(a) fees for the use of, or for the right to expose goods for sale in, such markets;

(b) fees for the use of shops, stalls, pens or stands in such markets;

(c) fees on vehicles or pack animals carrying or on persons bringing goods for sale in such markets;

(d) fees on animals brought for sale into, or sold in such markets; and

(e) license fees on brokers, commission agents, weight men and measurers practising their calling in such markets.

(3) The Council may, with the sanction of the Government, close any public market or part thereof.

267.—(1) No person shall, without the permission of the executive authority, or if the rents and fees have been farmed out, of the farmer, sell or expose for sale any animal or article within any public market.

Executive authority's control over public markets.

(2) The executive authority may expel from any public market any person who or whose servant has been convicted of disobeying any by-laws at the time in force in such market and may prevent such person from further carrying on by himself or his servants or agents any trade or business in such market or occupying any shop, stall or other place therein, and may determine any lease or tenure which such person may possess in any such shop, stall or place.

268.—(1) No person shall open a new private market or continue to keep open a private market unless he obtains from the Council a license to do so.

Licensing of private markets.

(2) Application for such license shall be made by the owner of the place in respect of which the license is sought, not less than six weeks before such place is opened as a market or before the commencement of the year for which the license is sought, as the case may be.

(3) The Council shall, as regards private markets already lawfully established and may, irrespective of the distance from and the days of any of the markets in existence and at its discretion, as regards new private markets, grant the license applied for subject to such regulation as to supervision and inspection and to such conditions as to sanitation, drainage, water supply, width of paths and ways, weights and measures to be used, and rents and fees to be charged in such

market as the Council may, think proper; or the Council may refuse to grant any such license for any new private market. The Council may, however, at any time, for breach of the conditions thereof suspend or cancel any license which has been granted under this section. The Council may also modify the conditions of the license to take effect from a specified date.

(4) When a license is granted, refused, suspended, cancelled or modified under this section, the Council shall cause a notice of such grant, refusal, suspension, cancellation or modification in English and Malajalam to be posted in some conspicuous place at or near the entrance to the place in respect of which the license was sought or had been obtained.

(5) Every license granted under this section shall expire at the end of the year.

Fee for
license.

269. When a license granted under section 268 permits the levy of any fees of the nature specified in sub-section (2) of section 266, a fee not exceeding 15 per cent of the gross income of the owner from the market in the preceding year shall be charged by the Municipal Council for such license.

Sale in
unlicensed
private
market.

270. It shall not be lawful for any person to sell or expose for sale any animal or article in any unlicensed private market.

Powers of
Council in
respect of
private
markets.

271. The Council may by notice require the owner, occupier, or farmer of any private market to—

(a) construct approaches, entrances, passages, gates, drains and cess-pits for such market and provide it with latrines of such description and in such position and number as the Council may think fit;

(b) roof and pave the whole or portion of it or pave any portion of the floor with such material as will in the opinion of the Council secure imperviousness and ready cleansing;

(c) ventilate it properly and provide it with a supply of water;

(d) provide passages of sufficient width between the stalls and make such alterations in the stalls, passages, shops, doors or other parts of the market as the Council may direct; and

(e) keep it in a cleanly and proper state and remove all filth and refuse therefrom.

272.—(1) If any person after notice given to him in that behalf by the Council fails, within the period, and in the manner laid down in the said notice to carry out any of the works specified in section 271, the Council may suspend the license of the said person or may refuse to grant him a license, until such works have been completed.

Suspension or refusal of license in default.

(2) It shall not be lawful for any person to open or keep open any such market after such suspension or refusal.

273. No owner, occupier, agent or manager in charge of any private market, or of any shop, stall, shed or other place therein shall keep the same so that it is a nuisance or fail to cause anything that is a nuisance to be at once removed to the place to be notified by the Council.

Prohibition against nuisances in private markets.

274. The Council or any officer duly authorised by it in that behalf may close any private market in respect of which no license has been applied for or the license for which has been refused, withheld or suspended or which is held or kept open contrary to the provisions of this Act.

Power to close private markets.

275.—(1) The Government may, for the purpose and at the instance of any Municipality, acquire under the Land Acquisition Act the rights of any person to hold a private market in any place and to levy fees therein. Such rights shall be deemed to be land for the purposes of that Act.

Acquisition of rights of private persons to hold private markets.

(2) On payment of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it the rights of such person to hold a private market and to levy fees therein shall vest in the Municipal Council.

Duty of expelling lepers, etc, from markets and power to expel disturbers.

276. The person in charge of a market shall prevent the entry therein or expel therefrom any person suffering from leprosy, in whom the process of ulceration has commenced or from any infectious or contagious disease, who sells or exposes for sale therein any article or who, not having purchased the same, handles any articles exposed for sale therein, and he may expel therefrom any person who is creating a disturbance therein.

Butcher's, fish-monger's and poulterer's license.

277.—(1) No person shall, without or otherwise than in conformity with a license from the executive authority, carry on the trade of a butcher, fish-monger or poulterer, or use any place for the sale of flesh or fish intended for human food in any place within Municipal limits or at a distance within one mile of such limits:

Provided that no license shall be required for a place used for the selling or storing for sale of preserved flesh or fish contained in air-tight and hermetically sealed receptacles:

Provided further that this sub-section shall not take effect in any area outside the Municipal limits except with the previous sanction of the Government.

(2) The executive authority may, by an order and subject to such restrictions as to supervision and inspection as he thinks fit, grant or refuse to grant such license.

(3) Every such license shall expire at the end of the year in which it is granted unless for special reasons the executive authority considers it should

expire at an earlier date; when it shall expire at such earlier date as may be specified therein.

278. The executive authority may, with the sanction of the Council prohibit by public notice or license or regulate the sale or exposure for sale, of any animal or article in or on any public street or part thereof.

Power to prohibit or regulate the sale of articles in public streets.

279. If any question arises whether any place is a market or not the Municipal Council shall make a reference to the Government and the decision of the Government on the question shall be final.

Decision of disputes as to whether places are markets.

Inspection of Places for Sale, etc.

280. It shall be the duty of the executive authority to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter, oil, and any other articles exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale, or of preparation for sale.

Duty of executive authority to inspect.

281.—(1) The executive authority or any person authorised by him in writing for the purpose, may without notice enter any slaughter house or any place where animals, poultry or fish intended for food are exposed for sale or where articles of food are being manufactured or exposed for sale, at any time by day or night when the slaughter, exposure for sale or manufacture is being carried on and inspect the same and any utensil or vessel used for manufacturing, preparing or containing any such article.

Powers of executive authority for purposes of inspection

(2) If the executive authority or any person so authorised by him has reason to believe that in any place any animal intended for human food is being slaughtered or any carcass is being skinned or cut up, or that any food is being manufactured, stored, prepared, packed, cleansed, kept or exposed for sale, or

sold without, or otherwise than in conformity with a license, he may enter any such place without notice, at any time by day or night for the purpose of satisfying himself whether any provision of laws, by-laws, or regulations or any condition of a license is being contravened.

(3) No claim shall lie against an executive authority or any person acting under his authority or the Council for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for effecting an entry into any place under this section.

(4) In any legal proceedings in respect of powers exercised under this section in which it is alleged that any animal, poultry, fish or articles of food were not kept exposed, hawked about, manufactured, prepared, stored, packed, cleansed for sale, or were not intended for human food, the burden of proof shall lie on the party so alleging.

Preventing inspection by executive authority.

282. No person shall, in any manner whatsoever, prevent the executive authority or person duly authorised by him from exercising his powers under section 281.

Power of executive authority to seize diseased animal, noxious food, etc.

283. If any animal, poultry or fish intended for food appears to the executive authority or to a person duly authorised by him, to be diseased, or any food appears to him to be noxious, or if any vessel or utensil used in manufacturing, preparing or containing such article appears to be of such kind or in such state as to render the article noxious, he may seize or carry away or secure such animal, article, utensil or vessel in order that the same may be dealt with as hereinafter provided.

Explanation:—Meat subject to the process of blowing shall be deemed to be noxious.

Removing or interfering with article seized

284. No person shall remove or in any way interfere with an animal or article secured under section 283.

285.—(1) When any animal or article of food is seized under section 283, it may, with the consent of the owner or person in whose possession it was found, be forthwith destroyed in such manner as to prevent its being used for human food or exposed for sale and if the article is perishable, without such consent.

Power to destroy article seized.

(2) Any expense incurred in destroying any animal or article under sub-section (1) shall be paid by the owner or person in whose possession such article was at the time of its seizure.

286.—(1) Articles of food, animals, poultry, fish, utensils, vessels, etc., seized under section 283 and not destroyed under section 285 shall, as soon as possible, be produced before a Magistrate.

Production of articles, etc., seized before Magistrate and powers of Magistrate to deal with them.

1050 (2) Whether or not complaint is laid before a Magistrate of any offence under the Cochin Penal Code or under this Act, if it appears to the Magistrate on taking such evidence as he thinks necessary that any such animal, poultry or fish is diseased or any such article is noxious or any such utensil or vessel is of such kind or in such state as is described in section 283 he may order the same—

(a) to be forfeited to the Council;

(b) to be destroyed at the charge of the owner or person in whose possession it was at the time of seizure, in such manner as to prevent the same being again exposed or hawked about for sale, or used for human food or for the manufacture, or preparation of, or for containing, any such article as aforesaid.

Disposal of the Dead.

287.—(1) Every owner or person having the control of any place used at the date of the coming into operation of this Act as a place for burying, burning or otherwise disposing of the dead shall, if such place be not already registered, apply to the Council to have such place registered.

Registration or closing of ownerless places for disposal of the dead.

(2) If it appears to the Council that there is no owner or person having the control of such place, it shall assume such control and register such place, or may, with the sanction of the Government, close it.

Licensing
of places for
disposal of
the dead.

288.—(1) No new place for the disposal of the dead, whether public or private, shall be opened, formed, constructed or used unless a license has been obtained from the Council on application.

(2) Such application for a license shall be accompanied by a plan of the place to be registered, showing the locality, boundary and extent thereof, the name of the owner or person or community interested therein, the system of management and such further particulars as the Council may require.

(3) The Council may—

(a) grant or refuse a license, or

(b) postpone the grant of a license until objections to the site have been removed or any particulars called for by it have been furnished.

Provision of
burial and
burning
grounds and
crematoria
within or
without
Municipality.

289.—(1) The Council may, and shall, if no sufficient provision exists, provide at the cost of the Municipal fund places to be used as burial or burning grounds or crematoria either within or without the limits of the Municipality, and may charge rents and fees for the use thereof.

(2) The Council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

(3) If the Council provides any such place without the limits of the Municipality, all the provisions of this Act and all by-laws framed under this Act for the management of such places within the Municipality shall apply to such place.

290.—(1) A book shall be kept at the Municipal Office in which the places registered, licensed or provided under sections 287, 288, or 289, and all such places registered, licensed or provided before the commencement of this Act, shall be recorded and the plans of such places shall be filed in such office.

Register of registered, licensed and provided places and prohibition of use of other places.

(2) Notice that such place has been registered, licensed or provided as aforesaid shall be affixed in English and in Malayalam to some conspicuous place at or near the entrance to the burial or burning ground or other place as aforesaid.

(3) No person shall bury, burn or otherwise dispose of any corpse except in a place which has been registered, licensed or provided as aforesaid.

291. The person having control of a place for disposing of the dead shall give information of every burial, burning or other disposal of a corpse at such place to any person appointed by the executive authority in that behalf.

Report of burials and burnings.

292.—(1) If the Council is satisfied—

(a) that any registered or licensed place for the disposal of the dead is in such a state or situation as to be or to be likely to become dangerous to the health of persons living in the neighbourhood thereof, or

Prohibition against use of burial and burning grounds dangerous to health or overcrowded with graves.

(b) that any burial ground is over-crowded with graves,

and if in the case of a public burial or burning ground or other place as aforesaid, another convenient place duly authorised for the disposal of the dead exists or has been provided for the persons who would ordinarily make use of such place,

it may, with the previous sanction of the Government, give notice that it shall not be lawful after

a period to be named in such notice to bury, burn or otherwise dispose of any corpse at such place.

(2) Every notice given under sub-section (1) shall be published in the Cochin Government Gazette and by beat of drum.

(3) After the expiry of the period named in such notice it shall not be lawful to bury, burn or otherwise dispose of a corpse at such place.

Application
of the above
sections.

293. The provisions of sections 287, 288, 290, 291 and 292 shall be deemed to apply to any place, public or private, used for the disposal of the dead, whether the use is for the public generally, or for any section of it, or for a single family.

Prohibitions
in respect of
corpses.

294. No person shall—

(a) bury or cause to be buried any corpse or part thereof in a grave whether dug or constructed of masonry or otherwise in such manner that the surface of the coffin or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground; or

(b) build or dig or cause to be built or dug any grave in any burial ground at a less distance than two feet from the margin of any other existing grave; or

(c) without the sanction in writing of the executive authority or an order in writing of a Magistrate, re-open a grave already occupied; or

(d) convey or cause to be conveyed a corpse or part thereof to any burial or burning ground, and not cause the burial or burning of the same to commence within six hours after its arrival at such place; or

(e) when burning or causing to be burnt a corpse or part thereof, permit the same or any part thereof or its clothes to remain without being completely reduced to ashes; or

(f) carry through any street a corpse or part thereof not decently covered; or

(g) while carrying a corpse or part thereof within the Municipality leave the same in or near any street for any purpose whatever; or

(h) remove otherwise than in a closed receptacle, any corpse or part thereof kept or used for the purpose of dissection.

295. No person shall discharge the office of grave digger or other attendant at a public place for the disposal of the dead (other than a place provided by the Government) unless he has been licensed in that behalf by the executive authority. Such license may be withdrawn or cancelled at the discretion of the Council.

Grave digger's License.

296.—(1) When any license, sanction, permission or registration is granted under the provisions of this Act, a fee may be charged for such license, sanction, permission or registration.

Enforcement of the licensing provisions.

(2) The rates of the fees to be so charged shall be from time to time, fixed by the Council subject to the approval of the Government.

(3) Every license, sanction, permission or registration granted under this Act or any rule or by-law made under this Act shall specify the period, if any, for which, and the restrictions, limitations and conditions subject to which the same is granted and shall be signed by the executive authority.

(4) Every order of a municipal authority refusing, suspending, cancelling or modifying a license or permission shall be in writing and shall state the grounds on which it proceeds.

(5) Subject to the special provisions in Chapters X and XII regarding buildings and private markets and subject to such sanction as may be required for the refusal of a license or permission and to

such appeal as may be provided in case of refusal, any license or permission granted under this Act or any rule or by-law made under it may, at any time, be suspended or revoked by the executive authority if any of its restrictions, limitations or conditions is evaded or infringed by the grantee or if the grantee is convicted of a breach of any of the provisions of this Act or any of the rules or by-laws or regulations made under it, in any matter to which such license or permission relates or if the grantee has obtained the same by mis-representation or fraud.

(6) It shall be the duty of the executive authority to inspect places in respect of which a license or permission is required by or under this Act and he may enter any such place between sun-rise and sun-set and also between sun-set and sun-rise if it is open to the public, or any industry is being carried on in it at the time, and if he has reason to believe that anything is being done in any place without a license or permission where the same is required by or under this Act or otherwise than in conformity with the same, he may, at any time by day or night, without notice, enter such place for the purpose of satisfying himself whether any provision of law, rules, by-laws or regulations, any condition of a license or permission or any lawful direction or prohibition is being contravened, and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section by the executive authority or any person to whom he has lawfully delegated his powers, or by the use of any force necessary for effecting an entrance under this sub-section.

(7) When any license or permission is suspended or revoked or when the period for which it was granted or within which application for renewal should be made has expired, whichever expires later, the grantee shall for all purposes of this Act or any rule or

by-law made under it, be deemed to be without a license or permission until the order suspending or revoking the license or permission is cancelled or, subject to subsection (4), until the license or permission is renewed as the case may be.

(8) Every grantee of a license or permission shall at all reasonable times, while such license or permission remains in force, produce the same at the request of the executive authority.

(9) The executive authority or any officer duly authorised by him in writing in that behalf may close any unlicensed dangerous and offensive trade in respect of which no license has been taken or license for which has been refused, withheld, revoked or suspended which is held or kept open contrary to the provisions of this Act.

(10) Whenever any person is convicted of an offence in respect of the failure to obtain a license or permission or to make a registration required by the provisions of this Act or any rule or by-law made under it, the Magistrate shall in addition to any fine which may be imposed, recover summarily and pay over to the Municipal Council the amount of the fee chargeable for the license or permission or for registration, and may in his discretion also recover summarily and pay over to the Council such amount, if any, as he may fix as the costs of prosecution.

(11) Such recovery of the fee under subsection (10) shall not entitle the person convicted to a license or permission or to registration as aforesaid.

(12) The acceptance by the Municipal Council of the pre-payment of the fee for a license or permission or for registration shall not entitle the person making such pre-payment to the license or permission or to registration as the case may be, but only to refund of the fee in case of refusal of the license, permission or

of registration, but an applicant for the renewal of a license or permission or registration shall, until communication of orders on his application, be entitled to act as if the license or permission or registration has been renewed; and save as otherwise specially provided in this Act, if orders on an application for license or permission or for registration are not communicated to the applicant within thirty days after the receipt of the application by the executive authority, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application and subject to the law, rules, by-laws, regulations and all conditions ordinarily imposed.

CHAPTER XIII.—VITAL STATISTICS AND
THE PREVENTION OF DISEASES.

Vital Statistics.

Compulsory
registration
of Vital
Statistics.

297.—(1) The Municipal Council shall register all births and deaths occurring in the Municipality.

(2) Information of births and deaths shall be given and their registration shall be made and enforced in the manner prescribed by rules which the Government shall have power to make.

Dangerous Diseases.

Definition of
Dangerous
disease.

298.—(1) "Dangerous disease" means a disease specified in Schedule VI. The Government may after previous publication alter, add to or cancel the schedule in part in respect of all Municipalities or of any Municipality.

(2) The Government shall have power, after previous publication, to make rules for the prevention of dangerous disease and for the registration of medical practitioners.

Obligation of
medical
practitioner
or owner or
occupier of

299.—(1) If any medical practitioner becomes cognisant of the existence of any dangerous disease in any private or public dwelling (not being a public hospita

in the Municipality, he shall inform the executive authority with the least practicable delay.

house to report dangerous disease.

(2) The information shall be communicated in such form and with such details as the executive authority may require. The executive authority may pay a fee not exceeding one rupee for each intimation by a private medical practitioner of a case occurring in his practice.

(3) This section shall apply to a hakim or a vaidyan.

(4) With the previous approval in all cases of the Government the executive authority may direct the compulsory notification by the owner or occupier of every house within the Municipal limits during such period and to such officer as the executive authority may prescribe of all deaths from or occurrence of dangerous diseases in his house.

300. The executive authority or Health Officer may at any time by day or by night without notice, or after giving such notice as may appear to him reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he may think fit to prevent the spread of such disease beyond such place.

Power of entry into suspected places.

301.—(1) If the executive authority or Health Officer is of opinion that the cleansing or disinfecting of any premises or part thereof, or of any article therein which is likely to retain infection, will tend to prevent or check the spread of any dangerous disease, he may by notice require the occupier to cleanse or disinfect the same, in the manner and within the time specified in such notice.

Disinfection of buildings and articles.

(2) If the executive authority or Health Officer considers that immediate action is necessary, or that the occupier is, by reason of poverty or otherwise unable effectually to comply with his requisition, the

executive authority or Health Officer may himself, without notice, cause such premises or article to be cleansed or disinfected and for this purpose may cause such article to be removed from the premises; and the expenses incurred by the executive authority or Health Officer shall be recoverable from the said occupier in case in which he is, in the opinion of the executive authority or Health Officer, not unable by reason of poverty effectually to comply with such requisition.

Provision of places for disinfection and power to destroy infected articles.

302.—(1) The executive authority shall from time to time notify places at which conveyances, clothing, bedding or other articles which have been exposed to infection from any dangerous disease shall be washed or disinfected.

(2) The executive authority may direct any clothing, bedding or other article likely to retain such infection to be disinfected or destroyed and shall, on demand, give compensation for any article destroyed under this sub-section.

(3) No person shall wash such clothing or bedding or other articles in any place other than those set apart for such purposes under sub-section (1).

Prohibition against transfer of infected articles.

303. No person shall, without previously disinfecting it, give, lend, let, hire, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease:

Provided that nothing in this section shall apply to a person who transmits with proper precautions any article for the purpose of having it disinfected.

Power of Council to prohibit use of water likely to spread infection.

304. If the Chief Medical Officer, the Director of Public Health or the Municipal Health Officer certifies that the water in any well, tank or other place within the limits of the Municipality is likely, if used for drinking, to engender or cause the spread of any dangerous disease, the Council may, by public notice,

prohibit the removal or use of such water for drinking and domestic purposes during a specified period.

305. When a hospital or other place for the reception of persons suffering from dangerous diseases is provided by the Municipal Council the executive authority may, on a certificate signed by a qualified medical practitioner, arrange for, or direct the removal to such hospital or place of any person suffering from a dangerous disease who is, in the opinion of such medical practitioner, without proper lodging or accommodation or without medical supervision directed to prevent the spread of the disease, or who is in a place occupied by more than one family.

Executive authority may order removal of patients to hospital.

306. If any person knows or has been certified by the Health Officer, the local medical officer or a qualified medical practitioner that he is suffering from a dangerous disease he shall not engage in any occupation, or carry on any trade or business unless he can do so without risk of spreading the disease.

Prohibition against infected person carrying on occupation.

307.—(1) No person who is suffering from any dangerous disease shall, without taking proper precautions against spreading such disease, cause or suffer himself to be conveyed in a public conveyance.

Prohibition against diseased person entering public conveyance.

(2) No person who is suffering from any dangerous disease shall enter a public conveyance without previously notifying the owner or driver or person in charge of such conveyance that he is so suffering.

(3) No owner or driver or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid in contravention of sub-section (1).

(4) No owner or driver or person in charge of a public conveyance shall be bound to convey any person suffering as aforesaid, unless and until the said person pays or tenders a sum sufficient to cover any loss and costs that may be incurred in disinfecting such

conveyance, any thing in any Act relating to public conveyance for the time being in force to the contrary notwithstanding.

(5) A court convicting any person of contravening sub-section (1) or sub-section (2) may levy, in addition to the penalty for the offence provided in this Act, an additional fine of such amount as the court deems sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting the conveyance. The amount of any additional fine so imposed shall be awarded by the court to the owner or driver of the conveyance:

Provided that if such additional fine is imposed in a case which is subject to appeal the amount shall not be paid to the owner or driver before the period allowed for presenting the appeal has elapsed, or if an appeal is presented, before the decision of the appeal.

(6) At the time of awarding compensation in any subsequent civil suit relating to the same matter the court shall take into account any sum which the plaintiff shall have received under this section.

Letting of
infected
buildings.

308.—(1) No person shall let or sub-let or for that purpose allow any person to enter a building or any part of a building in which he knows or has reason to know that a person has been suffering from any dangerous disease without having the same and all articles therein liable to retain infection disinfected to the satisfaction of the executive authority.

(2) For the purpose of sub-section (1), the keeper of a hotel or lodging-house shall be deemed to let the same or part of the same to any person accommodated therein.

Powers to
order closure
of places of
of public
entertain-
ment

309. In the event of the prevalence of any dangerous disease within the Municipality, the Council may, by notice require the owner or occupier of any

building, booth or tent used for purposes of public entertainment to close the same for such period as it may fix.

310. No person being the parent or having the care or charge of a minor who is or has been suffering from a dangerous disease or has been exposed to infection therefrom shall, after a notice from the Health Officer or the local medical officer that the minor is not to be sent to school or college, permit such minor to attend school or college without having procured from the Health Officer, the local medical officer or a qualified medical practitioner a certificate that in his opinion such minor may attend without undue risk of communicating such disease to others.

Minors suffering from dangerous disease not to attend school.

No fee shall be charged by the Health Officer or the local medical officer for the grant of a certificate under this section.

Small-pox.

311.—(1) Vaccination shall be compulsory and shall be enforced in every Municipality in the manner prescribed by rules which the Government shall have power to make after previous publication.

Compulsory Vaccination.

(2) The procedure prescribed in such rules for enforcing vaccination shall be observed.

312. Where an inmate of any dwelling place is suffering from small pox, the head of the family to which the inmate belongs and in his default, the occupier or person in charge of such place, shall inform the executive authority with the least practicable delay.

Obligation to give information of small-pox.

313.—(1) Inoculation for small-pox is hereby prohibited.

Prohibition of inoculation for small-pox.

(2) No person who has undergone the operation of inoculation shall enter any Municipality before the lapse of forty days from the date of inoculation without a certificate from a medical practitioner

of such class as the Council may authorise to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

PART V.

SUBS DIARY LEGISLATION AND PENALTIES

CHAPTER XIV—RULES, SCHEDULES AND BY-LAWS.

Power of
Government
to frame
forms and
make rules.

314.—(1) The Government may frame forms for any proceedings of a Council or Chairman or Municipal officer for which they consider a form should be provided.

2) The Government may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(3) Rules made and forms framed under this section by the Government shall be made or framed subject to the condition of previous publication and shall have the force of law.

(4) In making any rule, the Government may provide that a breach thereof shall be punishable with a fine which may extend to one hundred rupees.

Power of
Government
to alter sche-
dule.

315. The Government shall have power, after previous publication, to alter, add to or cancel in part or the whole of any of the following schedules attached to this Act in respect of all Municipalities or in respect of particular Municipalities with the consent of their Councils:—

Schedules I, II, III, IV and V.

316. The schedules attached to this Act shall have effect as if enacted in the body of this Act until cancelled in part or altered or added to and if altered or added to, shall have the like effect as altered or added to and all references to the said schedules shall be

construed as made to such schedules as cancelled in part or altered or added to.

317.—(1) The Municipal Council may, after previous publication, make by-laws whenever necessary not inconsistent with the Act or any rule or by-law made by the Government.

Power of Council to make by-laws, etc.

(2) In making a by-law the Council may provide that a breach thereof shall be punishable—

(a) with fine which may extend to Rs. 50, and in case of a continuing breach with fine which may extend to Rs. 15 for every day during which the breach continues after conviction for the first breach, or

(b) with fine which may extend to Rs. 10 for every day during which the breach continues after receipt of notice from the executive authority to discontinue such breach.

(3) All by-laws when they shall have been duly approved by the Government shall have the force of law.

318. The Municipal Council shall, before making or altering by-laws, publish a draft of the proposed by-laws and alterations together with a notice specifying a date at or after which such draft will be taken into consideration, and shall before making the by-laws or alterations, receive and consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.

Conditions precedent to making of by-laws.

319.—(1) No by-law or cancellation or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the Government.

Confirmation of by-laws by Government.

(2) Any by-law or cancellation or alteration of a by-law when it shall have been duly confirmed shall be published in the Gazette.

320. Complete copies in English and Malayalam—

(a) of this Act;

Copies of Act, Rules and by-laws to be sold at

Municipal
Office.

(b) of all rules framed by the Government;

(c) of all by-laws in force for the time being;

shall be kept at the Municipal Office and shall be sold to the public at cost price.

CHAPTER XV—PENALTIES.

321 —(1) Whoever—

General provisions regulating penalties specified in the schedules.

(a) contravenes any provision of any of the sections of this Act or rules specified in the first column of Schedule VII, or

(b) contravenes any rule or order made under any of the specified sections or rules, or

(c) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of the provisions of any of the said sections or rules,

shall on conviction be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule and in every case not specifically provided for in the schedule, shall be liable to a fine extending to fifty rupees.

(2) Whoever after having been convicted of—

(a) contravening any provision of the sections or rules specified in the first column of Schedule VIII, or

(b) contravening any rule or order made under any of the specified sections or rules, or

(c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said sections or rules—

continues to contravene the said provision or to neglect to comply with the said direction or requisition

as the case may be, shall on conviction be punished, for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule, and if there is no specific provision in the schedule, to twenty rupees.

Explanation.—The entries in the third column of Schedules VII and VIII headed “Subject” are not intended as definitions of offences described in the sections, sub-sections or clauses mentioned in the first and second columns or even as abstracts of those sections, sub-sections or clauses but are inserted merely as references to the subject of the sections, sub-sections or clauses as the case may be.

322.—(1) Whoever acts as a member of a Municipal Council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office, shall, on conviction, be punished with fine not exceeding two hundred rupees for every such offence.

Penalty for acting as Councillor, Chairman or Vice-Chairman when disqualified.

(2) Whoever acts as or exercises the functions of the Chairman or Vice-Chairman of a Municipal Council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.

(3) If the Chairman or Vice-Chairman of a Municipal Council fails to hand over any document of, or any money or other property vested in, or belonging to, the Municipal Council which has come into his possession or control, to his successor in office or other prescribed authority, in every case as soon as his term of office as Chairman or Vice-Chairman expires and in the case of the Vice-Chairman also on demand by the Chairman, such Chairman or Vice-Chairman

shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.

Penalty for acquisition by Municipal officer of interest in contract or work.

323. If any Municipal Officer or servant knowingly acquires, directly or indirectly, by himself or by a partner or employer or servant, any personal share or interest in any contract or employment with, by, or on behalf of the Municipal Council, he shall be deemed to have committed an offence under section 154 of the Cochin Penal Code:

1 of 1059

Provided that no person shall by reason of being a share-holder in, or member of, any company, be held to be interested in any contract entered into between such company and the Council, unless he is a director of such company.

Penalty for omission to take out license for vehicle or animal.

324.—(1) Every owner or person in charge of any vehicle or animal liable to tax under section 93 who omits to obtain a license shall, on conviction be punished with fine not exceeding fifty rupees and shall also pay the amount of the tax payable by him in respect of such vehicle or animal.

(2) On payment of such fine and tax and of such costs as may be awarded, such owner or person shall receive a license for the vehicle or animal in respect of which he has been fined and for the period during which he has been found to be in default.

(3) The provisions of this section shall apply to any person who, having compounded for the payment of a certain sum under section 96 fails to pay such sum; and the amount due for a license, shall, in such case be taken as the amount so compounded for.

Penalty for unlawful building.

325. If the construction or reconstruction of any building or well—

(a) is commenced without the permission of the executive authority, or

(b) is carried on or completed otherwise than in accordance with the particulars on which such permission was based or

(c) is carried on or completed in contravention of any lawful order or in breach of any provision contained in this Act or in any rule or by-law made hereunder or of any direction or requisition lawfully given or made, or

if any alterations or additions required by any notice issued under the provisions of the rules framed under section 189 of this Act are not duly made, or

if any person to whom a direction is given by the executive authority to alter or demolish a building or well under the provisions of the said rules fails to obey such direction,

the owner of the building or well or the said person, as the case may be, shall be liable on conviction to a fine which may extend in the case of a building to five hundred rupees and in the case of a well or hut to fifty rupees, and to a further fine which may extend in the case of a building to one hundred rupees, and in the case of a well or hut to ten rupees, for each day during which the offence is proved to have continued after the first day.

326.—(1) In the absence of a written contract to the contrary, every scavenger employed by the Municipal Council shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

Notice to scavenger before discharge.

(2) Should any scavenger employed by the Council, in the absence of a written contract authorising him so to do, and without reasonable cause, resign his employment or absent himself from his duties,

Penalty for withdrawal of scavengers without notice.

without giving one month's notice to the Council or neglect or refuse to perform his duties, or any of them, he shall be liable on conviction to a fine not exceeding Rs. 50 or to imprisonment of either description which may extend to two months.

Application of sub-sections (1) and (2) to other Municipal servants.

(3) The Government may, by notification, direct that on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to scavengers shall apply also to any specified class of Municipal servants whose functions intimately concern the public health or safety.

Wrongful restraint of executive authority and his delegates.

327. Every person who prevents the executive authority or any person to whom the executive authority has lawfully delegated his powers of entering into or on any land or building from exercising his lawful power of entering thereto or thereon shall be deemed to have committed an offence under section 172 of the Cochin Penal Code.

I of 1059

Penalty for not giving or giving false information.

328. If any person who is required by the provisions of this Act or by any notice or other proceedings issued under this Act to furnish any information—

- (a) omits to furnish it, or
- (b) knowingly or negligently furnishes false information, such person shall be liable to a fine not exceeding Rs. 100.

PART VI.

CHAPTER XVI.—PROCEDURE AND MISCELLANEOUS.

Appeals.

Appeals from Chairman or Executive Authority to the Council.

329. An appeal from any notice or order issued or other action taken or proposed to be taken by the Chairman or the executive authority under the provisions of this Act shall in the first instance lie to the

Municipal Council, and the Council may pass such orders as it deems fit:

Provided that any person aggrieved by any notice or order issued or passed by, or by any other act of a Municipal Council or its Chairman or executive authority under this Act may, within thirty days from the date of such Act, or the promulgation or service of such order or notice, appeal to the Diwan or such other officer as may be appointed by the Government in that behalf. The time occupied in obtaining copies of material papers in connection with the order, notice or act appealed against shall be excluded from the computation of the said thirty days. The Diwan or other appellate officer may pass such orders on the appeal as he thinks fit and pending decision may direct the Council, Chairman or executive authority to keep the proceedings in abeyance.

Power to Summon.

330. The executive authority may summon any person to attend before him and to give evidence or produce documents, as the case may be in respect of any question relating to taxation, or inspection or registration or to the grant of any license under the provisions of this Act. The Government may, by notification, extend this power to any officer acting under this Act.

Summons to attend and give evidence or produce documents.

Notices, etc.

331. All notices and permissions given, issued or granted, as the case may be under the provisions of this Act, must be in writing.

Form of notices and permissions.

332. Every license, written permission, notice, bill, schedule, summons or other document which is required by this Act or by any rule, by-law or regulation made under it to bear the signature of the Chairman or executive authority or of any Municipal officer shall be deemed to be properly signed if it bears a

Signature on documents.

facsimile of the signature of the Chairman or executive authority or of such Municipal officer as the case may be, stamped thereon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal fund or to any deed of contract entered into by the Municipal Council.

Publication
of notifica-
tions.

333. Save as otherwise provided, every notification under this Act shall be published in the Cochin Government Gazette both in English and Malayalam.

Method of
serving docu-
ments.

334.—(1) When any notice or other document is required by this Act or by any rule, by-law, regulation or order made under it, to be served on, or sent to any person, the service or sending thereof may be effected—

(a) by giving or tendering the said document to such person, or

(b) if such person is not found, by leaving such document at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family; or

(c) if such person does not reside in the Municipality and his address elsewhere is known to the executive authority by sending the same to him by post registered; or

(d) if none of the means aforesaid be available, by fixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land it shall not be necessary to name the owner or occupier in the document, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or sent it to, one of such owners or occupiers.

(3) Whenever in any bill, notice, form or other document served or sent under this Act a period is fixed within which any tax or other sum is to be paid or any work executed or anything provided, such period shall, in the absence from this Act of any distinct provision to the contrary, be calculated from the date of such service or sending.

Relation of Occupier to Owner.

335. If the occupier of any building or land makes on behalf of the owner thereof any payment for which under this Act the owner, but not the occupier is liable, such occupier shall be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Recovery by occupier of sum leviable from owner.

336.—(1) If the occupier of any building or land prevents the owner from carrying into effect in respect thereof any of the provisions of this Act, the executive authority may, by an order, require the said occupier to permit the owner within 8 days from the date of service of such order, to execute all such works, as may be necessary.

Obstruction of owner by occupier.

(2) Such owner shall, for the period during which he is prevented as aforesaid, be exempt from any fine or penalty to which he might otherwise have become liable by reason of default in executing such works.

337. If the owner of any building or land fails to execute any work which he is required to execute under the provisions of this Act or of any rule, by-law, regulation or order made under it, the occupier of such building or land may, with the approval of the executive authority execute the said work and shall be entitled to recover from the owner the reasonable expenses incurred in the execution thereof, and may deduct the amount hereof from the rent then or thereafter due by him to the owner.

Execution of work by occupier in default of owner.

Executive Authority's Powers of Entry and Inspection.

Power of entry to inspect, survey or execute the work.

338. The executive authority or any person authorised by him in this behalf may enter into or on any building or land with or without assistants or workmen in order to make any enquiry, inspection, test, examination, survey, measurement or valuation or for the purpose of lawfully placing or removing pipes or meters or to execute any other work which is authorised by the provisions of this Act or of any rule, by-law, regulation or order made under it, or which it is necessary for any of the purposes of this Act or in pursuance of any of the said provisions, to make or execute:

Provided that—

(a) except when it is in this Act otherwise expressly provided no such entry shall be made between sun-set and sun-rise;

(b) except when it is in this Act otherwise expressly provided, no dwelling house, and no part of a public building used as a dwelling place shall be so entered without the consent of the occupier thereof unless the said occupier has received at least 6 hours' previous notice of the intention to make such entry;

(c) sufficient notice shall be given in every case even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy may be preserved;

(d) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the occupants of the premises.

Power of entry on lands adjacent to works.

339.—(1) The executive authority or any person authorised by him in this behalf may with or without assistants or workmen enter on any land adjoining or within 50 yards of any work authorised by this Act or

by any rule, by-law, regulation or order made under it, for the purpose of depositing on such land any soil, gravel, stone or other materials or of obtaining access to such work or for any other purpose connected with the carrying on thereof.

(2) The executive authority or person authorised by him as aforesaid, shall, before entering on any land under sub-section (1) give the owner or occupier 3 days' previous notice of the intention to make such entry, and state the purpose thereof; and shall, if so required by the owner or occupier, fence off so much of the land as may be required for such purpose.

(3) The executive authority shall not be bound to make any payment, tender or deposit before entering on any land under sub-section (1), but as little damage as may be shall be done and the executive authority shall pay compensation to the owner and occupier of the land for such entry, and for any temporary or permanent damage that may result therefrom.

(4) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the executive authority, he may appeal to the Council.

340. The executive authority or any person authorised by him in this behalf may examine and test the weights and measures used in markets and shops in the Municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XII of the Cochin Penal Code.

Inspection and stamping of weights and measures.

Power to Enforce Licensing Provisions, Orders, etc.

341. If, under this Act or any rule, by-law or regulation made under it, the license or permission of the Council or Chairman or registration in the Municipal

Consequences of failure to obtain licenses, etc., or of

breach of the same.

Office is necessary for the doing of any act and if such act is done without such license or permission or registration, or in a manner inconsistent with the terms of any such license or permission, then—

(a) the executive authority may, by notice, require the person so doing such act to alter, remove or as far as practicable restore to its original state the whole or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and further,

(b) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees for every such offence.

Time for complying with order and power to enforce in default.

342.—(1) Whenever by any notice, requisition, or order under this Act, or under any rule, by-law or regulation made under it, any person is required to execute any work or to take any measures or do anything, a reasonable time shall be named in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(2) If such notice, requisition or order is not complied with within the time so named, the executive authority may cause such work to be executed or may take any measure or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order as aforesaid; and further,

(3) If no penalty has been specially provided in this Act for failure to comply with such notice, the said person shall be liable on conviction before a Magistrate to a fine not exceeding fifty rupees for every such offence.

Recovery of expenses from persons liable and limitation of liability of occupier.

343.—(1) The executive authority may, subject to the provisions of section 132, recover any reasonable expenses incurred under section 342, from the person or any one of the persons to whom the notice, requisition

or order was addressed, and may in executing work or taking measures under section 342 utilise any material found on the property concerned or may sell it and apply the sale proceeds in or towards the payment of the expenses incurred.

(2) If the person to whom notice is given is the owner of the property in respect of which it is given the executive authority may, (whether any action or other proceeding has been brought or taken against such owner or not) require the person, if any, who occupies such property, or any part thereof under the owner to pay to the Municipal Council, instead of to the owner, the rent payable by him in respect of such property as it falls due up to the amount recoverable from the owner under sub-section (1) or to such smaller amount as the executive authority may think proper, and any amount so paid shall be deducted from the amount payable by the owner.

(3) For the purpose of deciding whether action should be taken under sub-section (2), the executive authority may require any occupier of property to furnish information as to the sum paid by him as rent on account of such property and as to the name and address of the person to whom it is payable; and such occupier shall be bound to furnish such information.

(4) The provisions of this section shall not affect any contract made between any owner and occupier respecting the payment of any such expenses.

344.—(1) When any person by reason of his receiving the rent of immovable property as agent, trustee, guardian, manager or receiver or of his being agent, trustee, guardian, manager or receiver for the person who would receive the rent if the property were let to a tenant, would, under this Act be bound to discharge any obligation imposed by this Act, or any

Relief to
agent and to
trustees

rule, by-law, regulation or order made under it on the proprietor of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or, but for his own improper act or default, might have had in his hands funds belonging to the proprietor sufficient for the purpose.

(2) The burden of proving the facts entitling a person to relief under this section shall lie on him.

(3) When any person has claimed and established his right to relief under this section, the executive authority may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the proprietor; and should he fail to comply with such notice he shall be deemed to be personally liable to discharge such obligation.

Power of executive authority to agree to receive payment of expenses in instalments.

345. Instead of recovering any such expenses as aforesaid in the manner provided under section 343 the executive authority may, if he thinks fit, take an agreement from the person liable for the payment thereof to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of 6 per cent per annum, within a period of not more than 5 years.

Payment of Compensation, etc., by and to the Municipality.

Power of Municipality to pay compensation.

346. In any case not otherwise expressly provided for in this Act, the executive authority may, with the approval of the Council, pay compensation to any person who sustains damage by reason of the exercise by any Municipal authority, officer or servant, of any of the powers vested in them by this Act or any other law or by any rule, by-law, or regulation made under it.

347. All costs, damages, penalties, compensation, charges, fees, expenses, rents, (not being rents for lands and buildings demised by the Municipal Councils), contributions and other sums which under this Act or any other law or rules or by-laws made thereunder, or under any contract in respect of water supply, or drainage made in accordance with this Act, the rules or by-laws, are due by any person to the Council, may, if there is no special provision in this Act for their recovery be demanded by a bill as provided by rules for the recovery of taxes and recovered in the manner provided therein.

Recovery of sums due to the Council.

348. No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to the Municipal Council under this Act after the expiration of a period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

Limitation for recovery of dues.

349. If any property, movable or immovable, is sold under the provisions of this Act, and if there is a surplus after the sum due to the Municipal Council and the costs have been deducted from the sale proceeds, such surplus shall, if the owner of the property sold claims it within six months from the date of the sale be paid to him by the executive authority, but if no such claim is preferred within such time, the said surplus shall be credited to the Municipal fund, and no suit shall lie for the recovery of any sum so credited.

Procedure in dealing with surplus sale proceeds.

350.—(1) No person shall be tried for any offence against the provisions of this Act or of any rule, or by-law made under it unless complaint is made by Police, or the executive authority or by a person expressly authorised in this behalf by the Council or the executive authority, within three months of the commission of the offence. But nothing herein contained shall affect the

Persons empowered to prosecute.

provisions of the Code of Criminal Procedure, 1086, in regard to the power of certain Magistrates to take cognisance of offences upon information received or upon their knowledge or suspicion:

Provided that failure to take out a license, obtain permission or secure registration under this Act shall, for the purposes of this section, be deemed a continuing offence until the expiration of the period, if any, for which the license, permission or registration is required and if no period is specified, complaint may be made at any time within 12 months from the commencement of the offence.

(2) Notwithstanding the provisions contained in the Cochin Code of Criminal Procedure, Municipal charge officers who file complaints in courts of law for offences under the Municipal Act or the rules or by-laws issued thereunder need not be examined on such complaints before the issue of summonses on them.

Imprisonment in default of payment and application of fines.

351.—(1) In case any fine or costs imposed or assessed by a Magistrate under this Act or under any rule or by-law made under it, shall not be paid, the Magistrate may order the offender to be imprisoned in default of payment subject to all the restrictions, limitations and conditions imposed in the Cochin Penal Code.

(2) Any fine, costs, tax or other sum imposed or assessed by a Magistrate under this Act or under any rule or by-law made under it shall be recoverable by such Magistrate under the Code of Criminal Procedure, as if it were a fine and the same shall, on recovery, be paid to the Municipal Council to be applied to the purposes of this Act.

Payment of compensation for damage to

352. If, on account of any act or omission, any person has been convicted of an offence against the provisions of this Act or against any rule or by-law

made under it and by reason of such act or omission damage has been caused to any property owned by or vested in the Municipal Council, the said person shall pay compensation for such damage, notwithstanding any punishment to which he may have been sentenced for the said offence. In the event of dispute the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence on application made to him for the purpose by the executive authority not later than three months from the date of conviction; and in default of payment of the amount of compensation so determined, it shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

Municipal
property.

Legal Proceedings.

353.—(1) No suit for damages or compensation shall be instituted against the Municipal Council, any Municipal authority, officer or servant or any person acting under the direction of the same, in respect of any act done in pursuance or execution or intended execution of this Act or any rule, by-law, regulation or order made under it or in respect of any alleged neglect or default in the execution of this Act, or any rule, by-law, regulation or order made under it until the expiration of one month after a notice has been delivered or left at the Municipal office or at the place of abode of such officer, servant, or person stating the cause of action, the relief sought, and the name and the place of abode of the intending plaintiff; and the plaint shall contain a statement that such notice has been so delivered or left.

Institution
of suits
against
Municipal
authorities,
officers and
servants.

(2) Every such suit shall be commenced within six months after the date on which the cause of action arose or in case of a continuing injury or damage during such continuance or within six months after the ceasing thereof.

(3) If any person to whom any notice is given under sub-section (1) tenders amends to the plaintiff before the suit is instituted and if the plaintiff does not recover in any such action more than the amount so tendered he shall not recover any costs incurred after such tender by the person to whom such notice has been given, and the defendant shall be entitled to costs as from the date of tender.

(4) Where the defendant in any such suit is the Chairman, the executive authority or a Municipal officer or servant, payment of the sum, or any part of any sum payable by him in, or in consequence of, the suit whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the sanction of the Council, from the Municipal fund.

354. The executive authority may—

(a) take or withdraw from proceedings against any person who commits—

(i) any offence against this Act, the rules, by-laws or regulations;

(ii) any offence which affects or is likely to affect any property or interest of the Municipal Council or the due administration of this Act;

(iii) any nuisance whatsoever;

(b) compound any offence against this Act, the rules, by-laws, or regulations which may, by rules made by the Government, be declared compoundable;

(c) with the approval of the Council take, withdraw from or compromise proceedings for the recovery of expenses or compensation claimed to be due to the Municipal Council;

(d) with the approval of the Council withdraw or compromise any claim against any person in

Provision
respecting
institution,
etc., of Civil
and Criminal
actions
and obtain-
ing of legal
advice.

respect of a penalty payable under a contract entered into with such person by the executive authority;

(e) with the approval of the Council, defend any suit or other legal proceedings brought against the Municipal Council or against any Municipal authority, officer or servant in respect of anything done or omitted to be done in its or his official capacity;

(f) with the approval of the Council compromise any claim, suit or legal proceedings brought against the Council or against any Municipal authority, officer or servant, in respect of anything done or omitted to be done as aforesaid;

(g) with the approval of the Council institute and prosecute any suit or withdraw from or compromise any suit or claim, which has been instituted or made in the name of the Municipal Council or of the executive authority;

(h) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by the Council to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any Municipal authority or Municipal officer or servant.

355. No suit shall be maintainable against the Government or any officer of the Government acting under this Act, any Municipal authority, officer or servant or any person acting under the direction of any Municipal authority, officer or servant, or of a Magistrate, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any other law or any rule, by-law, regulation or order made under it.

Indemnity
to Municipal
authorities,
officers and
agents.

356.—(1) The Chairman, every Councillor and the executive authority shall be liable for the loss, waste

Liability of
Chairman,
members

and executive authority for loss, waste or misapplication.

or misapplication of any money or other property owned by or vested in the Municipal Council if such loss, waste or misapplication is a direct consequence of his neglect or misconduct and a suit for compensation may be instituted against him by the Council subject to Government sanction.

(2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

Sanction for prosecution of Chairman, Councillor or executive authority:

357. When the Chairman, any Councillor or the executive authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty no court shall take cognisance of such offence except with the previous sanction of the Government.

Assessment, etc., not to be impeached.

358.—(1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake—

(a) in respect of the name, residence, place of business or occupation of any person, or

(b) in the description of any property or thing, or

(c) in respect of the amount assessed, demanded or charged :

Provided that the provisions of this Act have been in substance and effect, complied with. And no proceedings under this Act shall, merely for defect in form, be quashed or set aside by any Court of Justice.

(2) No suit shall be brought in any Court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money made under the said authority ; provided that the provisions of this Act have been, in substance and effect complied with,

(3) No distraint or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of distraint, inventory or other proceeding relating thereto; nor shall such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him if the provisions of this Act, of the rules and of the by-laws, have in substance and effect been complied with:

Provided that every person aggrieved by such irregularity may recover satisfaction for any special damage sustained by him.

Police.

359.—(1) It shall be the duty of every police officer—

Duties of
police
officers.

(a) to communicate without delay to the proper Municipal officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, by-law or regulation made under it;

(b) to assist the Chairman, the executive authority or any Municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or the executive authority or in such Municipal officer or servant under this Act or any such rule, by-law or regulation; and

(c) to assist any person employed in the collection of tolls in case of resistance to the lawful authority of such person; and for that purpose he shall have the same power which he has in the exercise of his ordinary police duties

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act, shall

be deemed to have committed an offence under section 7 or 19 of Act I of 1058.

Power of
police officer
to arrest
persons.

360.—(1) If any police officer sees any person committing an offence against any of the provisions of this Act or of any rule or by-law made under it, he shall if the name and address of such person are unknown to him and if the said person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false, arrest such person.

(2) No person arrested under sub-section (1) shall be detained in custody—

(a) after his true name and address are ascertained, or

(b) without the order of a Magistrate, for any longer time, not exceeding twenty-four hours from the hour of arrest, than is necessary for bringing him before a Magistrate.

Exercise of
powers of
police officer
by Municipal
servants.

361. The Government may empower any Municipal servant or any class of Municipal servants to exercise the powers of a police officer for the purposes of this Act, the Motor Vehicles Act and of the Nuisance Act.

Miscellaneous.

Application
of term
'Public
Servant' to
Municipal
Officers,
agents and
sub-agents.

362. Every Municipal officer or servant, every contractor or agent for the collection of any Municipal tax, toll, fee or other sum due to the Municipal Council and every person employed by any such contractor or agent for the collection of such tax, toll, fee or sum shall be deemed to be a public servant within the meaning of section 15 of the Cochin Penal Code.

I of

Prohibition
against ob-
struction of
Municipal
authorities,
servants and
contractors.

363. No person shall obstruct or molest the Council, the Chairman, any Councillor, the executive authority or any person employed by the Municipal Council or any person with whom a contract has been

entered into on behalf of the Council in the performance of their duty or of anything which they are empowered or required to do by virtue of or in consequence of this Act or of any by-law, rule, regulation or order made under it.

364. No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorised by this Act or by any by-law, rule or order made under it.

Prohibition against removal of mark.

365. No person shall, without authority in that behalf remove, destroy, deface or otherwise obliterate any notice exhibited by or under the orders of the Council or the executive authority.

Prohib against removal or obliteration of notice.

366. Any person occupying any land or building belonging to the Municipality or vested in the Municipality and occupying it under licenses for specific periods may on refusal to quit at the expiry of the period and after notice in writing to quit be summarily evicted by the executive authority without recourse to a civil court.

Summary powers of executive authority.

367. No person shall, without authority in that behalf remove earth, sand or other material or deposit any matter or make any encroachment from, in or on any land vested in the Municipal Council, or river, estuary, canal, backwater or water course (not being private property) or in any way obstruct the same.

Prohibition against unauthorised dealings with public place or materials.

Transitional and Transitory Provisions.

368. All property, all rights of whatever kinds used, enjoyed or possessed by and all interests of whatever kind owned by or vested in or held in trust by or for, a Municipal Council as constituted under the Cochin Municipal Act, XI of 1906, as well as all liabilities legally subsisting against the said Council shall pass to the Municipal Council as constituted under this Act.

Passing of property and rights to Municipality as constituted under this Act.

369. This Act shall come into force on such day as the Government may, by notification in the Cochin Government Gazette, direct.

Commencement of Act.

1. Notified to come into force on from 1st Mithunam 1113 by notification No. 16 dated 11th April 1938.

Continuance
in office of
present
Chairman
and Coun-
cillors.

370.—(1) The term of office of the Chairmen and of the members holding office under the Cochin Municipal Act, XI of 1966, shall expire on such date or dates after the commencement of this Act as the Government shall determine and the Government shall make appointments and cause arrangements for election to be made under this Act so that the newly elected and appointed Councillors may come into office on the date fixed for the retirement of the former Councillors and the Chairman elected or appointed under this Act on the date fixed for the retirement of the Chairman elected under Act XI of 1966 and until they so come into office the Chairman and the Councillors appointed or elected under Act XI of 1966, shall have all the powers and be subject to all the duties respectively of the Chairman and Councillors under this Act.

(2) On or as soon as may be after the constitution of the Council under this Act a meeting shall be held on a day and at a time fixed by the Chairman, and if not held on that day, shall be held on some subsequent day fixed by the Chairman, for the election of a Chairman by those Councils on whom this privilege has been conferred by the Government.

Procedure
for recovery
of arrears of
taxes etc

371. All arrears of taxes or other payments by way of compensation for a tax or due for expenses or compensation or otherwise due to a Municipal Council at the time this Act comes into force may be recovered as though they had accrued under this Act.

General Provisions.

Application
in particular
Municipal-
ities

372. The Government may, by notification, direct that in any Municipality, any of the sections of this Act excepting those of Chapter VI shall not apply, and may modify or cancel such notification.

Special Pro-
visions in
the case of
newly con-
stituted
Municipal
Councils.

373. The Government may, by notification, issued after previous publication—

(a) constitute any specified area into a minor Municipality and extend to it the provisions of

1. Tattamangalam reconstituted a minor municipality by Notification No. 94 dated 20th Thulam 1114.

this Act subject to such restrictions and modifications as they may think fit ;

(b) enforce either permanently or temporarily all or any of the provisions of this Act relating to scavenging (Chapter VIII), nuisances (Chapter XI) licenses and fees (Chapter XII) and vital statistics and the prevention of diseases (Chapter XIII), in any specified area in a taluk and appoint officers for carrying out these provisions. Such officers shall have the powers of a Municipal authority.

374.—(1) Notwithstanding anything contained in this Act, when a Municipality is constituted for the first time, the Government may appoint a special officer to exercise the powers, discharge the duties and perform the functions of the Municipal Council and its Chairman and executive authority.

Special provision in the case of newly constituted and reconstituted Municipal Councils.

(2) The special officer shall cause arrangements for election to be made so that the newly elected Councillors may come into office on a day within six months from the date of publication of the notification under sub-section (3) of section 4 declaring the area to be a Municipality.

(3) The special officer shall exercise the powers, discharge the duties and perform the functions of the Municipal Council until the Council has been constituted, of the Chairman until a Chairman has been elected by the Council and of the executive authority until a Chairman has been elected or a Commissioner has been appointed, as the case may be.

(4) As soon as may be after the constitution of the Council, a meeting of the Council shall be held on a day and at a time fixed by the special officer for the election of its Chairman. If at such meeting no Chairman is elected, a fresh election shall be held on such day and at such time as may be fixed by the special officer.

(5) The term of office of the Councillors or of the Councillors elected in their places at casual

vacancies shall expire at the end of three years if the day referred to in sub-section (2) is the first day of Vrischigam and in other cases at the end of three years from the first day of Vrischigam immediately preceding such day.

(6) The provisions of sub-sections (1) to (5) shall apply, save as otherwise provided in this Act and so far as may be, to all cases of reconstitution of Municipal Councils.

(7) Where the number of seats on a Municipal Council is increased by or in consequence of a notification under sub-section (1) of section 7 the Councillors elected for the additional seats or the Councillors elected in their places at casual vacancies shall hold office until the date on which the Councillors elected to the original seats at the ordinary elections immediately preceding will vacate office.

References to Chairman in other Enactments and Notifications, etc., issued thereunder.

References
to Chairman
in other
enactments
and notific-
ations, etc.

375.—(1) Any reference to the Chairman of a Municipal Council contained in any enactment in force in the State or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the State shall where such reference relates to the executive functions of the Chairman be construed as a reference to the executive authority.

(2) If any question arises as to whether any such reference relates to the executive functions of the Chairman or not the decision of the Government shall be final.

SCHEDULE I.

Companies shall be assessed by the executive authority on the following scale:—

Paid-up Capital	Half-yearly tax. Rs.
A. Not less than ten lakhs of rupees	250
B. Not less than five, but less than 10 lakhs of rupees	125
C. Not less than three, but less than five lakhs of rupees	75
D. Not less than two, but less than three lakhs of rupees	50
E. Not less than one, but less than two lakhs of rupees	25
F. Less than one lakh of rupees	15

Provided that any Company, the head office or a branch or principal office of which is not in the Municipality and which shows that its gross income received in or from the Municipality has not in the year immediately preceding the year of taxation exceeded —

(a) Twenty-five thousand rupees, shall pay only	Rs.	125
(b) Fifteen thousand rupees, shall pay only	Rs.	75
(c) Five thousand rupees, shall pay only	Rs.	25

Note.—In computing the paid-up capital or the gross income of any Company which is expressed in any currency other than that in common use in Cochin, such capital or gross income shall be calculated on the value of such money in the currency in common use in Cochin, which is the same as that of British India, according to the rates of exchange prevailing on the date of assessment.

SCHEDULE II.

Tax on persons exercising professions, arts, trades and callings holding appointments or in receipt of pensions or income from investments or money lending or any source other than houses and lands inside the Municipal limits.

Sch. II—
(cont).

Half-yearly tax,	
Minimum	Maximum
Rs.	Rs.

Class I.

If the salary, pension or income is not less than Rs. 50, but is less than Rs. 100 a month	1	2
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Class II.

If the salary, pension or income is not less than Rs. 100, but is less than Rs. 150 a month	2	3
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Class III.

If the salary, pension or income is not less than Rs. 150, but is less than Rs. 200 a month	3	4
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Class IV.

If the salary, pension or income is not less than Rs. 200, but is less than Rs. 250 a month	5	7
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Class V.

If the salary, pension or income is not less than Rs. 250, but is less than Rs. 300 a month	7	9
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Class VI.

If the salary, pension or income is not less than Rs. 300 but is less than Rs. 400 a month	10	12
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Class VII.

If the salary, pension or income is not less than Rs. 400, but is less than Rs. 500 a month	12	15
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Class VIII.

If the salary, pension or income is not less than Rs. 500, but is less than Rs. 750 a month	15	20
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Class IX.

If the salary, pension or income is not less than Rs. 750, but is less than Rs. 1000 a month	20	30
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Class X.

If the salary, pension or income is not less than Rs. 1,000, but is less than Rs. 1,500 a month	40	50
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Class XI.

If the salary, pension or income is not less than Rs. 1,500 but is less than Rs. 2,000 a month	60	80
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Class XII.

If the salary, pension or income is Rs. 2,000 and above a month

Rs. 80 for the first Rs. 2,000 and Rs. 15 for every Rs. 500 or part thereof above the first Rs. 2,000	Rs. 100 for the first Rs. 2,000 and Rs. 20 for every Rs. 500 or part thereof above the first Rs. 2,000
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SCHEDULE III.

Maximum rates of tax on carriages and animals.

The tax on carriages and animals shall be levied at rates not exceeding the following:—

	Half-yearly tax.	
	Rs.	As.
For every motor or steam vehicle with metal tyres constructed to carry 2 tons or more	100	0
Additional charge for each trailer	50	0
For every motor or steam vehicle with rubber tyres constructed to carry 2 tons or more	75	0
Additional charge for each trailer	50	0
For every motor or steam vehicle constructed to carry one ton or less than 2 tons	50	0
For every tram car, motor bus or charabanc constructed to carry 10 or more passengers	50	0
For every four-wheeled motor vehicle constructed to carry less than 10 or more than 3 passengers	25	0
For every four-wheeled motor vehicle constructed to carry 3 or less passengers	20	0
For every four-wheeled vehicle constructed to be drawn by one or more animals	10	0
For every two-wheeled vehicle constructed to be drawn by one or more animals	5	0
For every motor tricycle and every motor bicycle with side-car	15	0
For every motor bicycle without side car	10	0

		Half-yearly tax.	
		Rs.	As.
Sch. III.— (cont.)	For every other bicycle or tricycle	1	0
	For every other carriage not being a child's perambulator or go cart.	3	0
	For every elephant	12	0
	For every camel	6	0
	For every horse or mule not under 12 hands	6	0
	For every horse or mule under 12 hands	2	0
	For every bullock or bull	0	8
	For every male buffalo	0	8
	For every ass	0	4
	For every dog or bitch	0	8
	For every pig.	0	8
	For every rickshaw	2	0

SCHEDULE IV.

Rates of tolls.

	Rs.	A.	P.
On every four-wheeled steam or motor vehicle constructed to carry not more than five persons	0	12	0
On every four-wheeled steam or motor vehicle constructed to carry more than 5 passengers but less than 10 passengers	1	0	0
On every other steam or motor four-wheeled vehicle	2	0	0
On every steam or motor lorry	2	0	0
On every motor tricycle or motor bicycle with side-car	0	6	0
On every motor bicycle without side-car	0	4	0
On every other bicycle or tricycle	0	1	0
On every other carriage and on every cart with metal or rubber tyres	0	4	0
On every other carriage and on every cart with pneumatic tyres.	0	2	0
On every horse, mule, ass, buffalo, bull or bullock	0	0	6
On every elephant	1	0	0
On every camel	0	4	0
On every rickshaw	0	1	0

SCHEDULE V.

Purposes for which premises may not be used without a license under section 255.

- (a) Washing soiled clothes and keeping soiled clothes for the purpose of washing them and washed cloths;
- (b) boiling paddy, or camphor;
- (c) melting tallow or sulphur or using acids for any process;
- (d) storing or otherwise dealing with manure, offal, blood, bones, rags, hides, fish, horns or skins;
- (e) washing or drying wool or hair;
- (f) making or storing fish oil;
- (g) making soap, dyeing, boiling or pressing oil, burning bricks, tiles, pottery or lime;
- (h) manufacturing or distilling sago, manufacturing artificial manure or manufacturing beedies;
- (i) manufacturing or storing gunpowder or fire works including crackers;
- (j) keeping a public halting place, choultry or other rest house for travellers (other than a choultry or a rest house maintained by the Government or a local authority), a hotel, restaurant, eating house, coffee house, boarding house or lodging house (other than a students' hostel under public or recognised control);
- (k) keeping together twenty or more sheep or goats or ten or more pigs or head of cattle;
- (l) preparing flour or articles made of flour for human consumption or sweet meats;
- (m) manufacturing ice or aerated waters;
- (n) selling or storing timber, fire wood, thatching materials, hay, grass, straw, fibre, coal or charcoal;
- (o) selling grain, rice or jaggery wholesale or storing grain, rice or jaggery for the wholesale trade;
- (p) manufacturing jaggery or sugar candy;
- (q) storing any explosive or combustible material;
- (r) manufacturing or storing anything from which offensive or unwholesome smells arise;
- (s) using for any industrial purpose any fuel or machinery;
- (t) running a barber saloon; and
in general, doing in the course of any industrial process anything which is likely to be dangerous to human life, health or property:

Provided that no license shall be required for the storage of grain, rice timber, firewood, thatching materials, hay, grass, straw, fibre, charcoal or coal for private use,

SCHEDULE VI.

List of dangerous diseases.

(Section 298.)

Acute Pneumonia	Enteric fever	Tuberculosis
Anthrax	Glanders	Typhoid fever
Chicken-pox	Leprosy	Influenza
Cholera	Plague	Relapsing fever
Diphtheria	Small-pox	Rabies

SCHEDULE VII.

Ordinary penalties.

(Section 321.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
30	(1)	Interested Councillor voting or taking part in discussion	Fifty rupees
107		Attempt to evade payment of toll	do.
119		Trespassing on premises connected with the water supply	do.
123		Failure to maintain house connections in conformity with by-laws and regulations	do.
124	(2)	Failure to obey requisition to make house connection	do.
131		Failure to maintain house drains, etc., in conformity with by-laws and regulations	do.
132	(2) and (3)	Failure to obey requisition as to house drainage	do.
133	(1) (b)	Failure to obey directions as to limited use of drain or notice requiring construction of distinct drain	do.
135		Unlawful construction of building over public drain	One hundred rupees

SCHEDULE VII.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
136	(2)	Failure to obey requisition regarding culverts, etc., or to keep them free from obstruction	Fifty rupees
137		Failure to obey requisition to maintain troughs and pipes for catching, etc., water from roof or other part of building	do.
139		Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order	do.
140		Failure to provide latrines for premises used by large number of people or to keep them clean and in proper order	do.
141		Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand, or to keep them clean and in proper order	One hundred rupees
142		Failure to construct latrines so as to screen person using them from view	Twenty rupees
144		Making connection with mains without permission	Two hundred rupees
149		Improper disposal of carcasses rubbish and filth	Ten rupees
150		Failure to deposit filth in receptacle, etc.	do.
151		Allowing rubbish or filth to accumulate on premises for more than twenty-four hours, etc.	Twenty rupees
152		Allowing filth to flow in streets	Ten rupees
153		Using cart without cover in removal of filth, etc.	Twenty rupees
154		Throwing rubbish or filth into drains	do.
160		Building within street alignment or building line without permission	One thousand rupees
161	(1)	Failure to obey orders to set back buildings	One hundred rupees
166		Unlawful displacement, etc., of pavement or fences, posts and other materials of public street	Fifty rupees

SCHEDULE VII.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
168	(1)	Using a motor vehicle for hire or a motor lorry without license or contrary to license	Two hundred rupees
169		Failure to provide roads, etc., on building sites prior to disposal	do.
170	(5)	Unlawful making or laying of new private street	do.
172		Failure to obey requisition to metal, etc., private street	One hundred rupees
174		Building wall or erecting fence, etc., in a public street	do.
175		Obstructing a person in the use of a street	do.
176		Allowing doors, ground floor windows, etc., to open outwards, without license or contrary to notice	Twenty rupees
177		Failure to remove permanent encroachment	Two hundred rupees
178		Failure to remove temporary encroachment	Fifty rupees
180		Unlawful removal of bar or shoring timber, etc., or removal or extinction of light	Twenty rupees
181		Unlawful making of hole or placing of obstruction in street	Fifty rupees
183		Construction, etc., of building without license where street or footway is likely to be obstructed	do.
		Failure to fence, etc., such building while under repair or failure to remove obstruction	do.
184		Failure to remove obstruction caused in street by the fall of trees, etc.	do.
187	(3)	Unlawful destruction, etc., of name of street	Twenty rupees
188	(2)	Unlawful destruction, etc., of number of building	Five rupees
	(3)	Failure to replace number when required to do so	Twenty rupees
192	(1)	Failure to obey requisition to round or splay off buildings at corners of streets	One hundred rupees
193		Construction of external roofs, etc., with inflammable materials	Fifty rupees

SCHEDULE VII.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
194		Construction of door or window, etc., to open outwards on public street	Twenty rupees
212		Failure to keep external walls of premises in proper repair	do.
216	(1)	Failure to obey requisition to take down, repair or secure dangerous structure	Five hundred rupees
217	(1)	Failure to obey requisition to secure, lop or cut down dangerous tree	Fifty rupees
218		Failure to obey requisition to repair, etc., tank or other place dangerous to passengers or persons living in neighbourhood	do.
219		Failure to obey notice to discontinue working, etc.	One hundred rupees
220		Failure to obey notice regarding precautions against fire	do.
221	(1)	Constructing well, etc., without permission	Fifty rupees
	(3)	Failure to obey notice to fill in or demolish well, etc.	do.
222		Failure to obey requisition to repair, etc., tank or well or drain off water, etc.	do.
224		Failure to obey requisition to cleanse or close, etc., tank, well or other source of water used for drinking	do.
227		Unlawful washing and fishing in river, etc., after prohibition or contrary to regulations	Twenty rupees
230		Defiling water of tanks etc.	do.
231		Failure to obey requisition to enclose, clear or cleanse untenanted premises	Fifty rupees
232		Failure to obey requisition to clear or cleanse, etc., building or land in filthy state or overgrown with noxious vegetation	do.
233		Failure to secure trees adjacent to house or well	Twenty rupees
234		Failure to obey requisition to fence building or land or trim, prune or cut hedges and trees	Fifty rupees

SCHEDULE VII.—(cont.)

Section	Sub section or clause	Subject	Fine which may be imposed
1	2	3	4
236		Failure to obey requisition to lime-wash or otherwise cleanse building	Fifty rupees
237		Failure to obey requisition to execute work or take other act on with respect to insanitary buildings	One hundred rupees in the case of masonry building and fifty rupees in the case of huts
238	(2)	Using or allowing the use of buildings unfit for human habitation after prohibition	Twenty rupees
	(4)	Failure to obey requisition to demolish the same	do.
239	(1)	Allowing overcrowding in building after order to abate the same	Ten rupees for each day
	(4)	Failure to obey requisition to vacate overcrowded building or room	do.
240		Feeding animals on filth	Fifty rupees
241		Tethering cattle or animal in public street so as to obstruct traffic, etc.	Twenty five rupees
242		Unlawful keeping of animal so as to be a nuisance or to be dangerous	Ten rupees
245	(1)	Making noise by musical instruments or otherwise in public streets and other public places for purposes of advertisement	Five rupees
	(2)	Playing of musical instruments in hotels, restaurants, etc., between 10 p. m. and 5. a. m.	do.
248		Use of place as stable, cattle-stand, etc., without license or contrary to license	Fifty rupees
249		Construction or maintenance of stable, cattle-shed, etc., contrary to Act or subsidiary legislation	do.
250		Use of place as stable, cattle-shed, etc., contrary to notice issued by executive authority	Two hundred rupees
252		Opening of a new private landing-place, halting place, bus-stand or cart-stand against the provisions contained in section 252	do.

SCHEDULE VII.—(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
253		Using public place or sides of public street as cart-stands, etc.	Twenty rupees
255	(1)	Using a place for any of the purposes specified in Schedule V without license or contrary to license	One hundred rupees
256		Unlawful erection of factory, workshop, etc.	Five hundred rupees
257		Disobedience of order regarding abatement of nuisance	One hundred rupees
260		Use of place as slaughter-house without license or contrary to license	Two hundred rupees
263		Slaughter of animals for sale or food or skinning or cutting up of carcasses or drying skin without license	Twenty rupees for every animal, carcass or skin
264		Carrying on milk trade without license or contrary to license	Fifty rupees
267		Sale or exposure for sale in public market of animal or article of food without license	Twenty rupees
268		Opening or keeping open private market without license or contrary to license	Five hundred rupees
270		Sale or exposure for sale of animal or article in unlicensed private market	Twenty rupees
271		Failure to obey direction to construct approaches, drains, etc., to private markets or to pave them	Fifty rupees
272	(2)	Opening or keeping open of private market after suspension or refusal of license for default to carry out works	Twenty rupees for each day
273		Nuisance in private market	Twenty rupees
277		Carrying on butcher's, fishmonger's or poulterer's trade without license, etc.	One hundred rupees
278		Sale of article in public streets after prohibition or contrary to regulations	Ten rupees
282		Preventing the executive authority or any person authorised by him from exercising his powers of entry, etc., under this section	Fifty rupees

SCHEDULE VII.--(cont.)

Section	Sub-section or clause	Subject	Fine which may be imposed
1	2	3	4
284		Removing or in any way interfering with an animal or article seized.	Five hundred rupees
288	(1)	Opening, etc., without license a new place for the disposal of the dead	One hundred rupees
290	(3)	Use or allowance of use of burial or burning ground which has not been registered, licensed or provided	do.
291		Failure to give information of burials or burnings in burial or burning ground	Twenty rupees
292		Burial or burning in place after prohibition	One hundred rupees
294		Offences in respect of corpses	Fifty rupees
295		Discharge of office of attendant at place for disposal of dead without license	Five rupees
296	(8)	Failure to produce license on request	do.
312		Failure to give information of small-pox	Fifty rupees
313		Person entering Municipality within forty days of inoculation without certificate	One hundred rupees
330		Disobedience to summons	Fifty rupees
336	(1)	Failure of occupier to obey requisition to permit owner to comply with provisions of Act	Fifty rupees for each day
363		Obstructing or molesting Municipal Council, etc.	Fifty rupees
364		Removing mark set up for indicating level, etc.	do.
365		Removal etc., of notice exhibited by or under orders of the Council	do.
367		Unlawful removal of earth, sand or other material from land or deposit of matter or encroachment in or on river, estuary, etc.	Twenty rupees

SCHEDULE VIII.
Penalties for continuing breaches.
(Section 321).

Section	Sub-section or clause	Subject	Daily fine which may be imposed
1	2	3	4
123		Failure to maintain house connections in conformity with by-laws and regulations	Five rupees
124	(2)	Failure to obey requisitions to make house connection	do.
131		Failure to maintain house drains, etc., in conformity with by-laws and regulations	Ten rupees
132	(2) and (3)	Failure to obey requisition as to house drainage	do.
137		Failure to obey requisition to maintain troughs and pipes for catching water from roof or other part of building	do.
139		Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order	do.
140		Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order	Twenty rupees
141		Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand or to keep them clean and in proper order	do.
160		Building within street alignment or building line without permission	One hundred rupees
168		Using a motor vehicle for hire or a motor lorry without license or contrary to license	Fifty rupees
177		Failure to remove permanent encroachment	Ten rupees
178		Failure to remove temporary encroachment	Five rupees
181		Unlawful making of hole or placing of obstruction in street	Ten rupees
183		Construction, etc., of building without license where street or footway is likely to be obstructed	do.
192	(1)	Failure to obey requisition to round or splay off buildings at corners of streets	Twenty-five rupees
193		Construction of external roofs, etc., with inflammable materials	Ten rupees (2)

SCHEDULE VIII.--(cont.)

Section	Sub section or clause	Subject	Daily fine which may be imposed
1	2	3	4
212		Failure to keep external walls of premises in proper repair	Ten rupees.
218		Failure to obey requisition to repair, etc., tank or other place dangerous to passengers or persons living in neighbourhood	do.
219		Failure to obey requisition to stop dangerous quarrying	Twenty-five rupees
220		Failure to obey notice regarding precautions against fire	Ten rupees
222		Failure to obey requisition to repair, etc., tank or well, or drain off water, etc.	do.
224		Failure to obey requisition to cleanse or close, etc., tank, well, etc., or other source of water used for drinking	do.
231		Failure to obey requisition to enclose, clear or cleanse untenanted premises	do.
232		Failure to obey requisition to clear or cleanse, etc., building or land in filthy state or overgrown with noxious vegetation	do
233		Failure to secure trees adjacent to house or well	Five rupees
234		Failure to obey requisition to fence building or land or trim, prune or cut hedges and trees	Ten rupees
236		Failure to obey requisition to lime-wash or otherwise cleanse building	do.
237		Failure to obey requisition to execute work or take other action with respect to insanitary buildings	Ten rupees in the case of masonry building and five rupees in the case of hut
242		Unlawful keeping of animal so as to be a nuisance or to be dangerous	Five rupees
245	(1)	Making noise by musical instruments or otherwise in public streets and other public places for purposes of advertisement	Ten rupees
	(2)	Playing of musical instruments in hotels, restaurants, etc., between 10 p. m. and 5 a. m.	do.

SCHEDULE VIII.—(cont.)

Section	Sub-section or clause	Subject	Daily fine which may be imposed
1	2	3	4
248		Use of place as stable, cattle-stand, etc., without license or contrary to license	Ten rupees
249		Construction or maintenance of stable, cattle-shed, etc., contrary to Act or subsidiary legislation	do.
250		Use of place as stable, cattle-shed, etc., contrary to notice issued by executive authority	Fifty rupees
252		Opening of a new private landing place, halting place, bus-stand or cart-stand against the provisions contained in section 252	Twenty rupees
253		Using public place or sides of Public street as cart-stands, etc.	Five rupees
255	(1)	Using a place for any of the purposes specified in Schedule V without license or contrary to license	Twenty rupees
256		Unlawful erection of factory, workshop, etc.	One hundred rupees
257		Disobedience of order regarding abatement of nuisance	Twenty-five rupees
260		Use of place as slaughter house without license or contrary to license	Fifty rupees
264		Carrying on milk trade without license or contrary to license	Five rupees
268		Opening or keeping open private market without license or contrary to license	One hundred rupees
270		Sale or exposure for sale of animal or article in unlicensed private market	Twenty rupees
277		Carrying on butcher's, fishmonger's or poulterer's trade without license, etc.	Ten rupees
288	(1)	Using without license a place for the disposal of the dead	Twenty-five rupees

THE GOVERNMENT OF COCHIN ACT.

(XX of 1113.)

ARRANGEMENT OF SECTIONS.

Preamble.

Sections.

PART I.

INTRODUCTORY.

1. Short title.
2. Extent and commencement.
3. Government of Cochin by His Highness the Maharaja.

PART II.

THE EXECUTIVE.

4. Executive authority of the Cochin State.
5. Appointment of the Diwan.
6. Appointment of the Minister.
7. Temporary administration of transferred subjects.
8. Classification of transferred subjects.
9. Conduct of business of the executive authority of the Cochin State.
10. Authentication of orders and other instruments.
11. Advocate-General.

PART III.

THE LEGISLATURE.

12. Cochin Legislature.
13. Constitution and duration of the Cochin Legislative Council.
14. Rules.
15. Vacation of seats.
16. Disqualifications for membership.
17. Meeting of the Council.
18. Oath of members.
19. Officers of the Council.
20. Voting in the Council, power of the Council to act notwithstanding vacancies and quorum.

Sections
— *cont.*

21. Penalty for sitting and voting when not qualified or disqualified.
22. Privileges of members.
23. Allowances of members.
24. Powers of the Legislature.
25. Measures requiring previous sanction.
26. Powers of the Diwan in certain cases.
27. Return of Bills and Assent.
28. Annual Financial Statement.
29. Authentication of schedule of authorised expenditure
30. Supplementary statements of expenditure.
31. Powers to make rules and standing orders.

PART IV.

THE JUDICATURE.

32. The High Court.
33. Appointment and tenure of judges.
34. Qualification of judges.
35. Oath.
36. Salaries etc., of judges.
37. Precedence of judges.
38. Temporary and additional judges.
39. Seat of the High Court.
40. Seal of the High Court.
41. Jurisdiction of the High Court.
42. Power to make rules.
43. Constitution of benches.
44. Administrative control.
45. Superintendence over subordinate courts.
46. Writs etc., to issue in the name of His Highness.
47. Appeal against decisions of a single judge.
48. Procedure where bench of three judges cannot be formed, or in case of difference of opinion between two judges.
49. Procedure in case of difference of opinion in matters heard by three judges.
50. Requisitions by His Highness for records etc.

Sections
—cont.

PART V.

MISCELLANEOUS.

51. Revenues of the Cochin State.
52. Provision as to custody of public moneys.
53. Power to acquire property, borrow moneys, make contracts, etc.
54. Continuation of existing laws.
55. Continuation of certain electoral arrangements.
56. Saving of Prerogative of His Highness.
57. Repeals.

SCHEDULE.

- (i) Form of Oath or Affirmation to be taken or made by a member of the Cochin Legislative Council
- (ii) Form of Oath or Affirmation to be taken or made by the judges of the High Court.

THE GOVERNMENT OF COCHIN ACT.

(XX of 1113).

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Mithunam 1113, corresponding
to the 17th day of June 1938.*

Preamble. Whereas it is expedient to consolidate and amend the laws relating to the Government of Cochin, it is hereby enacted as follows:—

PART I.

INTRODUCTORY.

Short title. 1. This Act may be cited as “The Government of Cochin Act, 1113.”

Extent and commencement. 2. This Act shall extend to the whole of the Cochin State and shall come into force at once.

Government of Cochin by His Highness the Maharaja. 3. The territories for the time being vested in His Highness the Maharaja of Cochin are governed by and in the name of His Highness, and all rights,

authority and jurisdiction which appertain or are incidental to the government of such territories are exercisable by His Highness, except in so far as may be otherwise provided by or under this Act, or as may be otherwise directed by His Highness.

PART II.

THE EXECUTIVE.

4. Subject to the provisions of this Act, the executive authority of the Cochin State is exercised by His Highness through the Diwan, in relation to reserved subjects, and through the Minister appointed under this Act, in relation to transferred subjects; but nothing in this section shall prevent the Cochin Legislature from conferring functions on subordinate authorities or be deemed to transfer to the Diwan or the Minister any functions conferred by any law of the Cochin State on any court, judge or officer, or on any local or other authority:

Executive
authority of
the Cochin
State.

Provided that the Diwan or the Minister may exercise his functions either directly, or through officers subordinate to him.

Explanation.—In this Act the expression “transferred subjects” shall mean those subjects which under sub-section (1) of section 8 of this Act have been transferred for being administered through the Minister appointed under this Act, and the expression “reserved subjects” shall mean all other subjects not so transferred.

5.—(1) The Diwan of Cochin is appointed by His Highness and holds office for such period and subject to such terms and conditions, as His Highness may prescribe.

Appoint-
ment of the
Diwan.

(2) (a) The Diwan shall be under the general control of and comply with such particular directions

as may be given to him by His Highness, in the exercise of his powers and discharge of his duties which are conferred or imposed upon him, by or under this Act, or by His Highness.

(b) The validity of anything done by the Diwan shall not be called in question on the ground that it was done otherwise than in accordance with His Highness' directions.

Appoint-
ment of the
Minister.

6.—(1) The Minister is appointed by His Highness and holds office during His Highness' pleasure.

(2) The Minister, who for any period of six consecutive months is not an elected member of the Legislative Council, shall, at the expiration of that period, cease to be Minister.

(3) There shall be paid to the Minister such salary and allowances as may be provided for by Act of the Legislature, and, until such provision is made, His Highness may prescribe his salary and allowances.

(4) In the administration of transferred subjects, His Highness is guided by the advice of the Minister, unless, after such consultation with the Diwan as His Highness may think fit, His Highness sees cause to dissent from the Minister's opinion, in which case, His Highness may require action to be taken otherwise than in accordance with such advice.

(5) Subject to the provisions of this Act, all references to the Diwan in the laws of the Cochin State shall, in so far as they relate to transferred subjects, be construed as references to the Minister.

Temporary
administra-
tion of trans-
ferred sub-
jects.

7. His Highness may entrust to the Diwan the administration of transferred subjects when there is a vacancy in the office of the Minister.

8. His Highness, after such consultation with the Diwan as His Highness may think fit, may, by rules under this Act, provide—

Classifi-
cation of
transferred
subjects.

(1) for the transfer from time to time of one or more subjects for being administered through the Minister appointed under this Act,

(2) for the allocation of revenues or moneys for the purpose of such administration, and

(3) for the settlement of doubts arising as to whether any matter does or does not relate to a transferred subject, and for the treatment of matters which affect both a transferred subject and a reserved subject.

9. His Highness may make rules and orders for the more convenient transaction of the business of the executive authority of the Cochin State, and in particular—

Conduct of
business
of the exe-
cutive autho-
rity of the
Cochin State.

(a) to require the Diwan and the Minister to transmit to His Highness all such information with respect to the government of the Cochin State as may be specified or as His Highness may otherwise require to be so transmitted,

(b) to require the Minister to transmit to the Diwan all such information with respect to the administration of transferred subjects as may be specified by the Diwan,

(c) to require the Minister to consult the Diwan upon any of his proposals which affect the finances of the Cochin State,

(d) to require that no re-appropriation from one major head to another within a grant shall be made by any department, otherwise than after consultation with the Diwan,

(e) to regulate the relations between the Diwan and the Minister for the purpose of the transaction of the business of the Government, and

(f) to regulate, notwithstanding anything contained in this Act, the conditions under which and the manner in which, appointments to public offices in the State, not otherwise expressly provided for in this Act, should be made.

Explanation.—In this Act, the expression “the Government” shall mean His Highness exercising the executive authority of the Cochin State, in accordance with the provisions of this Act.

Authentic-
ation of
orders and
other instru-
ments.

10.—(1) All orders and other instruments of the executive authority of the Cochin State shall be expressed to be made by the Government of Cochin, and shall be authenticated as His Highness may, by rule, direct, and provision may be made, by rule, for distinguishing orders and other instruments relating to transferred subjects from other orders and instruments.

(2) The validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the executive authority of the Cochin State.

Advocate-
General.

11.—(1) His Highness may appoint a person, being a person qualified to be appointed a judge of the High Court, to be Advocate-General of Cochin.

(2) It shall be the duty of the Advocate-General to give advice to the Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by His Highness, and in the performance of his duties, he shall have right of audience in all courts in the Cochin State.

(3) The Advocate-General shall hold office during His Highness' pleasure, and shall receive such remuneration as His Highness may determine.

PART III.

THE LEGISLATURE.

12. There shall be a Legislature for the Cochin State which shall consist of His Highness, and a Chamber to be known as the Cochin Legislative Council.

Cochin
Legislature.

13.—(1) The Legislative Council shall consist of the Diwan and fifty-eight members, of whom thirty-eight members shall be representatives elected, and the rest nominated by His Highness, in accordance with the rules made in that behalf:

Constitution
and duration
of the Cochin
Legislative
Council.

Provided that His Highness may, for the purpose of any Bill introduced or proposed to be introduced in the Council, nominate not more than two members having special knowledge or experience of the subject matter of the Bill, and these persons shall, in relation to the Bill, have, for the period for which they are nominated, all the rights of members of the Council, and shall be in addition to the members referred to:

Provided further that the Minister and the Advocate-General shall have the right to speak in, and otherwise take part in the proceedings of the Council and any Committee of the Council of which they may be named members, but shall not, by virtue of this provision only, be entitled to vote.

(2) Every Council shall continue for three years from the date of its first sitting:

Provided that—

(a) the said period may be extended from time to time by His Highness, if, in special circumstances, His Highness so thinks fit;

(b) the Council may at any time be dissolved by His Highness.

Rules.

14. Subject to the provisions of this Act, provisions may be made, by rules, under this Act, with respect to the matters hereinafter mentioned or any of them, that is to say—

(a) the delimitation of territorial constituencies for the purpose of elections under this Act;

(b) the qualifications entitling persons to vote in territorial or other constituencies at such elections, and the preparation of electoral rolls ;

(c) the qualifications for being elected at such elections as a member of the Legislative Council ;

(d) the conduct of elections under this Act and the methods of voting thereat ;

(e) the expenses of candidates at such elections ;

(f) corrupt practices and other offences at or in connection with such elections;

(g) the decision of doubts and disputes arising out of or in connection with such elections;

(h) the term of office of nominated members of the Council;

(i) the conditions under which and the manner in which persons may be nominated as members of the Council;

(j) the filling in of casual vacancies in the Council; and

(k) matters ancillary to any such matter as aforesaid.

Vacation of seats.

15.—(1) If a member of the Legislative Council—

(a) becomes subject to any of the disqualifications mentioned in subsection (1) of the next succeeding section; or

(b) by writing under his hand addressed to the Diwan, resigns his seat,

his seat shall thereupon become vacant.

(2) If, for a period of four consecutive months, a member of the Council is unable to attend to the duties of his membership, the Government may, by notification in the Gazette, declare his seat vacant.

16.—(1) A person shall be disqualified for being chosen as, and for being a member of, the Legislative Council—

Disqualifications for membership.

(a) if he holds any office of profit under His Highness or under any Municipal or Local Authority:

Provided that this shall not apply to a nominated member ;

Explanation.—(1) The Minister appointed under this Act, or the Chairman or Vice-Chairman of a Municipal or Local Authority, or the holder of any office in the Civil or Military Service under the Government, if the office is one which does not involve either of the following incidents, namely, that the incumbent—

(i) is a whole time servant of the Government, or

(ii) holds a pensionable office or is in pensionable service, within the meaning of the Cochin Service Regulations,

shall not be treated as a person holding an office of profit under His Highness under this section.

Explanation.—(2) If any question arises whether any person holds an office of profit under this section, the decision of the Diwan shall be final.

(b) if he is under 25 years of age ;

(c) if he is not a subject of His Highness or of British India ;

(d) if he is of unsound mind and stands so declared by a competent court ;

(e) if he is an undischarged insolvent ;

(f) if he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty of any offence or corrupt or illegal practice relating to elections which has been declared by the laws of Cochin or of British India to be an offence or practice entailing disqualification for membership of the Council, unless such period has elapsed as may be specified in that behalf by the provisions of such laws ;

(g) if he has been convicted of any other offence by a court in the Cochin State or British India, and sentenced to imprisonment for not less than two years, unless a period of five years or such less period, as His Highness may allow in any particular case, has elapsed since his release ;

(h) if, having been nominated as a candidate for the Council or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by any rules made under this Act, unless five years have elapsed from the date by which it ought to have been lodged, or His Highness has removed the disqualification:

Provided that the disqualification under paragraph (h) of this subsection shall not take effect until the expiration of one month from the date by which the return ought to have been lodged or of such longer period as His Highness may in any particular case allow,

(2) A person shall not be capable of being chosen a member of the Council while he is serving a sentence of imprisonment for a criminal offence.

(3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of paragraph (f) or paragraph (g) of subsection (1) of this section, is at the date of the disqualification a member of the Council, his seat shall, notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof, or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that petition or appeal is disposed of, but during any period during which his membership is preserved by this sub-section, he shall not sit or vote.

17.—(1) The Legislative Council is summoned by His Highness to meet once at least every year, and twelve months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. Meeting of Council.

(2) Subject to the provisions of this section His Highness may—

(a) summon the Council to meet at such times and places as His Highness thinks fit;

(b) prorogue the Council.

18. Every member of the Legislative Council shall, before taking his seat, make and subscribe before the President or some person appointed by him, an oath or affirmation according to the form set out in the schedule to this Act. Oath of members.

19.—(1) The Diwan shall be *ex-officio* President of the Legislative Council. Officers of the Council.

(2) The Council shall, as soon as may be, choose one of its members to be Deputy President thereof, and so often as the office of the Deputy President becomes vacant, the Council shall choose any other member to be Deputy President.

(3) A member holding the office of Deputy President, shall vacate his office if he ceases to be a member of the Council, may at any time resign his office by writing under his hand addressed to the Diwan, and may be removed from his office by a resolution of the Council passed by a majority of the members then on the roll of the Council; but no resolution for the purpose of this sub-section shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

(4) During the absence of the President from any sitting of the Council, the Deputy President or, if he is also absent, such person as may be determined by the rules of procedure, or if no such person is present, such other person as may be determined by the Council, shall act as President.

(5) There shall be paid to the Deputy President such salary as may be fixed by Act of the Legislature, and until provision in that behalf is so made, such salary as His Highness may determine.

Voting in
the Council,
power of the
Council to
act notwith-
standing
vacancies
and quorum

20. —(1) Save as provided in the last preceding section, all questions at any sitting of the Legislative Council shall be determined by a majority of votes of the members present and voting, other than the President or person acting as such.

The President or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(2) The Council shall have power to act notwithstanding any vacancy in the membership thereof,

and any proceedings in the Council shall be valid, notwithstanding that it is discovered subsequently that some one who was not entitled so to do, sat and voted or otherwise took part in the proceedings.

(3) If, at any time during a meeting of the Council, less than fifteen members of the Council are present, it shall be the duty of the President or person acting as such either to adjourn the Council till the next day on which the Council would ordinarily sit, or to suspend the meeting until at least fifteen of the members are present.

21. If a person sits or votes as a member of the Legislative Council when he is not qualified, or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of subsection (3) of section 16 of this Act, he shall be liable to a penalty of Rs. 100 to be recovered as a debt due to the Government.

Penalty for sitting and voting when not qualified or disqualified.

22.—(1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Council, there shall be freedom of speech in the Council, and no member or other person entitled to take part in the proceedings of the Council shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Council or any committee thereof, and no person shall be liable in respect of the publication, by or under the authority of the Council, of any report, paper, votes or proceedings.

Privileges of members.

(2) In other respects, the privileges of members and other persons entitled to take part in the proceedings of the Council shall be such, as may from time to time, be defined by Act of the Legislature.

(3) Nothing in this Act shall be construed as conferring or empowering the Council to confer on itself or on any of its committees or officers, the status

of a court or any punitive or disciplinary powers, other than a power to remove or exclude persons infringing the rules or standing orders or otherwise behaving in a disorderly manner.

Allowances
of mem bers.

23. Members of the Legislative Council shall be entitled to receive such allowances as may from time to time be determined by Act of the Legislature, and until provision in that respect is so made, as may be determined by rules under this Act.

Powers of
the Legisla-
ture.

24.—(1) Subject to the provisions of this Act, the Cochin Legislature may make laws for the whole of the Cochin State or any part thereof, and for the subjects of His Highness wherever they may be.

(2) There shall not be introduced into or moved in the Legislative Council, any Bill or Amendment or Motion or Resolution or Interpellation or other proceedings relating to or affecting the following matters:—

- (a) the Ruling Family of Cochin ; or
- (b) the relations of His Highness with the Crown or with Foreign Princes or States ; or
- (c) matters governed by treaties, conventions or agreements now in force, or hereafter to be made by His Highness with the Crown ; or
- (d) extradition of criminals ; or
- (e) European vagrants ; or
- (f) European British subjects ; or
- (g) the Military forces including the Nayar Brigade, and His Highness' Body Guard ; or
- (h) the conduct of any judge of the High Court in the discharge of his duties ; or
- (i) coinage or legal tender ; or

- (j) State charities ; or
- (k) Devaswams belonging to or under the control of His Highness' Government ; or
- (l) the Cranganur Chief or his family ; or
- (m) the provisions of this Act.

25. There shall not be introduced into or moved in the Legislative Council without the previous sanction of His Highness any Bill or Amendment—

Measures requiring previous sanction.

(a) affecting the public revenues of the State or by which any charge would be imposed on such revenues ; or

(b) affecting the religion or religious rights and usages of any class of His Highness' subjects ; or

(c) affecting any Act, Proclamation or Order made or passed by His Highness in the exercise of His Highness' prerogative ; or

(d) affecting the privileges of members of the Legislative Council.

26. If the Diwan certifies that the discussion of a Bill introduced or proposed to be introduced in the Legislative Council or any specified clause of a Bill or of any Amendment moved or proposed to be moved to a Bill, would affect the safety or tranquillity of the Cochin State or any part thereof, he may direct that no proceedings or no further proceedings shall be taken in relation to the Bill, Clause or Amendment, and effect shall be given to the direction.

Power of the Diwan in certain cases.

27.—(1) Where a Bill has been passed by the Legislative Council, the Diwan may, instead of presenting it for the assent of His Highness, return it to the Council for re-consideration in whole or in part, together with any amendments which he may recommend.

Return of Bills and Assent.

(2) Where a Bill has been passed by the Council, and has not been returned to the Council by the Diwan for re-consideration, it shall be submitted for the assent of His Highness, who may declare either that he assents thereto or withholds his assent therefrom, by notification in the Cochin Government Gazette.

(3) A Bill which is assented to under the last preceding sub-section shall become an Act.

Annual
Financial
Statement.

28.—(1) The estimated annual expenditure and revenues of the State shall be laid in the form of a statement, in this Act referred to as "the Annual Financial Statement", before the Legislative Council in each year, and the proposals of the Government for the appropriation of the revenues and other moneys in any year shall be submitted to the vote of the Council in the form of demands for grants. The Council may assent or refuse its assent to a demand or may reduce the amount therein referred to, either by a reduction of the whole grant, or by the omission or reduction of any of the items of expenditure of which the grant is composed:

Provided that—

(a) the estimates of expenditure embodied in the Annual Financial Statement which relate to Cranganur shall be shown separately ;

(b) the Government shall have power in relation to any such demand to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject and if the Diwan certifies that the expenditure provided for by the demand is essential with respect to the proper administration of that subject ;

(c) His Highness may, in cases of emergency, authorise such expenditure as may be in His Highness'

opinion necessary for the safety or tranquillity of the State or for the carrying on of any department ;

(d) no proposal for imposing or increasing any tax or for regulating the borrowing of money or for amending the law with respect to any financial obligations of the State shall be made, except on the recommendation of the Government, communicated to the Council ;

(e) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made, except on the recommendation of the Government, communicated to the Council.

Explanation.—A proposal shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for fines or other pecuniary penalties, or for the payment of fees for licenses or fees for services rendered.

(2) Nothing in this Act shall require proposals to be submitted to the Council relating to the following heads of expenditure which shall be expenditure charged on the revenues of the State:—

(a) Expenditure relating to any matter removed from the cognisance of the Council by sub-section 2 of section 24 of this Act ;

(b) Expenditure authorised under clause (c) of the preceding sub-section ;

(c) Expenditure which is obligatory under any law ;

(d) Pensions and gratuities granted by His Highness or with His Highness' sanction, or under the rules of the Government ;

(e) Salaries and allowances of such officers as may from time to time be specified by His Highness ;

(f) Interest on loans and sinking fund charges ;

(g) Contributions (charitable or otherwise) made by or with the sanction of His Highness ;

(h) Expenditure classified by the Diwan as political expenditure.

If any question arises whether any proposed appropriation of revenues or moneys does or does not relate to the above heads of expenditure, the decision of the Diwan shall be final.

Authentic-
ation of
schedule of
authorised
expenditure.

29.—(1) The Diwan shall authenticate by his signature a schedule specifying—

(a) the grants made by the Legislative Council under sub-section (1) of the last preceding section ;

(b) the several sums required to meet the expenditure certified under proviso (b) of sub-section (1) or relating to the heads of expenditure mentioned in sub-section (2) of the last preceding section.

(2) Subject to the provisions of the next succeeding section, no expenditure from the revenues of the State shall be deemed to be duly authorised unless it is specified in the schedule so authenticated.

Supplement-
ary state-
ment of
expenditure.

30. If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure theretofore authorised for that year, the Government shall lay before the Legislative Council a supplementary statement showing the estimated amount of that expenditure, and the provisions of this Act relating to the Annual Financial Statement, shall apply to such supplementary statement:

Provided that where His Highness authorises any expenditure under proviso (c) of sub-section (1) or

relating to the heads of expenditure mentioned in subsection (2) of section 28 of this Act over and above the expenditure theretofore authorised for that year, the Diwan shall authenticate by his signature a schedule specifying the several sums so authorised, and the expenditure of such sums from the revenues of the State shall thereupon be deemed to be duly authorised.

31.—(1) The Diwan may make rules from time to time for the purpose of carrying into effect the provisions of this Part, and more particularly for regulating the course of business in the Legislative Council, and as to the person or persons presiding over the meetings thereof in the absence of the President and the Deputy President, and the preservation of order at meetings, and the rules may provide for the prohibiting or regulating the asking of questions on and the discussion of any subject specified under the rules.

Power to make rules and standing orders.

(2) The Council may from time to time make Standing Orders for the conduct of business and the procedure to be followed in the Council, in so far as these matters are not provided for by rules under this section. The first Standing Orders shall be made by the Diwan, but may, subject to the assent of the Diwan, be altered by the Council.

(3) Any Standing Order made as aforesaid which is repugnant to the provisions of any rules made under this section shall, to the extent of that repugnancy, but not otherwise, be void.

PART IV.

THE JUDICATURE.

32.—(1) The Chief Court of Cochin shall henceforth be designated the High Court of Judicature, Cochin, and shall, unless His Highness otherwise directs, consist of three judges one of whom shall be the Chief Justice.

The High Court.

(2) Notwithstanding the repeal of the Cochin Chief Court Act by this Act—

II of 1074

(a) The Chief Judge and judges of the Chief Court shall continue to be the Chief Justice and judges of the High Court subject to the provisions of this Act;

(b) All proceedings commenced in the Chief Court prior to the date of the coming into force of this Act shall be continued and depend in the High Court as if they had commenced in the High Court after such date, and all rules and orders in force in the Chief Court immediately before such date shall, continue in force, except so far as the same are altered by or under this Act.

Appointment
and tenure
of judges.

33. Every judge of the High Court shall be appointed by His Highness and shall hold office until he attains the age of fifty-five years, unless His Highness otherwise directs:

Provided that—

(a) a judge may by resignation under his hand addressed to the Diwan resign his office;

(b) a judge may be removed from his office by order of His Highness on the ground of misbehaviour, or of infirmity of mind or body.

Qualification
of judges.

34. A person shall not be qualified for appointment as a judge of the High Court unless he—

(a) has, for at least three years held a judicial office in the Cochin State, not inferior to that of a District Judge; or,

(b) has, at least for ten years been a pleader of the Chief Court or the High Court of Cochin or both; or,

(c) has, for at least five years held a judicial office in British India, not inferior to that of a subordinate judge, or judge of a Small Causes Court; or,

(d) has, for at least ten years been a pleader of any High Court in British India, or of two or more such courts in succession; or,

(e) is, a barrister of England or Northern Ireland of at least ten years' standing, or a member of the Faculty of Advocates in Scotland of at least ten years' standing:

Provided that one of the judges shall be a Christian.

In computing for the purposes of this section, the period during which a person has been a pleader, or the standing of a barrister, or a member of the Faculty of Advocates, any period during which the person has held judicial office after he became a pleader, barrister or a member of the Faculty of Advocates, as the case may be, shall be included.

Explanation.—In this section, the expression “pleader” shall include vakil, advocate, or any other person entitled to practise as a pleader.

35. Every person appointed to be a judge of the High Court shall, before he enters upon his office, make and subscribe before His Highness, or some person appointed by His Highness, an oath according to the form set out in that behalf in the Schedule to this Act. Oath.

36. The judges of the High Court shall be entitled to such salaries and allowances, and to such rights in respect of leave and pensions, as may, from time to time, be fixed by His Highness: Salaries, etc., of judges.

Provided that neither the salary of a judge, nor his rights in respect of leave of absence or pension, shall be varied to his disadvantage after his appointment:

Provided further that the salary and allowances fixed under this section shall be the whole profit or advantage which a judge shall enjoy from his office during his continuance therein.

Precedence
of judges.

37.—(1) The Chief Justice shall have rank and precedence before the other judges of the High Court.

(2) All the other judges of the High Court shall have rank and precedence according to the seniority of their appointments, unless His Highness otherwise directs.

Temporary
and Addi-
tional
judges.

38.—(1) If the office of Chief Justice of the High Court becomes vacant, or if the Chief Justice is by reason of absence or for any other reason, unable to perform the duties of his office, those duties shall, until some person appointed by His Highness to the vacant office has entered on the duties thereof, or until the Chief Justice has resumed his duties, as the case may be, be performed by such one of the other judges of the court, as His Highness may think fit to appoint for the purpose, and until such appointment is made, by the senior judge of the court present.

(2) If the office of any other judge of the High Court becomes vacant, or if any such judge is appointed to act temporarily as Chief Justice, or is by reason of absence or for any other reason, unable to perform the duties of his office, His Highness may appoint a person duly qualified for appointment as a judge to act as a judge of the High Court, and the person so appointed shall, unless His Highness thinks fit to revoke his appointment, be deemed to be a judge of that court until some person appointed by His Highness to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties.

(3) If by reason of any temporary increase in the business of the High Court, or by reason of arrears

of work in such court, or for any other reason, it appears to His Highness that the number of the judges of the court should be for the time being increased, His Highness may appoint persons duly qualified for appointment as judges to be additional judges of the court, for such period as His Highness may specify.

39. The High Court shall be a court of record and shall sit in Ernakulam unless His Highness otherwise directs. Seat of the High Court.

40. The Court shall have and use, as occasion may require, a seal bearing a device and impression of His Highness' Coat of Arms with a label surrounding it with this inscription in Malayalam "കൊച്ചി ഹൈക്കോട് ഹൃദയം", and a second label surrounding the above with this inscription in English, "The Seal of the High Court of Cochin". The seal shall be in the custody of the Chief Justice, or in his absence, of the judge performing the duties of the Chief Justice. Seal of the High Court

41.—(1) Subject to the provisions of this Act, the High Court shall have and exercise all the jurisdiction and powers vested in it by this Act and any other law which is in force, or may hereafter come into force and all the jurisdiction and powers vested in the Chief Court including— Jurisdiction of the High Court.

(a) the power to hear and determine appeals from the Civil Courts of the Cochin State and from all other courts subject to its superintendence and to exercise appellate jurisdiction, in such cases as are subject to appeal to the Chief Court, by virtue of any law now in force ;

(b) the power to hear and determine appeals from the criminal courts of the Cochin State and from all other courts subject to its superintendence, and to exercise appellate jurisdiction, in such cases as are subject to appeal to the Chief Court, by virtue of any law now in force ;

(c) the power to withdraw and to try and determine, as a court of original jurisdiction, any civil suit pending in any court subordinate to it, either on the application of both the parties to the suit or for any good and sufficient cause, after recording the reasons for such a transfer. Any suit so withdrawn shall be tried by a single judge of the High Court, and the decree therein passed shall be executed by the court from which the suit was withdrawn, as if it had been passed by itself, and any order passed by the latter in executing such decree, shall be subject to the same rules in respect of appeal, as if the decree had been passed by such court;

(d) the power to withdraw and try any criminal case pending in any criminal court subordinate to it for any good and sufficient cause, after recording the reasons for such withdrawal. Any case so withdrawn shall be tried by a single judge of the High Court.

(2) It is hereby declared that neither the High Court nor any court subordinate thereto has or shall claim any jurisdiction or powers over the person or property of His Highness, but His Highness may, make rules providing for the determination by the courts, of claims by or against His Highness.

(3) (a) His Highness may refer to the High Court any question of law for its opinion and the High Court shall, after such hearing as it may think fit, submit a report thereon to His Highness.

(b) No report shall be made under this subsection save in accordance with an opinion delivered by a bench consisting of not less than three judges in open court, with the concurrence of a majority of the judges present at the hearing of the case, but nothing in this sub-section shall be deemed to prevent a judge who does not concur from delivering a dissenting opinion.

(c) The opinion contained in the report submitted to His Highness under this sub-section shall have the same effect as any other judgment of the High Court

42. Subject to the provisions of this Act and of any other Act which is in force or may hereafter come into force, the High Court may, with the sanction of His Highness, make rules to regulate its own practice and procedure, and provide for the exercise by one or more judges of the High Court, of the appellate and revisional jurisdiction and the power of superintendence over subordinate courts vested in the High Court, and of the original jurisdiction conferred on it by this Act or any other Act now in force or which may hereafter come into force, in such manner as may appear to such court, to be convenient for the due administration of justice.

Power to
make rules.

43. The Chief Justice shall, from time to time, determine what judge in each case shall sit alone, and what judges of the court whether with or without the Chief Justice, shall constitute the several division courts.

Constitution
of benches.

44. The administrative control of the High Court shall vest in the Chief Justice who may exercise it in such manner and after such consultation with the other judges, as he may think fit.

Administra-
tive control.

45. The High Court shall have superintendence over all courts subordinate to it and shall have power—

Superinten-
dence over
subordinate
courts.

(a) to call for returns;

(b) to make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) to prescribe forms in which books, entries and accounts shall be kept by the officers of such courts:

Provided that such rules and forms shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous sanction of His Highness.

Writs, etc.,
to issue in
the name
of His
Highness.

46. All writs, summons, precepts, rules and orders and other mandatory process to be used, issued or awarded by the High Court, shall run and be in the name and style of His Highness the Maharaja of Cochin, and shall be sealed with the seal of the High Court.

Appeal
against deci-
sions of a
single judge.

47. An appeal shall lie from the decree, sentence, or order of the High Court to two judges of such court in any civil suit tried under clause (c) of sub-section (1) of section 41 or in any criminal case tried under clause (d) of sub-section (1) of section 41 of this Act.

Procedure
where bench
of three
judges can-
not be
formed, or
in case of
difference
of opinion
between two
judges.

48.—(1) Where, for reasons adequate in the opinion of the Chief Justice, a judge is unable to be a member of the bench, and for that reason a bench of three judges cannot be formed, a division court of two judges may dispose of the case.

(2) Where two judges of a division court differ in opinion, the case shall be referred to a third judge unless such judge is, for reasons adequate in the opinion of the Chief Justice, unable to hear the same. If the case is referred to the third judge, it shall be decided according to the decision of the majority, if there is a majority, of all the judges who have heard the appeal, including those who first heard it. If the case is not referred to the third judge, or if there is no such majority, the decree, sentence or order appealed against shall be affirmed.

Procedure
in case of
difference
of opinion
in matters
heard by
three judges.

49. When a case is heard by a division court of three or more judges and there is a difference of opinion among the judges, it shall be decided according to the opinion of the majority of the judges. If there be no majority, the decree, order, or sentence appealed against shall be confirmed.

50. The High Court shall comply with such requisitions as may be made by His Highness for records, returns and statements, in such form and manner as His Highness may deem proper.

Requisites
by His
Highness
for records,
etc.

PART V.

MISCELLANEOUS.

51. The revenues of the Cochin State shall be received for and in the name of His Highness.

Revenues of
the Cochin
State.

Explanation.—The expression 'revenues of the Cochin State' means all revenues and public moneys raised or received by the State and includes—

(a) all fines and penalties incurred by the sentences or order of any court of justice in the Cochin State, and all forfeitures for crimes of any movable or immovable property in the State; and

(b) all movable and immovable property in the State escheating or lapsing for want of an heir or successor, and all property in the State devolving as *bona vacantia*, for want of a rightful owner.

52. Rules may be made by the Government for the purpose of securing that all moneys received on account of the revenues of the State shall, with such exceptions, if any, as may be specified in the rules, be paid into the public account of the State and the rules so made may prescribe the procedure to be followed in respect of the payment of moneys into the State account, the withdrawal of moneys therefrom, the custody of moneys therein and any other matters connected with or ancillary to the matters aforesaid:

Provision as
to custody of
public
moneys

Provided that the rules relating to such moneys in force immediately before the commencement of this Act, shall continue in force, except in so far as the same are altered by or under this Act.

Power to acquire property, borrow moneys, make contracts, etc.

53.—(1) The executive authority of the Cochin State shall extend, subject to the provisions of this Act and any law which is in force or may hereafter come into force, to the grant, sale, disposition or mortgage of any public property, to the purchase or acquisition of property, to the making of contracts, and to borrowing upon the security of the revenues of the State for purposes of the Government of Cochin.

(2) All such contracts and all assurances of property made by the Government shall be executed by such persons and in such manner as the Government may direct or authorise.

(3) Any person making any such contract or assurance on behalf of the Government shall not be personally liable in respect thereof.

Continuation of existing laws.

54. Notwithstanding the repeal of the Cochin Legislative Council Act by this Act, but subject to the provisions of this Act, all the law in force in the Cochin State immediately before the commencement of this Act, shall continue to be in force in the Cochin State, except in so far as the same are altered by competent authority.

Continuation of certain electoral arrangements.

55. Notwithstanding the repeal of the Cochin Legislative Council Act by this Act, but subject to the provisions of this Act, the rolls of electors for constituencies returning members to the Legislative Council in force immediately before coming into force of this Act, shall continue to be in force, except in so far as the same are altered by competent authority, and the members duly returned to the Council at the election held immediately before the coming into force of this Act, shall be deemed to be the first members elected under the provisions of this Act.

Saving of prerogative of His Highness.

56. Notwithstanding anything contained in this or any other Act, the prerogative of His Highness to make and pass Acts, Proclamations and Orders in

His Highness' discretion without reference to the Legislative Council or any other authority, is hereby declared to be and to have always been possessed and retained by His Highness.

^{of 1098}
^{of 1076} **57.** The Cochin Legislative Council Act, the ^{Repeals.} Cochin Chief Court Act and the Panel of Chairmen Proclamation are hereby repealed.

SCHEDULE.

FORMS OF OATHS OR AFFIRMATIONS.

Sections
18 and 35.

I.

FORM OF OATH OR AFFIRMATION TO BE TAKEN OR MADE BY A MEMBER OF THE COCHIN LEGISLATIVE COUNCIL.

I, A. B., having been elected (*or* nominated) a member of this Council, do solemnly swear (*or* affirm) that I will be faithful and loyal to His Highness the Maharaja of Cochin and to His Majesty the King Emperor of India, and to their heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

2.

FORM OF OATH OR AFFIRMATION TO BE TAKEN OR MADE BY THE JUDGES OF THE HIGH COURT.

I, A. B., having been appointed Chief Justice (*or* a judge) of the High Court of Judicature, Cochin, do solemnly swear (*or* affirm) that I will be faithful and loyal to His Highness the Maharaja of Cochin, and to His Majesty the King Emperor of India and to their heirs and successors and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment.

THE COCHIN BAR COUNCIL ACT.

(XXI of 1113.)

CONTENTS

Preamble.

PRELIMINARY.

Sections.

1. Short title and commencement
2. Interpretation.

CONSTITUTION OF BAR COUNCIL.

3. Constitution and incorporation of Bar Council.
4. Composition of Bar Council.
5. Power to make rules regarding constitution and procedure of Bar Council and qualifications of Advocates, etc.
6. Power of Bar Council to make bye-laws.

ADMISSION AND ENROLMENT OF ADVOCATES

7. Enrolment of advocates.

MISCONDUCT.

8. Punishment of advocate for misconduct
9. Tribunal of the Bar Council.
10. Procedure in inquiries.
11. Powers of the Tribunal and Courts in inquiries.

MISCELLANEOUS.

12. Right of advocates to practise.
 13. General power of Bar Council to make rules.
 14. Power to fix fees of advocates.
 15. Indemnity against legal proceedings.
 16. Publication of rules.
 17. Amendment of enactment.
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THE COCHIN BAR COUNCIL ACT.

(XXI of 1113.)

*Passed by His Highness the Maharaja of Cochin
on the 3rd day of Mithunam 1113, corresponding
to the 17th day of June 1938.*

Whereas it is expedient to provide for the consti- Preamble.
tution and incorporation of a Bar Council in Cochin
State, to confer powers and impose duties on it, and to
consolidate and amend the law relating to legal practi-
tioners entitled to practise in the High Court of Judi-
cature, Cochin, it is hereby enacted as follows: -

Preliminary.

1. This Act may be called the Cochin Bar Short title
Council Act, XXI of 1113, and shall come into force at and com-
once. mencement.

2. In this Act, unless there is anything repugnant Interpretation.
in the subject or context -

(a) 'Advocate' means an advocate entered in
the roll of advocates of the High Court under the pro-
visions of this Act;

(b) 'Advocate-General' includes any advo-
cate declared by the Government to be Advocate-
General for the purposes of this Act; and

(c) 'prescribed' means prescribed by rules
made under this Act.

Constitution of Bar Council.

3.—(1) A Bar Council shall be constituted for Constitution
the High Court in the manner hereinafter provided. and incor-
poration of
Bar Council.

(2) The Bar Council so constituted shall be a
body corporate having perpetual succession and a com-
mon seal with power to acquire and hold property,
both movable and immovable, and to contract, and

shall by the name of the Bar Council sue and be sued.

Composition
of Bar
Council.

4. -(1) The Bar Council shall consist of nine members, of whom—

- (a) one shall be the Advocate-General;
- (b) three shall be persons nominated by the High Court ; and
- (c) five shall be elected by the advocates of the High Court from amongst their number:

Provided that the members of the first Bar Council to be constituted under the Act, other than the Advocate-General, shall be wholly nominated by the High Court and shall hold office for one year.

(2) Of the elected members of the Bar Council, not less than three shall be persons who have for not less than ten years been entitled as of right to practise in the High Court or in the Chief Court.

(3) The Advocate-General shall be the Chairman *Ex-Officio* of the Bar Council, and there shall also be a Vice-Chairman elected by the Bar Council in such manner as may be prescribed.

Power to
make rules
regarding
constitution
and proce-
dure of Bar
Council and
qualifica-
tions of
advocates,
etc.

5.—(1) Rules, consistent with this Act, may be made to provide for the following matters, namely:—

(a) the manner in which elections of members of the Bar Council shall be held; the method of determining, in accordance with the provisions of subsection (2) of section 4, the candidates who shall be declared to have been elected; the manner in which the result of elections shall be published; and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided;

(b) the terms of office of members of the Council nominated under clause (b) and elected under clause (c) of section 4 ;

(c) the filling of casual vacancies in the Council;

(d) the convening of meetings of the Council and the quorum necessary for the transaction of business;

(e) the manner of election and the term of office of the Vice-Chairman;

(f) the qualifications to be possessed by persons applying for admission as advocates;

(g) the form and manner in which applications shall be made to the High Court for admission;

(h) the giving of notice by the High Court to the Bar Council of all such applications;

(i) the hearing by the High Court of any objection preferred on behalf of the Bar Council to the admission of any applicant ;

(j) the charging of fees payable to the Bar Council in respect of enrolment ; and

(k) any matter incidental or ancillary to any of the matters aforesaid:

Provided that the rules framed under clause (f) shall provide that no woman shall be disqualified for admission to be an advocate by reason only of her sex:

Provided further that such rules shall not also limit or in any way affect the power of the High Court to refuse admission to any person at its discretion.

(2) The first rules under this section shall be made by the High Court, but the Bar Council may thereafter, with the previous sanction of the High Court, add to, amend or rescind any rules so made.

(3) No election of a member or members to the Council shall be called in question on the ground

that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the Cochin Government Gazette.

(4) Rules made under clause (b) of subsection (1) may provide for the retirement of members from office by rotation and for the manner in which the order of such retirement shall be determined.

Power of Bar Council to make bye laws.

6. The Bar Council may make bye-laws, consistent with this Act and any rules made thereunder to provide for any of the following matters, namely:—

(a) the appointment of such ministerial officers and servants as the Bar Council may deem necessary and the pay and allowances and other conditions of service of such officers and servants; and

(b) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers or duties of the Council which may be delegated to such Committees.

Admission and Enrolment of Advocates.

Enrolment of advocates.

7.—(1) No person shall be entitled as of right to practise in the High Court, unless his name is entered in the Roll of Advocates of the High Court maintained under this Act.

(2) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

(a) all persons who were, as vakils or pleaders, entitled as of right to practise in the Chief Court immediately before the date on which this Act comes into force ; and

(b) all other persons who have been admitted to be advocates of the High Court under this Act:

Provided that they shall have paid in the case of those referred to in clause (a) a fee of rupees five to the Bar Council, and in the case of those referred to in clause (b) the stamp duty in respect of enrolment of rupees one hundred and fifty together with a fee payable to the Bar Council of such amount as may be prescribed.

(3) Entries in the roll shall be made in the order of seniority, and such seniority shall be determined as follows, namely:—

(a) all such persons as are referred to in clause (a) of sub-section (2) shall be entered first in the order in which they were respectively entitled to seniority *inter se* immediately before the date on which this Act comes into force; and

(b) the seniority of any other person admitted to be an advocate of the High Court under this Act after the date shall be determined by the date of his admission, or, if he is a barrister, by the date of his admission or the date on which he was called to the Bar, whichever date is earlier.

(4) The respective rights of pre-audience of advocates of the High Court shall be determined by seniority:

Provided that the Advocate-General shall have pre-audience over all other advocates.

(5) The High Court shall issue a certificate of enrolment to every person enrolled under this section.

(6) The High Court shall send to the Bar Council a copy of the roll as prepared under this section, and shall thereafter communicate to the Bar Council all alterations in, and additions to, the roll as soon as the same have been made.

(7) The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it.

Misconduct.

Punishment
of advocate
for mis-
conduct.

8.—(1) The High Court may, in the manner hereinafter provided, reprimand, suspend or remove from practice any advocate of the High Court whom it finds guilty of professional or other misconduct.

(2) Upon receipt of a complaint made to it by any Court or by the Bar Council or by any other person that any such advocate has been guilty of misconduct, the High Court shall, if it does not summarily reject the complaint, refer the case for inquiry either to the Bar Council or, after consultation with the Bar Council, to the Court of a District Judge (hereinafter referred to as a District Court) and may of its own motion so refer any case in which it has otherwise reason to believe that any such advocate has been so guilty.

Tribunal
of the Bar
Council.

9.—(1) Where any case is referred for inquiry to the Bar Council under section 8, the case shall be inquired into by a Committee of the Bar Council (hereinafter referred to as the Tribunal).

(2) The Tribunal shall consist of not less than three and not more than five members of the Bar Council appointed for the purpose of the inquiry by the Chief Justice of the High Court, and one of the members so appointed shall be appointed to be the President of the Tribunal.

Procedure
in inquiries.

10.—(1) The High Court shall make rules to prescribe the procedure to be followed by the Tribunal and by a District Court respectively, in the conduct of inquiries referred under section 8.

(2) The finding of the Tribunal on an inquiry referred to the Bar Council under section 8 shall be forwarded to the High Court through the Bar Council, and the finding of a District Court on such inquiry shall be forwarded direct to the High Court

which shall cause a copy thereof to be sent to the Bar Council.

(3) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned and to the Bar Council and to the Advocate-General and shall afford the advocate concerned and the Bar Council and the Advocate-General an opportunity of being heard before orders are passed in the case.

(4) The High Court may thereafter either pass such final orders in the case, as it thinks fit, or refer it back for further inquiry to the Tribunal through the Bar Council or to the District Court, as the case may be, and, upon receipt of the finding after such further inquiry, deal with the case in the manner provided in sub-section (3) and pass final orders thereon.

(5) In passing final orders the High Court may pass such order as regards the payment of the costs of the inquiry and of the hearing in the High Court, as it thinks fit.

(6) The High Court may, of its own motion or on application made to it in this behalf, review any order passed under sub-section (4) or sub-section (5) and maintain, vary or rescind the same, as it thinks fit.

(7) When any advocate is reprimanded or suspended under this Act, a record of the punishment shall be entered against his name in the Roll of Advocates of the High Court, and when an advocate is removed from practice his name shall forthwith be struck off the Roll; and the certificate of any advocate so suspended or removed shall be recalled.

11.—(1) For the purposes of any such inquiry as aforesaid, the Tribunal or a District Court shall have the same powers as are vested in a Court under the Cochin Code of Civil Procedure, 1111, in respect of the following matters, namely:—

Powers of
the Tribunal
and Courts
in inquiries.

- (a) enforcing the attendance of any person and examining him upon oath,
- (b) compelling the production of documents, and
- (c) issuing commissions for the examination of witnesses:

Provided that the Tribunal shall not have power to require the attendance of the presiding officer of any court save with the previous sanction of the High Court.

(2) Every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 179 and 214 of the Cochin Penal Code, 1059; and the Tribunal shall be deemed to be a Civil Court for the purposes of sections 381, 383 and 386 of the Cochin Code of Criminal Procedure, 1086.

(3) For the purpose of enforcing the attendance of any person and examining him upon oath or of compelling the production of documents or of issuing commissions—

(a) the local limits of the jurisdiction of the Tribunal shall be those of the jurisdiction of the High Court; and

(b) the Tribunal may send to any Civil Court having jurisdiction in the place where the Tribunal is sitting any summons or other process for the attendance of a witness or the production of a document required by the Tribunal, or any commission which it desires to issue, and the Civil Court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(4) Proceedings before the Tribunal or a District Court in any such inquiry shall be deemed to be civil proceedings for the purpose of section 132 of the Indian Evidence Act as made applicable to Cochin and the provisions of that section shall apply accordingly.

Miscellaneous.

12.—(1) An advocate shall be entitled, as of right, to practise— Right of advocates to practise.

(a) in the High Court and the Courts subordinate thereto, and

(b) save as otherwise provided under any other law for the time being in force, before any other Tribunal or person legally authorised to take evidence, and

(c) before any other authority or person before whom such advocate is by or under the law, for the time being in force, entitled to practise.

(2) Notwithstanding anything in this Act or the rules made thereunder, any person, whether holding a permanent appointment or not under the Government, who may be appointed under the orders of the Government to be or to act as, or to be in charge of, the office of Advocate-General or [Sirkar Vakil]¹, shall, so long as he holds that office, be deemed to be an advocate.

13. The Bar Council may, with the previous sanction of the High Court, make rules consistent with this Act to provide for and regulate any of the following matters, namely:— General Power of Bar Council to make rules.

(a) the rights and duties of the advocates of the High Court and their discipline and professional conduct ;

(b) the giving of facilities for legal education and training and the holding and conduct of examinations by the Bar Council ;

(c) the charging of fees payable to the Bar Council in respect of the enjoyment of educational facilities provided, or of the right to appear at examinations held, by the Bar Council ;

(d) the investment and management of the funds of the Bar Council ; and

(e) any other matter in respect of which the High Court may require rules to be made under this section.

1. Now designated Government Pleader.

Power to
fix fees of
advocates.

14. The High Court shall make rules for fixing and regulating the fees payable by any party in respect of the fees of an advocate, upon all proceedings in the High Court or in any Courts subordinate thereto.

Indemnity
against legal
proceedings.

15. No suit or other legal proceedings shall lie against the Bar Council or any Committee, Tribunal or member of the Bar Council, for any act in good faith done or intended to be done, in pursuance of the provisions of this Act or of any rule made thereunder.

Publication
of rules.

16. All rules made under this Act shall be published in the Cochin Government Gazette.

Amendment
of enact-
ment.

17.—(1) The enactment mentioned in the first column of the schedule, is hereby amended to the extent and in the manner specified in the second column of the schedule.

(2) Any provision of any other enactment or any order, scheme, rule, form or bye-law made thereunder, which was applicable to persons entitled to practise in the Chief Court shall, unless such a construction is repugnant to the context or to any provision made by or under this Act, be construed as applying to advocates of the High Court enrolled under this Act.

SCHEDULE.

<i>Enactment amended or repealed.</i>	<i>Extent and manner of amendment or repeal.</i>
The Cochin Vakils Act, VI of 1095.	<p>(1) From section 4, clause (a) delete the words 'the Chief Court and'.</p> <p>(2) Delete section 6.</p> <p>(3) Delete from section 7 the words, 'other than a vakil enrolled in the Chief Court'.</p> <p>(4) From section 10 delete the words 'in the Chief Court and'.</p> <p>(5) The following shall be added as a new section after section 20:—</p> <p>'21. Nothing in this Act shall be deemed to apply to advocates within the meaning of the Cochin Bar Council Act, 1113.</p> <p>(6) Delete item No. (1) of the second schedule.</p>

PROCLAMATION.

(No. III of 1113).

BY HIS HIGHNESS SIR SREE RAMA VARMA, G. C. I. E.,
 MAHARAJA OF COCHIN.

*Issued under date the 10th day of Mithunam 1113,
 corresponding to the 24th day of June, 1938.*

WHEREAS it is deemed necessary that action should be taken for the levy of Landing and Shipping Fees upon passengers and goods landed from or shipped into any vessel lying or being within the limits of OUR Port of Cochin; We are pleased to command as follows:—

1. Landing and Shipping Fees, according to the rates which may be fixed by the Administrative Officer and Harbour Engineer-in-Chief of the Cochin Harbour, shall be levied upon passengers and goods landed from or shipped into any vessel lying or being within the limits of OUR Port of Cochin :

Provided that OUR Government may, by general or special order, exempt any class or classes of passengers or goods from payment of fees under this Proclamation and may, in special cases, remit the whole or any portion of the same.

2. The said Administrative Officer and Harbour Engineer-in-Chief shall receive such fees.

3. Such fees shall be credited to the Landing and Shipping Fund.

THE COCHIN CO-OPERATIVE SOCIETIES ACT, XXVI OF 1113.

CONTENTS.

SECTIONS.

PREAMBLE.

PRELIMINARY.

1. Short title, extent and commencement.
2. Definitions.

REGISTRATION.

3. The Registrar.
4. Societies which may be registered.
5. Change of liability.

SECTIONS.

6. Restrictions on interest of member of society with limited liability and share capital.
 7. Conditions of Registration.
 8. Power of Registrar to decide certain questions.
 9. Application for registration.
 10. Registration.
 11. Evidence of Registration.
 12. Amendment of the by-laws of registered society.
 13. Change of name: its effect.
 14. Division and amalgamation of societies.
- RIGHTS AND LIABILITIES OF MEMBERS.**
15. Member not to exercise rights till due payment made.
 16. Calling of general body meetings.
 17. Votes of members.
 18. Restriction on transfer of shares or interest.

DUTIES OF REGISTERED SOCIETIES.

19. Address of societies.
20. Copy of Act, Rules and By-laws to be open to inspection.

PRIVILEGES OF REGISTERED SOCIETIES.

21. Societies to be bodies corporate.
22. Prior claim of society.
23. Charges and set off in respect of shares or interest of member.
24. Share or interest not liable to attachment.
25. Transfer of interest on death of member.
26. Liability of a past member or of the estate of deceased member.
27. Register of members.
28. Proof of entries in societies' books.
29. Exemption from compulsory registration of instruments relating to shares and debentures of registered society.
30. Recovery of sums due to a Society under the Land Revenue Recovery Act.
31. Power to exempt from income-tax stamp duty and registration fees.
32. Government aid to registered societies.

PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

33. Restrictions on loans.
34. Restrictions on borrowings.
35. Investments of funds.
36. Funds not to be divided among members.

SECTIONS.

- 37. Contribution to charitable purposes.
- 38. Audit.

ENQUIRY AND INSPECTION.

- 39. Enquiry by Registrar.
- 40. Inspection of books by Registrar.
- 41. Inspection of books by financing Bank.
- 42. Costs of enquiry and inspection.
- 43. Recovery of costs.

SUPERSESSION OF COMMITTEE OF SOCIETY.

- 44. Supersession of committee for purposes of rectification.

DISSOLUTION OF SOCIETY.

- 45. Dissolution.
- 46. Cancellation of registration of society.
- 47. Effect of cancellation of registration.
- 48. Surrendering of the records of a society.
- 49. Winding up.
- 50. Bar of suit in certain cases.

SURCHARGE AND ATTACHMENT.

- 51. Surcharge.
- 52. Attachment of property,

ARBITRATION.

- 53. Disputes.

OFFENCES AND PENALTIES.

- 54. Offences.
- 55. Punishment for disposing of property in contravention of section 22.
- 56. Prohibition of the use of the word "Co-operative".
- 57. Punishment of offences not otherwise provided for.
- 58. Prosecution for offences under the Act.

MISCELLANEOUS.

- 59. Power of Government and Registrar to call for proceedings of subordinate officers and to pass orders thereon.
- 60. Power to recover amounts.
- 61. Recovery of sums due to Government.
- 62. Power to exempt societies from conditions as to registration.
- 63. Power to exempt registered societies from provisions of this Act.
- 64. Companies' Act 1913, not to apply.
- 65. Saving of existing societies.

SECTIONS.

66. Acts of Societies, etc., not to be invalidated by certain defects.
67. Construction of references to Co-operative Societies' Act, IV of 1088, in enactments.
68. Branches, etc., of societies outside the State.
69. Notice necessary in suits.
70. Power of Registrar to recover certain sums by attachment and sale of property.
71. Registrar or person empowered by him to be a Civil Court for certain purposes.
72. Rules.
73. Repeal.

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**THE COCHIN CO-OPERATIVE
SOCIETIES ACT.**

XXVI of 1113.

*Passed by His Highness the Maharaja of Cochin on the
17th day of Mithunam 1113, corresponding to the
1st day of July 1938.*

Preamble:

Whereas it is expedient further to facilitate the formation and working of Co-operative Societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs, so as to bring about better living, better business and better methods of production, and for that purpose to consolidate and amend the law relating to Co-operative Societies in Cochin State, it is hereby enacted as follows:—

PRELIMINARY.

Short title,
extent and
commence-
ment;

1.—(1) This Act may be called the Cochin Co-operative Societies' Act, XXVI of 1113.

(2) It extends to the whole of Cochin State and it shall come into force at once.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,

(a) *By-laws*. "By-laws" means the registered by-laws for the time being in force and includes a registered amendment of the by-laws ;

(b) *Committee*. "Committee" means the governing body of a registered society to whom the management of its affairs is entrusted;

(c) *Financing Bank*. "Financing Bank" means a registered society the main object of which is to lend money to other registered societies ;

(d) *Member*. "Member" includes a person joining in the application for the registration of a society and a person admitted to membership after registration, in accordance with the by-laws and rules ;

(e) *Officer*. "Officer" includes a President, Vice-President, Chairman, Vice-Chairman, Secretary, Assistant Secretary, Treasurer, member of Committee and any other person empowered under the rules or the by-laws to give directions in regard to the business of the society ;

(f) *Registered Society*. "Registered Society" means a society registered or deemed to be registered under this Act;

(g) *Registrar*. "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act; and

(h) *Rules*. "Rules" means Rules made under this Act.

REGISTRATION.

3. The Government may appoint a person to be the Registrar of Co-operative Societies for the whole of Cochin State or any portion of it, and may appoint persons to assist such Registrar, and may, by general or special order, confer on any such persons all or any of the powers of a Registrar under this Act.

The Registrar

Societies
which may
be registered.

4. Subject to the provisions of this Act a society which has, as its object, the promotion of the economic interests of its members, in accordance with co-operative principles or a society established with the object of facilitating the operations of such a society may be registered under this Act with limited or unlimited liability; provided that, unless the Government by general or special order otherwise directs, the liability of a society of which a member is a registered society shall be limited.

Change of
liability.

5.—(1) Subject to the proviso to section 4 and to any rules made in this behalf, a registered society may, with the previous sanction of the Registrar, change its liability from limited to unlimited or from unlimited to limited; provided that—

(i) the society shall give notice in writing of its intention to change its liability to all its members and creditors;

(ii) any member or creditor shall, notwithstanding any by-law or contract to the contrary, have the option of withdrawing his shares, deposits or loans as the case may be, within three months of the service of such notice on him; and the change shall not take effect until all such claims have been satisfied; and

(iii) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1) the change shall take effect at once if all the members and creditors assent thereto.

Restrictions
of member
of society
with limited
liability and
share capital.

6. Where the liability of the members of a society is limited by shares, no member other than a registered society shall—

(a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the Rules; or

(b) have or claim any interest in the shares of the society, exceeding one thousand rupees.

7.—(1) No society other than a society of which a member is a registered society, shall be registered under this Act, which does not consist of at least ten persons who have attained the age of majority, and where the object of the society is the creation of funds to be lent to its members, unless such persons.—

Conditions
of Regis-
tration.

(a) reside in the same town or village or in the same group of villages, or

(b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act.

8. When any question arises whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste, or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Power of
Registrar to
decide cer-
tain ques-
tions.

9.—(1) For purposes of registration an application to register shall be made to the Registrar.

Application
for registra-
tion.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of section 7; and

(b) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies,

by ten other members, or when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made, shall furnish such information in regard to the society, as the Registrar may require.

Registration.

10 If the Registrar is satisfied that a society has complied with the provisions of this Act and the Rules and that its proposed by-laws are not contrary to this Act or to the Rules he may register the society and its by-laws. In case of refusal, an appeal shall lie to the Diwan within two months from the date of the issue of the order of refusal by registered Anchal or Post.

Evidence of registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Amendment of the by-laws of registered society.

12.—(1) No amendment of the by-laws of a registered society shall be valid until it is passed by the resolution of the general body and registered under this Act, for which purpose a copy of the amendment with the resolution thereon shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the Rules, he may register the amendment. In case of refusal, an appeal shall lie to the Diwan within two months from the date of the issue of the order of refusal by registered Anchal or Post.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society, a copy of the amendment, certified by him which shall be conclusive evidence, that the same is duly registered.

1. Co-operation being a transferred subject, all references in this Act to the Diwan is to be construed as reference to the Minister in virtue of the provisions contained in sub-section 5 of section of the Government of Cochin Act, XX of 1113.

13. A society may, by a resolution of the general body and with the approval of the Registrar, change its name; but such change shall not affect any right or obligation of the society, or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

Change of name: its effect.

14.—(a) (1) Any registered society may, at a meeting of its general body specially called for the purpose, of which at least seven clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The resolution (hereinafter in this subsection referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to be divided, and may prescribe the area of operations of, and specify the members who will constitute each of the new societies.

Division and amalgamation of societies.

(2) (i) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(ii) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society, a meeting of the general body of the society of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such

meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5) and section 10, register the new societies and the by-laws thereof. On such registration, the registration of the old society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are, or are not, material shall be final and no appeal shall lie therefrom.

(4) At the meeting referred to in clause (3) provision shall be made by another resolution for,

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2) and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid, or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new societies.

(6) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society, in the new societies, in the manner specified in the preliminary resolution as confirmed under clause (3).

(b) (1) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose, of which at least seven clear days' notice shall be given to their respective members, resolve to amalgamate into one society. This resolution is hereinafter in this sub-section referred to as the preliminary resolution.

(2) (i) A copy of the preliminary resolution of each society shall be sent to all the members and creditors thereof.

(ii) Any member of any such society may, notwithstanding any by-law to the contrary, by notice given to the society of which he is a member within a period of three months from his receipt of the preliminary resolution intimate his intention not to become a member of the new society.

(iii) Any creditor of any such society may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and the creditors of all the societies, a joint meeting of the members of such societies of which at least fifteen days' notice shall be given to them, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such change as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5), and section 10, register the new society and the by-laws thereof. On such registration, the registration of the old societies shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are, or are not, material shall be final and no appeal shall lie therefrom.

(4) At the joint meeting referred to in clause (3) provision shall be made by another resolution for—

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4), is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new society.

(6) The registration of the new society shall be a sufficient conveyance to vest in it all the assets and the liabilities of the original societies.

RIGHTS AND LIABILITIES OF MEMBERS.

Member not to exercise rights till due payment made.

15.—(1) No member of a registered society shall, save as otherwise provided in sub-section (2), exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the Rules and by-laws.

(2) In the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may elect

a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider desirable :

Provided, that the committee shall cease to function, as soon as the members of the society have elected a committee in accordance with its by-laws.

16.—(1) The committee may, at any time, call a general meeting of the society, and shall call such a meeting within one month after receipt of a requisition in writing from the Registrar or from a financing Bank to which the society is indebted, or from such number of members or proportion of the total number of members as may be specified in the by-laws of the society.

Calling of
general body
meetings.

(2) If a general meeting is not called in accordance with such requisition, the Registrar shall himself have the power to call a general body meeting of the society.

17.—(1) No member of any registered society shall have more than one vote in the affairs of the society: provided that in the case of an equality of votes the Chairman shall have a casting vote.

Votes of
members.

(2) A registered society which has invested any part of its funds in the shares of another registered society may appoint any of its members, not disqualified for such appointment, under any Rules prescribed in that behalf, to vote in the affairs of such other registered society.

18.—(1) The transfer of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the Rules.

Restriction
on transfer
of shares or
interest.

(2) In the case of a society registered with unlimited liability, a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless—

(a) he has held such share or interest for not less than one year; and

(b) the transfer is made to the society or to a member of the society.

DUTIES OF REGISTERED SOCIETIES.

Address of societies.

19. Every registered society shall have an address registered in accordance with the Rules to which all notices and communications may be sent and shall send to the Registrar notice of every change thereof.

Copy of Act, Rules and By-laws to be open to inspection.

20. Every registered society shall keep a copy of this Act and of the Rules governing such society and of its by-laws open to inspection free of charge at all reasonable times at the registered address of the society.

PRIVILEGES OF REGISTERED SOCIETIES.

Societies to be bodies corporate.

21. The registration of a society shall render it a body corporate by the name under which it is registered with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all things necessary for the purposes for which it was constituted.

Prior claim of society.

22. Subject to any prior claim of Government in respect of land revenue or any money recoverable as land revenue or of a land-lord in respect of rent or any money recoverable as rent, any debt or outstanding demand owing to a society by any member or past member or deceased member, shall be a first charge (i) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society and (ii) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or materials for manufacture and articles manufactured therefrom, articles for sale in a place of business, supplied to or purchased by such member or past member or deceased

member in whole or in part from any loan given to him by the society.

23. A registered society shall have a charge upon the share, or interest in the capital and of the deposits of a member or past or deceased member and upon any dividend or bonus, or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set off any sum credited or payable to a member or past or deceased member or the estate of a deceased member, in or towards payment of such debt.

Charges and set off in respect of shares or interest of member,

24. Subject to the provisions of section 23, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member and no receiver under the Cochin Insolvency Act, VII of 1098, shall be entitled to or have any claims on such share or interest.

Share or interest not liable to attachment.

25.—(1) Subject to the provisions of section 23, a registered society may, on the death of a member, transfer his share or interest in the capital to the person nominated in accordance with the Rules made in this behalf, or if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the Rules or by-laws: Provided that

Transfer of interest on death of member.

(i) in the case of a society with unlimited liability, such nominee, heir or legal representative as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid; and

(ii) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir, or legal representative as the case may be, being qualified in accordance with the Rules and by-laws for membership of the society or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) Subject as aforesaid, a registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of a past member or of the estate of deceased member.

26. The liability of a past member or of the estate of a deceased member for the debts of a registered society as they existed on the date of his ceasing to be a member or of his disease, as the case may be, shall continue for a period of two years from such date.

Register of members.

27. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein,

(a) the date on which the name of any person was entered in such register or list as a member; and

(b) the date on which any such person ceased to be a member.

Proof of entries in societies' books.

28.—(1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the Rules, be received in any suit or

legal proceedings as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books, the contents of which can be proved under sub-section (1) or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court or of the arbitrator made for special cause.

29. Nothing in section 11 clauses (b) and (c) of the Cochin Registration Act, V of 1084, shall apply to :

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

(1) any instrument relating to shares in a registered society notwithstanding that the assets of such society consist in whole or in part of immovable property ; or

(2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

Recovery of sums due to a Society under the Land Revenue Recovery Act.

30. Where, under this Act or any Rule made thereunder, any sum due to a registered society from any person is recoverable as an arrear of Land Revenue and the immovable property of such person is brought to sale under the provisions of the Revenue Recovery Act, IV of 1983, and the society is the purchaser at such sale, the provisions of section 39 of the said Act shall apply thereto, but with the following changes :—

The sum due to the purchaser shall be set off, in whole or in part against the purchase money and the remainder, if any, of the purchase money shall be paid to the officer conducting the sale within thirty days of the date of sale.

Where the purchaser refuses or omits to complete the payment of the remainder, if any, of the purchase money, the property shall be resold at the expense and hazard of such purchaser and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the property, on the second sale sells for a higher price than the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Power to exempt from income-tax, stamp duty and registration fees.

31. The Government, by notification in the Cochin Government Gazette, may in the case of any registered society or class of registered societies, remit—

(a) the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits or in respect of interest or deposits in Banks and on securities held by the society.

(b) Any tax payable under the Municipalities Act for the time being in force.

(c) The stamp duty with which, under any law for the time being in force, instruments, executed by or on behalf of a registered society or by an officer or member and relating to the business of such society or any class of such instruments or decisions, awards or orders of the Registrar or arbitrators under this Act are respectively chargeable, and

(d) any fee payable under the law of registration and of court fees for the time being in force.

32. Notwithstanding anything contained in any other enactment, the Government may, subject to such Rules as may be prescribed in this behalf, grant loans to, take shares in, or give financial assistance in any other form to, any registered society.

Government
aid to regis-
tered
societies.

PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

33.—(1) A registered society shall not make a loan to any person other than a member: Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

Restrictions
on loans.

(2) Save with the sanction of the Registrar, a registered society shall not lend money on the security of movable property other than agricultural produce.

(3) Notwithstanding anything contained in sub-sections 1) and (2) a registered society may make a loan to a depositor on the security of his deposit.

(4) The Diwan may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies.

34. A registered society shall receive deposits and loans only to such extent and under such conditions as may be prescribed by the Rules or the by-laws of the society.

Restrictions
on borrow-
ings.

Investments
of funds.

35.—(1) Subject to the provisions of sub-section (4) of section 33, a registered society may invest or deposit its funds.—

(a) in the Post Office Savings Bank or

(b) in any of the Government of India, Provincial or Indian States Government Securities, or

(c) in the shares or securities of any other registered society approved by the Registrar, provided that no such investment shall be made in the shares of any society with unlimited liability, or

(d) with any Bank approved for this purpose by the Registrar, or

(e) in any other mode permitted by the Rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid, if this Act had been in force, are hereby ratified and confirmed.

Funds not to
be divided
among mem-
bers.

36. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members: Provided that payment may be made to a member for work done by him as Secretary or as clerk on such scale as may be prescribed by the by-laws: Provided also that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from remainder of such profits and from any profits of past years available for distribution may be made (i) as a bonus to a member for any specific service rendered by him to the society including work done as Secretary or as clerk, and, (ii) among the members to such extent and under such conditions as may be prescribed by the Rules or by-laws.

Contribution
to charitable
purposes.

37. A registered society may, after setting apart the prescribed percentages of the net profits in any year as mentioned in section 36 to a reserve fund, contribute

an amount not exceeding 10 per cent of the remaining net profits to any charitable purpose as defined in the Rules framed under the Act.

38.—(1) The Registrar shall audit or cause to be Audit. audited by some person or body registered under the Act, authorised by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society.

(3) The Registrar or the person authorised by him under sub-section (1) shall, at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the head-quarters of the society or any branch thereof.

(4) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorised by him under sub-section (1) may require.

ENQUIRY AND INSPECTION.

39.—(1) The Registrar may, of his own motion, and shall on the request of the Diwan Peishkar or on the application of a majority of the committee or of not less than one-third of the members, hold an enquiry, or direct some person authorised by him by order in writing in this behalf, to hold an enquiry into the constitution, working and financial condition of a registered society. Enquiry by Registrar.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, viz.,

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of, the society and may summon any person in possession or responsible for the custody of such books, accounts, documents, securities, cash and other properties to produce the same at any place at the head-quarters of the society or any branch thereof;

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society to appear before him at any place at the head-quarters of the society or any branch thereof and may examine such person on oath.

(c) (i) he may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the head-quarters of the society or any branch thereof and to determine such matters as may be directed by him. If the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself.

(ii) any meeting called under clause (i) shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws.

(3) When an enquiry is made under this section the Registrar shall communicate the result of the enquiry to the society whose affairs have been investigated and to the financing Bank, if any, to which the society is indebted.

40.—(1) The Registrar may, on the application of a creditor of a registered society, inspect or direct

some person authorised by him in this behalf by a general or special order in writing to inspect the books of the society, and the Registrar or the person so authorised shall have all the powers of the Registrar when holding an enquiry under section 39.

(2) No inspection shall be made or directed under sub-section (1) unless the creditor—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the cost of the proposed inspection as the Registrar may require.

(3) Where an inspection is made under sub-section (1) the Registrar shall communicate the results of such inspection to the creditor and to the financing Bank, if any, to which the society is indebted.

41. A financing Bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing Bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements, and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing Bank.

Inspection
of books by
financing
Bank.

42. Where an enquiry is held under section 39 or an inspection is made under section 40, the Registrar may, after giving the parties an opportunity to be heard, apportion the costs, or such part of costs as he may think right, between the society, the members or

Costs of
enquiry and
inspection.

creditors demanding an enquiry or inspection, the officers or former officers of the society. Costs may also be awarded by the Registrar to the financing Bank in the case of inspection under section 41 by the financing Bank.

Recovery of costs.

43. Any sum awarded by way of costs under section 42 may be recovered as if it were an arrear of land revenue.

SUPERSESSION OF COMMITTEE OF SOCIETY.

Supersession of committee for purposes of rectification.

44.—(a) (1) If, in the opinion of the Registrar the committee of any registered society is not functioning properly, he may, after giving an opportunity to the committee to state its objections, if any, by order in writing dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding two years. The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than four years in the aggregate.

(2) The person or persons so appointed shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society, and to take all such action as may be required in the interests of the society.

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and other costs, if any, incurred in the management of the society, shall be repayable from its funds.

(4) The said person or persons shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the by-laws of the society.

(5) Before taking any action under section (1) in respect of any society, the Registrar shall —

- (1) if the society is indebted to the financing Bank, consult such Bank regarding such action and the provisions to be made for the management of the affairs of the society, and
- (2) if the society is the Central Co-operative Bank, Ltd., obtain the previous concurrence of the Government to the taking of such action.

(6) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under section 45.

(b) Against the order of dissolution of the committee passed by the Registrar of Co-operative Societies under sub-section (a) (1) an appeal shall lie to the Diwan within one month from the date of the Registrar's order and the orders passed by the Diwan shall be final.

DISSOLUTION OF SOCIETY.

45.—(1) If the Registrar, after an enquiry has been held under section 39, or after an inspection has been made under section 40 or 41 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of a society. A copy of the order shall forthwith be communicated to the society by registered post or anchal.

(2) Any member of the society may, within two months from the date of the order made under sub-section (1), appeal to the Diwan against such order.

(3) Where no appeal is presented within two months from the making of an order cancelling the

registration of the society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months the order shall not take effect until it is confirmed by the Diwan and such information is communicated to the society by registered post or anchal.

Cancellation
of registra-
tion of
society.

46. Where it is the condition of the registration of a society that it should consist of at least ten members who have attained the age of majority, the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of members has been reduced to less than ten such members.

Effect of
cancellation
of registra-
tion.

47. Where the registration of a society is cancelled the society shall cease to exist as a corporate body—

(a) in the case of cancellation in accordance with the provisions of section 45 from the date the order of cancellation takes effect ;

(b) in the case of cancellation in accordance with the provisions of section 46 from the date of the order.

Surrendering
of the records
of a society.

48.—(1) On receipt of the order of cancellation the managing committee of the society shall at once hand over charge of all records and properties of the society to the liquidator appointed. In case the managing committee of the society whose registration is cancelled refuses to do so, the Magistrate within whose jurisdiction the particular society functions shall, on application by such liquidator, take all necessary measures to secure the records and properties for the liquidator.

(2) If the managing committee of a society is reconstituted in a meeting of the general body of the

society or if the managing committee is dissolved by the Registrar under section 44 and if the outgoing members of the old committee refuse to hand over charge of the records and properties to the new committee or the person or persons appointed by the Registrar under section 44, the new committee or the person or persons appointed by the Registrar under section 44 as the case may be, may apply through the Registrar of Co-operative Societies to the Magistrate within whose jurisdiction the society functions, to secure charge of the records and properties of the society, and the Magistrate on receipt of such application shall secure charge of the same and hand them over to the new committee or the person or persons authorised by the Registrar as the case may be.

49.—(1) Where the registration of a society is cancelled under section 45 or section 46, the Registrar may appoint any person to be the liquidator of the society. Winding up.

(2) Subject to any rules that may be made under this Act, the whole of the assets of the society shall, on the appointment of a liquidator under sub-section (1), vest in such liquidator and he shall have power to realise such assets by sale or otherwise.

(3) Such liquidator shall also have power subject to the control of the Registrar—

(a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office ;

(b) to get disputes referred to arbitration ;

(c) to get loans due from members renewed if and when found necessary ;

(d) to determine from time to time the contribution to be made, or remaining to be made, by the members or past members or by the estates or nominee

heirs, or legal representatives of deceased members or by any officers or former officers, to the assets of the society, such contribution including debts due from such members or persons ;

(e) to investigate all claims against the society and subject to the provisions of this Act, to decide questions of priority arising between claimants and to compound debts ;

(f) to pay claims against the society including interest up to the date of cancellation of registration according to the respective priorities, if any, in full or rateably, as the assets of the society permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case ;

(g) to determine by what persons and in what proportions the costs of the liquidation are to be borne ;

(h) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society ; and

(i) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same.

(4) Subject to any rules that may be made under this Act a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purpose of this section, have power to summon and enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties, belonging to, or in the custody of, the society by the same means and so far as may be in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, Act XXIX of 1111.

(5) Any sum ordered under this section to be recovered as a contribution to the assets of the society or as costs of the liquidation may be recovered, on a requisition being made in this behalf to the Diwan Peishkar by the Registrar in the same manner as arrears of land revenue.

(6) Save as provided in sub-section (5) orders made under this section shall, on application, be enforced by any Civil Court having local jurisdiction in the same manner as a decree of such court.

(7) When the affairs of the society have been wound up, the liquidator shall deposit the records of the society in such place as the Registrar may direct.

(8) Any person aggrieved by any order of the liquidator may appeal to the Registrar against such order within two months from the date of the issue of the order by registered post or anchal.

50. Save in so far as is expressly provided in this Act, no Civil Court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act, and, when a liquidator has been appointed, no suit or other legal proceedings shall lie, or be proceeded with, against the society except by leave of the Registrar and subject to such terms as he may impose.

Bar of suit
in certain
cases.

SURCHARGE AND ATTACHMENT.

51.—(1) Where in the course of an audit under section 38 or an enquiry under section 39 or an inspection under section 40 or the winding up of a society, it appears that any person who has taken part in the organisation or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the committee or liquidator or any creditor or

Surcharge.

contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the Registrar thinks just.

(2) The order of the Registrar under sub-section (1) shall be final, unless it is set aside by the District Court having jurisdiction over the area in which the Head-quarters of the society are situated, on application made by the party aggrieved, within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Diwan Peishkar by the Registrar in the same manner as arrears of land revenue.

(4) This section shall apply notwithstanding any Criminal liability that such person or officer may have incurred by his act.

Attachment
of property.

52. Where the Registrar is satisfied on the application of the liquidator or otherwise that any person, with intent to defeat or delay the execution of any order that may be passed against him under clause (c) of sub-section (3) of section 49 or section 51—

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary, and such attachment shall have the same effect as if it had been made by a competent Civil Court.

ARBITRATION.

53.—(1) If any dispute touching the business of a registered society other than a dispute regarding the disciplinary action taken by the society or its committee against a paid servant of the society arises— Disputes.

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or persons claiming through a member, past member or deceased member and the society, its committee or any officer, agent or servant of the society; or

(c) between the society or its committee and any officer, agent or servant or any past officer, past agent or past servant or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased servant of the society; or

(d) between the society and any other registered society, such dispute shall be referred to the Registrar for decision.

Explanation.—A claim by a registered society for any debt or demand due to it from a member, past member or nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not, is a dispute touching the business of the society within the meaning of this sub-section.

(2) The Registrar may, on receipt of such reference—

(a) decide the dispute himself, or

(b) refer the parties to the Civil Court, or

(c) subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators.

(3) Subject to such rules as may be prescribed, the Registrar may withdraw any reference made under clause (b) of sub-section 2 or referred under clause (c) of that sub-section and deal with it in the manner provided in the said sub-section.

(4) Where the Registrar is satisfied that a party to any reference made to him under sub-section (1) with intent to defeat or delay the execution of any decision that may be passed thereon—

(a) is about to dispose of the whole or any part of his property ; or

(b) is about to remove the whole or any part of his property from the jurisdiction of the Registrar, the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary, and such attachment shall have the same effect as if it had been made by a competent Civil Court.

(5) The Registrar may, of his own motion or on the application of a party to a reference, revise any decision thereon by the arbitrator or arbitrators to whom it was referred.

(6) (a) Any decision passed by the Registrar under clause (a) of sub-section (2) shall be final, and shall not be called in question in any Civil or Revenue Court.

(b) Any decision that may be passed by the arbitrator or arbitrators to whom it was referred, save as otherwise provided in sub-section (5) shall be final and shall not be called in question in any Civil or Revenue Court.

OFFENCES AND PENALTIES.

54. It shall be an offence under this Act if--

(a) a registered society or an officer or member

thereof, wilfully makes a false return or furnishes false information; or

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised in this behalf under the provisions of this Act.

55. Any member or past member or nominee, heir or legal representative of a deceased member contravening the provisions of section 22 by fraudulently disposing of any property in respect of which the society is entitled to claim priority under that section or doing any other act to the prejudice of such claim shall be punishable with fine not exceeding two hundred rupees.

Punishment for disposing of property in contravention of section 22.

56.—(1) No person other than a registered society shall trade or carry on business under any name or title of which the word "Co-operative" is part without the sanction of the Diwan: provided that nothing in this section shall apply to the use by any person or his successor-in-interest of any name or title under which he traded or carried on business at the date on which the Co-operative Societies' Act, IV of 1938, came into operation.

Prohibition of the use of the word "Co-operative."

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

57. Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

Punishment of offences not otherwise provided for.

Prosecution
for offences
under the
Act.

58.—(1) No court inferior to that of a Magistrate of the First Class shall try any offence under this Act.

(2) Every offence under this Act shall for the purpose of the Code of Criminal Procedure, II of 1936, be deemed to be non-cognisable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar. Such sanction shall not be given without giving the party concerned an opportunity to be heard.

MISCELLANEOUS.

Power of
Government
and Registrar to call
for proceedings of
subordinate
officers and
to pass
orders thereon.

59. The Diwan or the Registrar may call for and examine the record of any enquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to the Diwan or the Registrar that any decision or order or proceedings so called for should be modified, annulled, or reversed, the Diwan or the Registrar, as the case may be, may pass such order thereon as he may deem fit.

Power to
recover
amounts.

60. The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the Government and without prejudice to any other mode of recovery provided by or under this Act, recover —

(a) any amount due under a decree or order of a Civil Court, a decision or an award of the Registrar or arbitrator, or an order of the Registrar, obtained by a registered society including a financing Bank or liquidator ; or

(b) any sum awarded by way of costs under section 42 to a registered society including a financing Bank or to the Government ; or

(c) any sum ordered under section 49 to be recovered as a contribution to the assets of a society or as costs of liquidation; or

(d) any sum ordered under section 51 to be repaid to a society or recovered as a contribution to its assets, together with the interest, if any, due on such amount or sum and the costs of process, by the attachment and sale of the property of the person against whom such decree, decision, award or order has been obtained or passed.

61.—(1) All sums due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to the Government including any costs awarded to the Government in any proceedings under this Act may be recovered in the same manner as arrears of land revenue.

Recovery of sums due to Government.

(2) Sums due from a registered society to the Government and recoverable under sub-section (1) may be recovered, firstly from the property of the society; secondly, in the case of a society the liability of the members of which is limited, from the members, past members, or the estate of the deceased members, subject to the limit of their liability; and thirdly, in the case of other societies from the members, past members, or the estate of deceased members:

Provided that the liability of past members and of the estates of deceased members shall in all cases, be subject to the provisions of section 26.

62. Notwithstanding anything contained in this Act the Diwan may, by special order, in each case, and subject to such conditions, if any as he may impose, exempt any society from any of the requirements of this Act as to registration.

Power to exempt societies from conditions as to registration.

63. The Government may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions

Power to exempt registered societies from provisions of this Act.

shall apply to such society with such modifications as may be specified in the order.

Companies' Act, 1913 not to apply.

64. The provisions of the Indian Companies' Act, 1913 as made applicable to Cochin by His Highness the Maharaja's Proclamation, dated 19th Thulam 1097, shall not apply to registered societies.

Saving of existing societies.

65.—(1) Every society now existing which has been registered under the Co-operative Societies' Act, IV of 1088, shall be deemed to be registered under this Act, and its by-laws shall so far as the same are not inconsistent with the express provisions of this Act continue in force until altered or rescinded.

(2) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under the said Act shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

Acts of society etc., not to be invalidated by certain defects.

66. No act of a registered society or any committee or of any officer of the society, shall be deemed to be invalid by reason only of some defect in the organisation of the society or in the formation of the general body or in the appointment or the election of the officer or on ground that he was disqualified for his office.

Construction of references to Co-operative Societies' Act, IV of 1088, in enactments.

67. All references to the Co-operative Societies' Act, IV of 1088, occurring in any enactment made by any authority in Cochin State and for the time being in force in the State shall, in its application to the State, be construed as references to this Act.

Branches, etc., of societies outside the State.

68. Every Co-operative Society registered outside the State which has, or establishes, a branch or place of business in the State shall, within six months from the commencement of this Act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the by-laws and amendments and, if these are not written in the English

language, a certified translation in English thereof, and shall submit to the Registrar such returns and informations as are submitted by similar societies in the State, in addition to those submitted to the Registrar of the State where it is registered.

69. No suit shall be instituted against a society or an of its officers in respect of any act touching the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

Notice necessary in suits.

70. Whenever a decree or order of a Civil Court, a decision, or an award of the Registrar or Arbitrator, or an order of the Registrar or liquidator is obtained by a Registered Society for the realisation of money, the Registrar, or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the Government, recover the amount due under such decree, award or order together with the interest, if any, due thereon and the costs of process by the attachment and sale of the property of the person against whom such decree, decision or award is passed.

Power of Registrar to recover certain sums by attachment and sale of property.

71. The Registrar or other person empowered by the Registrar shall, when executing a decree, order, etc., under section 70, be deemed to be a Civil Court for purposes of Article 166 of the first Schedule to the Limitation Act.

Registrar or person empowered by him to be a Civil Court for certain purposes.

72.—(1) The Government may, for the whole or any part of Cochin and for any registered society or class of such societies make rules to carry out all or any of the purposes of this Act.

Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) subject to the provisions of section 6, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such application;

(c) subject to the provisions of section 5, prescribe the procedure to be followed, when societies change their form of liability;

(d) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation;

(e) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members and the payment to be made and the interest to be acquired before the exercise of the right of membership;

(f) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

(g) provide for the general meetings of members and for the procedure at such meetings and powers to be exercised by such meetings;

(h) prescribe in the case of a financing Bank—

(i) the proportion of individual members to society members in the constitution of its general body or of its committee, and

(ii) the maximum number of members of its committee;

(i) prescribe the procedure to be adopted in cases of enquiry and inspections contemplated under sections 39, 40, 41, provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers;

(j) prohibit a society from appointing a defaulting member of any society to its committee or to the committee of any other society and allowing him to exercise his rights of membership in the society or to represent it in another society and vote;

(k) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;

(l) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such return for the levy of the expenses of preparing it;

(m) provide for the persons by whom and the form in which copies of entries in books of societies may be certified and for the charges to be levied for the supply of such copies;

(n) provide for the formation and maintenance of a register of members, and, where the liability of members is limited by shares, a register of shares;

(o) provide for—

(i) the appointment of an arbitrator or arbitrators to decide disputes;

(ii) the procedure to be followed in proceedings before the Registrar, arbitrator or arbitrators or other persons deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests ;

(iii) the levy of the expenses incidental to such proceedings ; and

(iv) the enforcement of the decision or awards in such proceedings ;

(p) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled, for the liabilities of past members or the estates of deceased members ;

(q) prescribe the prohibitions and restrictions subject to which societies may trade with persons who are not members ;

(r) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred ;

(s) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made and the amount which may be lent, to an individual member ;

(t) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society ;

(u) prescribe the extent to which a society may limit the number of its members ;

(v) prescribe the conditions under which profits may be distributed to the members of a society

with unlimited liability and the maximum rate of dividend which may be paid by societies ;

(w) prescribe the procedure to be followed by a liquidator appointed under section 49, and provide for the disposal of surplus assets, if any, of the society;

(x) subject to the provisions of this Act, determine the cases in which an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of all appeals under this Act ;

(y) prescribe the period for which and the terms under which aid may be given by the Government to societies and the terms under which the Government may guarantee the payment of interest on debentures issued by societies ;

(z) provide for the custody of property attached under this Act ;

(aa) provide for the issue and service of processes and for the proof of service thereof ;

(bb) provide for the inspection of documents in the Registrar's Office and the levy of fees for granting certified copies of the same ;

(cc) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or an officer empowered by him ;

(dd) provide for the recovery of costs awarded against the Government in cases under section 51 ;

(ee) prescribe the procedure for the attachment and sale of property under section 70; and

(ff) provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules under this section shall be published in the Cochin Government Gazette and on such publication shall have effect, as if enacted in this Act.

Repeal,

73. The Cochin Co-operative Societies' Act, IV of 1088, as amended by Act VIII of 1096, is hereby repealed.

THE COCHIN MATERNITY BENEFIT ACT, XXVII OF 1113.

CONTENTS.

SECTIONS. PREAMBLE.

1. Short title.
2. Commencement and extent.
3. Definition.
4. Prohibition of employment of women in factories immediately after confinement.
5. Right to maternity benefit of women workers in non-seasonal factories.
6. Notice of claim of maternity benefit and payment thereof.
7. Payment of maternity benefit in case of claimant's death.
8. Prohibition of notice of dismissal to women worker in certain cases.
9. Forfeiture of maternity benefit.
10. Penalty for contravention of Act by employer.
11. Jurisdiction of Courts.
12. Period of limitation for prosecutions under this Act.
13. Rules.
14. Copy of Act and rules to be exhibited in factories employing women.

THE COCHIN MATERNITY BENEFIT ACT.

XXVII of 1113.

Passed by His Highness the Maharaja of Cochin on the 29th day of Mithunam 1113, corresponding to the 13th day of July 1938.

Whereas it is expedient to prevent the employment of women in factories for some time before and some time after confinement and to provide for the payment of maternity benefit to them; It is hereby enacted as follows:—

Preamble.

1. This Act may be called the Cochin Maternity Benefit Act, XXVII of 1113.

Short title.

2.—(1) It shall come into force at once.

Commencement and extent.

(2) It extends to the whole of Cochin State.

3. In this Act unless there is anything repugnant in the subject or context—

Definition.

113. (a) 'employer' includes an occupier of a factory as defined in the Cochin Factories Act and the Manager of a factory;

(b) the expressions 'factory', 'Inspector of Factories', 'seasonal factory' and 'worker' shall have the same meanings as are respectively assigned to them by the Cochin Factories Act, II of 1113; and

(c) 'maternity benefit' means the amount of money payable under the provisions of this Act to a woman worker in a factory.

4. After this Act comes into operation no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her confinement.

Prohibition of employment of women in factories immediately after confinement. Right to maternity benefit of women workers in non-seasonal factories.

5.—(1) Subject to the provisions of this Act every woman worker in a factory not being a seasonal factory shall be entitled to the payment of maternity benefit at the rate of three annas a day for the actual days of her

absence during the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (2):

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than 12 months immediately preceding the date on which she gives notice under sub-section (1) of section 6.

(2) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be eight weeks, that is to say, four weeks up to and including the day of her confinement and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Notice of
claim of
maternity
benefit and
payment
thereof.

6.—(1) Any woman worker in a factory entitled to maternity benefit under the provisions of this Act may give notice in writing to her employer stating that her maternity benefit may be paid to her or to such other person as she may nominate in this behalf and that she will not work in any employment during the period for which she receives maternity benefit. If the woman worker has not been confined, such notice shall state that she expects to be confined within one month from the date of the notice; if she has been confined, such notice shall be given within one week of her confinement.

(2) The employer shall, on receipt of the notice permit such woman to absent herself from the factory until the expiry of four weeks after the day of her confinement.

(3) The amount of maternity benefit for the period up to and including the day of confinement shall be paid by the employer to the woman within forty-eight hours of the production of such proof as the

Government may, by rule, prescribe that the woman has been confined. The amount due for the subsequent period shall be paid punctually each fortnight in arrear.

7. If a woman worker entitled to maternity benefit under the provisions of this Act dies during the period for which she is entitled to maternity benefit, the employer shall pay the amount of maternity benefit due to the nominee mentioned in the notice given under sub-section (1) of section 6 and if there is no such nominee to her legal representative.

Payment of maternity benefit in case of claimant's death.

8.—(1) When a woman worker absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

Prohibition of notice of dismissal to woman worker in certain cases.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman worker within a period of three months before her confinement shall have the effect of depriving her of any maternity benefit to which but for such notice she would have been, or would, on or before the date of her confinement, have become, entitled under this Act.

(b) If any question arises as to whether any notice of dismissal given under clause (a) was or was not given for sufficient cause, it shall be referred to the Inspector of Factories whose decision shall be final.

(c) The provisions of this sub-section shall not apply to notices falling under sub-section (1).

9. If a woman works in any factory after she has been permitted by her employer to absent herself under the provisions of section 6, she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Forfeiture of maternity benefit.

10. If any employer contravenes the provisions of this Act he shall be punishable with fine which may extend to one hundred rupees.

Penalty for contravention of Act by employer.

Jurisdiction
of Courts.

11.—(1) No prosecution for any offence against this Act or any rules thereunder shall be instituted except by or with the previous sanction of the Inspector of Factories.

(2) No Court inferior to that of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Period of
limitation
for prose-
cutions under
this Act.

12. No Court shall take cognizance of, or convict a person for, any offence against this Act or any rule thereunder unless complaint thereof has been made within six months of the date on which the offence was committed. In computing the period of six months aforesaid, the time, if any, taken for the purpose of obtaining the previous sanction of the Inspector of Factories under sub-section (1) of section 11 shall be excluded.

Rules.

13.—(1) The Government may 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, such rules may provide for—

(a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll;

(b) the inspection of factories for the purposes of this Act by Inspectors of Factories;

(c) the exercise of powers and the performance of duties by Inspectors of Factories for the purposes of this Act; and

(d) the method of payment of maternity benefit in so far as provision has not been made therefor in this Act.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to rupees twenty-five.

(4) The making of rules under this section shall be subject to the condition of previous publication.

14. A copy of the provisions of this Act and the rules thereunder in Malayalam shall be exhibited in a conspicuous place by the employer in every factory in which women are employed.

Copy of Act and rules to be exhibited in factories employing women.

THE COCHIN NAYAR ACT, XXIX OF 1113.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

PREAMBLE.

1. Short title and application.
2. Repeal.
3. Definitions.

CHAPTER II.

MARRIAGE AND ITS DISSOLUTION.

4. Conjugal union of Nayars to be valid marriages.
5. Prohibition of marriages of females under 16 and males under 21
6. Notice of marriage.
7. Punishment for solemnisation of marriage declared invalid under section 5.
8. Punishment for permitting marriage invalid under section 5.
9. District Magistrate to try offences under sections 6, 7 and 8.
10. Complaint to be filed within one year of the offences.
11. Subsequent marriage of a male during the continuance of prior marriage void.
12. Polyandrous marriage whenever performed is void
13. Prohibition of polygamy even in case of those having a personal law allowing it.
14. Dissolution of marriage.

SECTIONS.

15. Petition for dissolution of marriage.
16. Notice to be given to respondent.
17. Order of dissolution when and how passed.
18. Compensation payable by husband renouncing Hinduism.
19. Reasonable compensation how determined.
20. Decree awarding compensation executable and appealable.
21. Restitution of conjugal rights.

CHAPTER III.

MAINTENANCE AND GUARDIANSHIP.

22. Maintenance of wife and minor children.
23. Guardianship of minor wife and child.
24. Guardianship of minor children if husband deceased or divorced.
25. Saving of the operation of the Guardians and Wards Act, XVII of 1925.

CHAPTER IV.

INTESTATE SUCCESSION.

26. Property as to which a person is considered to have died intestate.
27. Devolution of property left by Nayar male intestate.
28. Where intestate has left mother, widow, children and lineal descendants.
29. Rules of distribution in cases falling under section 28.
30. Rules of distribution where intestate has left no child or lineal descendant but only mother or widow or both.
31. Rules of distribution where intestate has left only widow or mother's thavazhi or both.
32. Rules of distribution where intestate has left only father and maternal grandmother's thavazhi.
33. Rules of distribution where intestate has not left any of the heirs mentioned in sections 28, 30, 31 and 32.
34. Distribution of property devolving upon thavazhies under sections 31, 32 and 33.
35. Devolution of property left by Nayar female intestate.
36. Rules of distribution where intestate has left children and lineal descendants.
37. Rules of distribution where intestate has not left any of the heirs mentioned in section 36.

SECTIONS.

- 38. Rules of distribution where intestate leaves father and maternal grand-mother's thavazhi.
- 39. Rules of distribution where intestate has not left any of the heirs mentioned in sections 36 to 38.
- 40. Distribution of property devolving upon thavazhies under sections 37, 38 and 39.
- 41. Devolution of property left by non-Nayar male intestate.
- 42. Possession and management of property until division.

CHAPTER V.

TESTAMENTARY SUCCESSION.

- 43. Extent of testamentary power.

CHAPTER VI.

TARWAD AND ITS MANAGEMENT.

- 44. All members of the tarwad are co-proprietors and the Karanavan manager.
- 45. Maintenance of members of tarwad.
- 46. Anandaravan's right to see tarwad property safe.
- 47. Right to seek removal of Karanavan.
- 48. Renunciation of right in tarwad.
- 49. Delegation of powers by Karanavan.
- 50. Karanavan to keep accounts of management.
- 51. Karanavan to maintain inventory of all movables and immovables.
- 52. Karanavan entitled to a share of the net income.
- 53. Consent of major members necessary to validate alienations of tarwad property.
- 54. Mortgages and alienations when invalid.
- 55. Burden of proving tarwad necessity.
- 56. What decrees shall bind the tarwad.
- 57. Receiver to be appointed when tarwad consists of minor only.
- 58. Thavazhi management.

CHAPTER VII.

PARTITION.

- 59. Any member can claim partition.
- 60. Female member to claim shares of her minor children.
- 61. When partition of minor members' share can be decreed.
- 62. Nature of right to tarwad property before partition.

SECTIONS.

63. Partition of thavazhi properties.
64. Construction of bequests, gifts, etc., to wife or wife and children.
65. Power of court to direct sale, etc., of property incapable of division.

CHAPTER VIII.

IMPARTIAL TARWADS.

66. Impartible tarwads.
67. Impartible tarwads made partible.
68. Order of Diwan Peishkar cancelling impartibility.
69. Diwan Peishkar to file such notice and maintain tarwad register.
70. Diwan Peishkar's orders to be final.
71. Partition destroys impartibility.

CHAPTER IX.

ADOPTION.

72. Adoption when and how to be made.
73. Rights and duties of the adoptees.

CHAPTER X.

MISCELLANEOUS.

74. Marriages dissolved before Act XIII of 1095 came into force not affected by this Act.
75. Application of Chapters II, III and IV to persons subject to personal law marrying or have married Nayar females.
Proviso.

THE COCHIN NAYAR ACT

XXIX of 1113.

Passed by His Highness the Maharaja of Cochin on the 7th day of Karkadagam 1113 corresponding to the 22nd day of July 1938.

Whereas it is expedient to consolidate and amend the Cochin Nayar Act, XIII of 1095, it is hereby enacted as follows:— Preamble.

CHAPTER I

PRELIMINARY.

1. This Act may be called the Cochin Nayar Act, XXIX of 1113. It shall apply to all Nayars domiciled in Cochin, and to such Nayars not so domiciled, and to such non-Nayars, whether or not so domiciled, as have or shall have, marital relation with Nayars domiciled in Cochin. Short title and application.

It shall come into force at once.

2. The Cochin Nayar Act, XIII of 1095, is hereby repealed. Repeal.

3. In this Act unless there is something repugnant in the subject or context:— Definitions.

‘Anandaravan’ means any member of a tarwad other than the Karanavan.

‘Karanavan’ means the senior major male member of a tarwad and, in the absence of such male member, the senior major female member thereof, unless there is a family usage by which the senior major female member is recognised as karanavan.

‘Marumakkathayam’ means the system of inheritance in which descent is traced in the female line.

‘Minor’ means a person who has not completed 18 years of age.

'Tarwad' means and includes all the members of a joint family with community of property governed by the Marumakkathayam law of inheritance.

'Thavazhi of a female' means a group of persons consisting of that female, her children and her descendants in the female line or such of that group as are alive.

'Thavazhi of a male' means the thavazhi of his mother.

CHAPTER II.

MARRIAGE AND ITS DISSOLUTION.

Conjugal union of Nayers to be valid marriages.

4. (1) Subject to the restrictions of consanguinity and affinity recognised by the community, the conjugal union of a Nayar female with—

(a) a Nayar male or

(b) any male, other than a Nayar, with whom conjugal union is permitted according to social custom and usage, openly solemnised by the presentation of cloth to the female by the male or in any other customary form before the 23rd day of Edavam 1095 and subsisting on such date or openly solemnised by the presentation of cloth on or after such date shall be deemed to be a legal marriage.

(2) In the case of conjugal unions commenced before the 23rd day of Edavam 1095 and subsisting on that date, the courts shall presume that such unions were solemnised in the customary form.

Prohibition of marriages of females under 16 and males under 21.

5. No marriage solemnised after the date of this Act of a female under 16 years of age or of a male under 21 years of age shall be valid.

Notice of marriage.

6. Notice of a marriage under this Act shall be given by such person and to such authority and in such form and within such time as the Government may

prescribe. Failure to give the prescribed notice shall be punishable with fine which may extend to Rs. 200, but such failure shall not invalidate the marriage or affect the legal rights of the parties to, or of the offspring of, such marriage.

7. Whoever, being a male above 18 years of age, solemnises a marriage declared invalid under section 5 shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both.

Punishment for solemnisation of marriage declared invalid under section 5.

8. Where, after the date of this Act, a marriage declared invalid under section 5 is solemnised by a minor, any person having charge of such minor, whether as parent or guardian or in any other capacity, who does any act to promote the marriage or permits it to be solemnised shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs. 500 or with both.

Punishment for permitting marriage invalid under section 5.

9. No court other than that of the District Magistrate shall take cognisance of or try any offence under sections 6, 7 and 8.

District Magistrate to try offences under sections 6, 7 and 8.

10. No court shall take cognisance of any offence under sections 6, 7 and 8, save upon complaint made within one year of the commission of such offence.

Complaint to be filed within one year of the offence.

11. The marriage of a male during the continuance of a prior marriage and performed after the coming into force of Act XIII of 1095 shall be void.

Subsequent marriage of a male during the continuance of prior marriage void.

12. A polyandrous marriage whether performed before or after this Act shall be void.

Polyandrous marriage whenever performed is void.

13. No one having a personal law of his own allowing polygamy shall marry a Nayar female while already married to a caste wife or marry a caste wife while having a Nayar wife already.

Prohibition of polygamy even in case of those having a personal law allowing it.

Dissolution
of marriage

14. A marriage is dissolved by the death of either party or by either party renouncing Hinduism. It may also be dissolved in one of the following ways and those only, that is to say—

(a) by mutual consent evidenced by a registered document;

(b) by a formal order of dissolution as hereinafter provided.

Petition for
dissolution
of marriage.

15. A husband or wife (but not any person as the next friend of a minor wife) may present a petition for dissolution of the marriage in the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction the marriage was performed or the respondent resides or carries on business or personally works for gain; and where the petitioner is the husband, he shall be liable to pay reasonable compensation to the respondent.

Notice to be
given to
respondent.

16. A copy of such petition as aforesaid shall be served by the court on the respondent at the expense of the petitioner and in the manner provided for the service of summons on a defendant in the Cochin Code of Civil Procedure.

XXIX
III.

Order of
dissolution
when and
how passed.

17. Six months after the service of the copy as aforesaid, if the petition is not withdrawn in the meantime, the court shall declare in writing the marriage dissolved and then proceed to determine and award the amount of compensation.

Compensa-
tion payable
by husband
renouncing
Hinduism.

18. When the marriage is dissolved on account of the husband renouncing Hinduism, he shall be liable to pay reasonable compensation to his wife. Within one year from the date on which she has knowledge of such dissolution she may present a petition claiming such compensation to the Principal Civil Court of original jurisdiction within the local limits of which she or the respondent resides. The Court shall fix a day for the hearing of the petition and after giving notice thereof to the

respondent, proceed to determine and award the amount of compensation.

19. What is reasonable compensation to be awarded under section 17 or section 18 shall, in case of dispute, be determined by the court after an enquiry into the position and means of the parties but without reference to the grounds of the proposed dissolution; and it shall, in no case, exceed Rs. 3,000.

Reasonable compensation how determined.

20. The order awarding compensation shall be tantamount to a decree and shall be executable as such and shall, subject to the payment of court fee on the amount in dispute, be appealable under the Cochin Code of Civil Procedure.

Decree awarding compensation executable and appealable.

X of
II.

21. No court shall entertain a suit for restitution of conjugal rights or for judicial separation between parties marrying under this Act

Restitution of conjugal rights.

CHAPTER III.

MAINTENANCE AND GUARDIANSHIP.

22.—(1) The wife and minor children other than married minor daughters under the guardianship of their husbands, shall be entitled to be maintained by the husband or the father, as the case may be:

Maintenance of wife and minor children.

Provided that the wife shall not be entitled to maintenance from the husband if she refuses to live with him without just cause.

(2) Nothing contained in the sub-section (1) shall affect the right of any person to maintenance from his or her tarwad or thavazhi properties.

(3) In awarding maintenance under sub-section (1) the court shall have due regard to the means and circumstances of the person against and by whom maintenance is claimed and to the reasonable wants of the person claiming maintenance.

Guardian-
ship of
minor wife
and child.

23. The husband shall be the guardian of his minor wife in respect of her person and property and, subject to the provisions of section 24, the father shall be the guardian of his minor children, other than married minor daughters under the guardianship of their husbands, in respect of their person and property.

Guardian-
ship of
minor
children if
husband
deceased or
divorced.

24. The mother shall be the guardian of the person and property of her minor children if their father is dead or the marriage of their parents is dissolved.

Saving of the
operation of
the Guar-
dians and
Wards Act,
XVII of
1095.

25. Nothing contained in sections 23 and 24 shall be deemed to affect the operation of the Cochin Guardians and Wards Act, XVII of 1095.

CHAPTER IV.

INTESTATE SUCCESSION.

Property as
to which a
person is
considered
to have died
intestate.

26. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

- (i) A has left no will. He has died intestate in respect of the whole of his property.
- (ii) A has left a will whereby he has appointed B, his executor, but the will contains no other provisions. A has died intestate in respect of the distribution of his property.
- (iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.
- (iv) A bequeathed Rs. 1,000 to B and Rs. 1,000 to the eldest son of C and made no other bequest and died leaving Rs. 2,000. C died before A without ever having had a son. A has died intestate in respect of the distribution of Rs. 1,000.

27. On the death intestate of a Nayar male, his property which is self-acquired or separate shall devolve in the order and according to the rules contained in sections 28 to 34.

Devolution of property left by Nayar male intestate.

28. Where the intestate has left surviving him a child or children, or a lineal descendant or descendants in the female line through a deceased daughter or daughters or both, and also his mother or a widow or widows or both, the whole of the property shall belong to them. In the absence of the mother and widow, the whole of the property shall belong to the child or children and such lineal descendant or descendants; and in the absence of the mother, widow and child, the whole of the property shall belong to such lineal descendant or descendants.

Where intestate has left mother, widow, children and lineal descendants.

29. The distribution of the property among the heirs referred to in section 28 shall be made in accordance with the following rules:—

Rules of distribution in cases falling under section 28.

(i) The widow or, if there is more than one widow, each of the widows shall be entitled to a share equal to that of a child.

(ii) The mother shall be entitled to a share equal to that of a child.

(iii) Every child (son or daughter) shall be entitled to an equal share :

Provided that if a daughter has pre-deceased the intestate, the lineal descendants of such daughter in the female line shall be entitled to the share which such daughter would have taken had she survived the intestate.

(iv) Grand-children by a deceased daughter, shall be entitled in equal shares to what their mother would have taken had she survived the intestate :

Provided that if a grand-daughter has pre-deceased the intestate, the lineal descendants of such grand-daughter in the female line, shall be entitled to the share

which such grand-daughter would have taken had she survived the intestate.

(v) In like manner the property shall go to the surviving lineal descendants of the intestate in the female line where such descendants are in the degree of great grand-children or in a more remote degree.

Explanation I.—The descendants of a daughter, daughter's daughter or other female descendant in the female line shall not be entitled to any share in such property if such daughter, daughter's daughter or other descendant is alive at the time of the death of the intestate.

Explanation II.—The descendants of a son who has pre-deceased the intestate shall not be entitled to any share in such property.

Illustrations.

- (1) Z dies intestate leaving two widows A and B, his mother C, son D, a daughter E, a grand-daughter F by such daughter, the lineal descendants of a deceased daughter G and the lineal descendants of a deceased son H. A, B, C, D and E each gets one-sixth and the lineal descendants of G get one-sixth of the property. The grand-daughter F and the lineal descendants of H do not get any share.
- (2) Z dies intestate leaving no widow or mother, but leaving A a son, B a daughter, E and F grand-son and a grand-daughter by a deceased daughter C, and a grand-daughter G by a deceased daughter D and two great-grand daughters H and J by a deceased daughter of D. A and B will each be entitled to one-fourth of Z's property, E and F will each be entitled to one-eighth, G will be entitled to one-eighth and H and J each to one-sixteenth.
- (3) Z dies intestate leaving no mother, widow or child, but leaving three grand-children A, B and C by a daughter X who has pre-deceased him and two grand-children D and E by a daughter Y who has also pre-deceased him. A, B and C will each be entitled to one-sixth,

and D and E will each be entitled to one-fourth of X's property.

30. Where the intestate has not left surviving him any child or lineal descendant in the female line through a deceased daughter, but has left his mother and a widow or widows, one-half of the property shall devolve on his mother and the other half on his widow or widows in equal shares. In the absence of a widow the whole of the property shall belong to the mother.

Rules of distribution where intestate has left no child or lineal descendant but only mother or widow or both.

31. Where the intestate has not left surviving him his mother or any child or lineal descendant in the female line through a deceased daughter but has left a widow or widows and his mother's thavazhi, one-half of the property shall devolve on his widow or widows and the other half on such thavazhi. In the absence of such thavazhi the whole of the property shall belong to the widow or widows and in the absence of a widow, the whole of the property shall belong to such thavazhi.

Rules of distribution where intestate has left only widow or mother's thavazhi or both.

32. Where the intestate has not left surviving him any of the heirs mentioned in sections 28, 30 and 31 but has left his father and his maternal grand-mother's thavazhi, one-half of the property shall devolve on his father and the other half on such thavazhi. In the absence of such thavazhi, the whole of the property shall belong to the father and in the absence of the father, the whole of the property shall belong to such thavazhi.

Rules of distribution where intestate has left only father and maternal grand-mother's thavazhi.

33. Where the intestate has not left surviving him any of the heirs mentioned in sections 28, 30, 31 and 32, the property shall devolve on the thavazhi of his mother's maternal grand-mother or on the thavazhi of a more remote female ascendant in the female line, the nearer excluding the more remote.

Rules of distribution where intestate has not left any of the heirs mentioned in sections 28, 30, 31 and 32.

34. The property or share which devolves upon any of the thavazhis mentioned in sections 31, 32 and 33 shall be distributed among the members of such thavazhi on the stirpital principle.

Distribution of property devolving upon thavazhis under sections 31, 32 and 33.

Devolution
of property
left by Nayar
female intes-
tate.

35. On the death intestate of a Nayar female, her property which is self-acquired or separate shall devolve in the order and according to the rules contained in sections 36 to 40.

Rules of
distribution
where intes-
tate has left
children and
lineal des-
cendants.

36. Where the intestate has left surviving her children, or lineal descendants in the female line through deceased daughters or both, the whole of the property shall belong to them.

The provisions of clauses (iii), (iv) and (v) of section 29 and of Explanations I and II to that section shall apply to the distribution of the property among the children and lineal descendants of the intestate.

Rules of
distribution
where intes-
tate has not
left any of
the heirs
mentioned in
section 36.

37. Where the intestate has not left surviving her any of the heirs mentioned in section 36 but has left her husband and the thavazhi of her mother, one-half of the property shall devolve on the husband, and the other half on such thavazhi. In the absence of the husband, the whole of the property shall devolve on such thavazhi and in the absence of such thavazhi, the whole of the property shall devolve on the husband.

Rules of
distribution
where intes-
tate leaves
father and
maternal
grand-
mother's
thavazhi.

38. Where the intestate has not left surviving her any of the heirs mentioned in sections 36 and 37, but has left her father and her maternal grand-mother's thavazhi, one-half of the property shall devolve on her father and the other half on such thavazhi. In the absence of such thavazhi, the whole of the property shall devolve on the father and in the absence of the father the whole of the property shall devolve on such thavazhi.

Rules of
distribution
where intes-
tate has not
left any of
the heirs
mentioned in
sections 36
to 38.

39. Where the intestate has not left surviving her any of the heirs mentioned in sections 36, 37 and 38 the property shall devolve on the thavazhi of her mother's maternal grand-mother or on the thavazhi of a more remote female ascendant in the female line, the nearer excluding the more remote.

40. The property or share which devolves upon any of the thavazhis mentioned in sections 37, 38 and 39 shall be distributed among the members of such thavazhi on the stirpital principle.

Distribution of property devolving upon thavazhis under sections 37, 38 and 39.

41—(1) On the death intestate of a male not being a Nayar (i) who—

Devolution of property left by non-Nayar male intestate.

(a) has before the date on which this Act comes into force, contracted a marriage with a Nayar female which is valid under section 4; or

(b) has contracted on or after such date a marriage with a Nayar female which is valid under that section; and

(ii) who has left surviving him by such marriage or marriages one or more of the following relations, namely:—

- (a) a widow or widows,
- (b) children,
- (c) lineal descendants in the female line through deceased daughters,

such relation or relations shall be entitled, if the intestate has also left relations who are heirs according to the personal law by which he is governed, to one-half of his property which is separate or self-acquired and if the intestate has left no such heirs, to the whole of such property:

Provided that the reasonable funeral expenses of the intestate shall first be deducted from such separate or self-acquired property.

(2) The property devolving on the relations referred to in sub-clauses (a), (b) and (c) of clause (ii) of sub-section (1) shall be distributed among them in accordance with the rules contained in clauses (i), (iii),

(iv) and (v) of section 29 and Explanations I and II to that section.

Possession and management of property until division.

42.—(1) The senior major male member among the children and other lineal descendants through deceased daughters of the intestate or in the absence of any such male member the widow or if there is more than one widow, the senior among such widows, shall be entitled to possession and management of the property referred to in sections 27, 28, 30, 31 and 36 until division is effected.

(2) In the case of the property referred to in section 41 if the intestate has left relations who are heirs according to the personal law by which he is governed, such heirs shall be entitled to possession and management of the property until division is effected.

(3) The seniormost male member of the thavazhi mentioned in sections 32, 33, 34 and 35 shall be entitled to possession and management of the property referred to therein until division is effected.

CHAPTER V.

TESTAMENTARY SUCCESSION.

Extent of testamentary power

43. A Nayar may dispose of by will in writing, the whole of his, or her self-acquired and separate property, and may appoint an executor or executors to administer the will.

CHAPTER VI.

TARWAD AND ITS MANAGEMENT.

All members of the tarwad are co-proprietors and the Karanavan manager.

44. Every member of a tarwad has a proprietary interest in its properties. The Karanavan shall have the right of management and of possession, on behalf of the tarwad, of such properties.

45. Every member of a tarwad whether living in the tarwad house or not, is entitled to maintenance consistent with the income and circumstances of the tarwad.

Maintenance of members of tarwad.

46. Every member of a tarwad has the right to see that the tarwad estate is properly administered by the Karanavan and is duly conserved for the use of the tarwad and that his or her right to succeed to the karanavanship is in no way impaired.

Anandaravan's right to see tarwad property safe.

47. Every member of a tarwad has the right to seek the removal of the Karanavan by a decree of court if it can be shown that he is physically, mentally or morally incapable of transacting its affairs, or that he habitually mismanages the concerns of the tarwad or that he is guilty of conduct of a kind tending to defeat the very purpose for which the tarwad exists.

Right to seek removal of Karanavan.

48. Any member of a tarwad shall be at liberty to give up his rights in the tarwad at any time and every Karanavan his right of management as Karanavan after it becomes vested in him, by the execution of a registered deed of renunciation.

Renunciation of right in tarwad.

49. No Karanavan shall delegate his powers to any one.

Delegation of powers by Karanavan.

50. The Karanavan of a tarwad shall keep true and correct accounts of the income and expenditure of the tarwad. The original or an attested copy of the accounts of each year shall be available for inspection in the tarwad house by the major Anandaravans once in a year throughout the month of Kanni following. Any such Anandaravan may take copies of or extracts from such accounts.

Karanavan to keep accounts of management.

51. The Karanavan shall maintain a true and correct inventory of all the movable and immovable properties belonging to the tarwad. The original or an attested copy of the inventory shall be available for inspection by the major Anandaravans once in a year throughout the month of Kanni and any such

Karanavan to maintain inventory of all movables and immovables.

Anandaravan may take copies of or extracts from such inventory.

Karanavan entitled to a share of the net income.

52. The Karanavan shall be entitled at the end of the year to appropriate for himself besides his maintenance an amount not exceeding 25 per cent but subject to a maximum of Rs. 900 out of the tarwad income which remains after meeting all the tarwad expenses including interest on tarwad debts.

Consent of major members necessary to validate alienations of tarwad property.

53. Except with the written consent of all the major members of the tarwad, wherever possible, no Karanavan shall sell, mortgage or pledge tarwad property, movable or immovable, or lease it for a period more than six years, or grant renewals of kanom for a period of more than twelve years, or give discharges of mortgages or pledges.

For the purposes of this section, movables do not include usufructs and grains realised in the shape of pattom, michavaram, renewal fees or interest.

Mortgages and alienations when invalid.

54. No sale, mortgage, pledge or other alienation of tarwad property or debt shall bind the tarwad unless it is executed or made or contracted for tarwad necessity or it is executed or made or contracted by or with the written consent of all the major members of the tarwad, when there are only major members in the tarwad.

Burden of proving tarwad necessity.

55. The burden of proving tarwad necessity shall be on the purchaser, mortgagee, pledgee or other alienee or creditor, as the case may be. But the court may presume such necessity where all the major members of the tarwad are parties to or have given their written consent to the transaction.

What decrees shall bind the tarwad.

56. No decree shall bind a tarwad unless it be obtained against all the members thereof. But the mere omission to implead any member other than the Karanavan shall not be taken to invalidate it if the decreeholder proves that such omission was not due to his

negligence and the tarwad was liable for the claim upon which it is based.

57. Where a tarwad consists only of minor members, the Principal Civil Court of original jurisdiction within the local limits of which it is situated may, on the application of any one interested in it, appoint on such terms as the court deems fit a receiver to manage its affairs till any one of the minor members attains his majority.

Receiver to be appointed when tarwad consists of minors only.

58. The provisions of this Chapter shall apply to all thavazhies in a tarwad possessing separate thavazhi properties.

Thavazhi management.

CHAPTER VII.

PARTITION.

59. Every member of a tarwad shall be entitled to claim his share of the properties of the tarwad. Such share shall be so much of the tarwad properties as will fall to him if a division *per capita* were made among all the members of the tarwad at the time.

Any member can claim partition.

60. Every female member who claims to get her share of the tarwad properties shall also claim and shall also be entitled to get the shares of her minor children in such properties.

Female member to claim shares of her minor children.

61. The court may decree partition of the share of a minor member of a tarwad in the properties of the tarwad where such partition would, in the opinion of the court, be to such minor's interest.

When partition of minor members' share can be decreed.

62. Until partition, no member of the tarwad shall be deemed to have a definite share in the tarwad property liable to be seized in execution nor shall such member be deemed to have any alienable or heritable interest therein.

Nature of right to tarwad property before partition.

63. The provisions of sections 59, 60, 61 and 62 shall apply to all thavazhies in a tarwad possessing separate thavazhi properties.

Partition of thavazhi properties.

Construc-
tion of be-
quests, gifts,
etc., to wife
or wife and
children.

64. Where a person bequeaths or makes a gift of any property to, or purchases any property in the name of, his wife alone or his wife and one or more of his children by such wife together, such property shall, unless a contrary intention appears from the will or deed of gift or purchase or from the conduct of the parties, be taken as thavazhi property by the wife, her sons and daughters by such person and the lineal descendants of such daughters in the female line :

Provided that in the event of partition of the property taking place under this Chapter, the property shall be divided on the stirpital principle, the wife being entitled to a share equal to that of a son or daughter.

Power of
court to
direct sale,
etc., of pro-
perty incap-
able of
division.

65. If any property or right divisible under this Chapter is incapable of actual division or cannot be divided without seriously lessening its value or utility, the court shall have power to direct the sale or enjoyment in common or by turns of such property or right as the circumstances of the particular case would permit.

CHAPTER VIII.

IMPARTIBLE TARWADS.

Impartible
tarwads.

66. All tarwads whose registration as impartible tarwads under Chapter VIII of Act XIII of 1095 remains in force on the date on which this Act comes into force shall be exempt from the operation of the sections as to partition in this Act.

Impartible
tarwads
made
partible.

67. It shall be competent to any tarwad mentioned in section 66, to exempt itself from the provisions of this Chapter by a notice to the Diwan Peishkar stating its desire to cancel the registration previously made, provided that such notice shall be agreed to and signed by not less than two-thirds of the major members of such tarwad,

68. On receipt of a notice under section 67, the Diwan Peishkar shall, if he is satisfied that it is agreed to and signed by the majority mentioned above, cancel the registration of impartibility.

Order of Diwan Peishkar cancelling impartibility.

69. The Diwan Peishkar shall keep a register of all impartible tarwads and note therein all notices received under section 67 and all orders passed under section 68. Any member of the public is entitled to get a copy of such register or any portion thereof.

Diwan Peishkar to file such notice and maintain tarwad register.

70. All proceedings taken by the Diwan Peishkar under this Chapter shall be deemed to be judicial proceedings and his orders shall be final.

Diwan Peishkar's orders to be final.

71. If a partition takes place in any tarwad mentioned in section 66 the provisions of this Chapter shall *ipso facto* cease to apply to the units into which it is divided.

Partition destroys impartibility.

CHAPTER IX.

ADOPTION.

72. Where a tarwad consists of only male members, or of only female members past the period of child-bearing, or of both, the Karanavan may, with the consent in writing of all the other members of the tarwad, make an adoption for the purpose of perpetuating the family. Such adoption may be of one or more females with or without males.

Adoption when and how to be made.

73. The adoptees shall have in the adopted family all rights and duties as appertain to the members born therein and shall be liable to take the customary Theeturam from His Highness the Maharaja.

Rights and duties of the adoptees.

CHAPTER X.

MISCELLANEOUS.

74. Nothing in this Act shall—

(a) confer any rights on the parties to, or offspring of, a marriage dissolved before Act XIII of 1095 came into force, or

Marriages dissolved before Act XIII of 1095 came into force not affected by this Act.

(b) affect rules of Marumakkathayam law custom or usage except to the extent hereinbefore expressly provided for.

Application
of Chapters
II, III and
IV to
persons
subject to
personal
law marrying
or have
married
Nayar
females.

Proviso.

75. The provisions of Chapters II, III and IV of this Act shall apply also to such non-Nayar males as have married, or may marry, Nayar females, though they may have a personal law in regard to matters dealt with in those Chapters:

Provided that a person who has made a declaration under the proviso to section 54 of the Nayar Act, XIII of 1095, but has not cancelled it as provided therein shall be exempt from the provisions of Chapter IV of this Act.

**THE COCHIN TEA CESS ACT,
XXX OF 1111.
CONTENTS.**

SECTIONS.

PREAMBLE.

1. Short title, extent and commencement.
 2. Definitions.
 3. Imposition of Tea Cess.
 4. Agency for collecting Tea Cess.
 5. Power of Government to make rules.
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THE COCHIN TEA CESS ACT.

(XXX of 1113.)

Promulgated under the prerogative powers of His Highness the Maharaja of Cochin on the 28th day of Karkadagam 1113, corresponding to the 12th day of August 1938.

Whereas it is expedient to colloborate with the Government of India in providing for the creation of a fund to be expended by the committee constituted by the Government of India under the Indian Tea Cess Act, 1903, for the promotion of the cultivation, manufacture and sale of Indian tea, it is hereby enacted as follows :—

1.—(1) This Act may be called the Cochin Tea Cess Act, XXX of 1113.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of Cochin State and shall come into force at once and shall continue to be in force for a period of ten years and for such further period as the Government may, from time to time, notify in the Cochin Government Gazette.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "Tea Cess" means the Customs Duty imposed by section 3 of this Act; and

(2) "India" means the whole of British India including all the Indian States.

3. A customs duty shall be levied on all tea produced in India and exported by sea from any Port in the Cochin State at the rate of one rupee four annas per hundred pounds *avoirdupois* or at such lower rate as the Government may, from time to time, provide by notification in the Cochin Government Gazette.

Imposition
of Tea Cess.

4. The collection of the Tea Cess shall be made by such officers of customs as have been appointed by the Government for the purpose under section 5 of the

Agency for
collecting
Tea Cess.

Cochin Sea Customs Act XII of 1109, and shall be governed by the provisions contained in that Act.

Power of
Government
to make
rules.

5. The Government may make rules, not inconsistent with the provisions of this Act, to carry out the provisions of this Act.

THE COCHIN PAYMENT OF SALARIES AND ALLOWANCES ACT, XXXI OF 1113.

CONTENTS.

SECTIONS.

PREAMBLE.

1. Short title and commencement.
2. Salary of Minister.
3. Salary of Deputy President.
4. Allowances to Minister and members of the Legislative Council.

THE COCHIN PAYMENT OF SALARIES AND ALLOWANCES ACT.

(XXXI of 1113.)

*Passed by His Highness the Maharaja of Cochin on the
28th day of Karkadagam 1113, corresponding to
the 12th day of August 1938.*

Preamble. Whereas it is expedient to provide by an Act of the Legislature for the salaries of the Minister and of the Deputy President of the Cochin Legislative Council and for the allowances to the members thereof; It is hereby enacted as follows :—

Short title
and com-
mencement.

1.—(1) This Act may be called the Cochin Payment of Salaries and Allowances Act, XXXI of 1113.

(2) This Act shall come into force at once.

2. There shall be paid to the Minister a salary of Rs. 500 per mensem, a house rent allowance of Rs. 75 per mensem and a conveyance allowance of Rs. 100 per mensem. Salary of Minister.

3. There shall be paid to the Deputy President of the Legislative Council a salary of Rs. 1,200 per annum, which he shall receive in addition to his allowances as a member of the Council. Salary of Deputy President.

4. The Minister and the non-official members of the Legislative Council shall be entitled to receive travelling and daily allowances at such rates as may be prescribed from time to time for first class officers of Government in the Cochin Service Regulations. Allowances to Minister and members of the Legislative Council.

THE COCHIN MARUMAKKATHAYAM ACT, XXXIII OF 1113.

CONTENTS.

SECTIONS.

PREAMBLE.

CHAPTER I.—PRELIMINARY:

1. Short title and application.

2. Definitions.

CHAPTER II—MARRIAGE AND ITS DISSOLUTION.

3. Conjugal union of marumakkathayees to be valid marriages.

4. Subsequent marriage of a male during the continuance of prior marriage void.

5. Polyandrous marriage whenever performed is void.

6. Prohibition of polygamy even in case of those having a personal law allowing it.

7. Dissolution of marriage.

8. Petition for dissolution of marriage.

9. Reasonable compensation how determined.

10. Compensation payable by husband renouncing Hinduism.

11. Notice to be given to respondent.

12. Order of dissolution when and how passed.

Decree awarding compensation executable and appealable.

SECTIONS.

13. Restitution of conjugal rights.

CHAPTER III—MAINTENANCE AND GUARDIANSHIP.

14. Maintenance of wife and children.
 15. Husband or father when guardian.
 16. Guardianship of minor children by husband deceased or divorced.
 17. Saving of the operation of the Guardians and Wards Act XVII of 1095.

CHAPTER IV—INTESTATE SUCCESSION AND INHERITANCE.

18. Property as to which a person is considered to have died intestate.
 19. Wife and children entitled to a half-share in self-acquired and separate property.
 20. Devolution of a non-Marumakkathayee husband's self-acquired and separate property.
 21. Devolution of a Marumakkathayee husband's self-acquisition.
 22. Possession of self-acquired property left undisposed of on death.
 23. Devolution of a Marumakkathayee male's self-acquisitions when he leaves no widow and children.
 24. Devolution of a Marumakkathayee woman's self-acquisition.

CHAPTER V—TESTAMENTARY SUCCESSION.

25. Extent of testamentary power.
 26. Possession of properties by the executor.
 27. Possession where there is no executor or he does not accept the position.

CHAPTER VI—TARWAD AND ITS MANAGEMENT.

28. All members of the tarwad are co-proprietors and the Karanavan the manager and the guardian of minors.
 29. Delegation of powers by Karanavan.
 30. Karanavan to keep accounts of management.
 31. Karanavan to maintain inventory of all movables and immovables.
 32. Emoluments of the Karanavan.
 33. Consent of major members necessary to validate alienation of tarwad properties.
 34. Mortgages, alienations and debts when binding.
 35. Burden of proving tarwad necessity.
 36. What decree shall bind the tarwad.
 37. Maintenance of members of the tarwad.
 38. Right of succession to karanavanship.

SECTIONS.

- 39. Anandaravan's right to see tarwad property safe.
- 40. Right to seek removal of Karanavan.
- 41. Renunciation of right in tarwad.
- 42. Thavazhi management.

CHAPTER VII—PARTITION.

- 43. No member entitled to divide from his thavazhi.
- 44. Collateral thavazhies entitled to divide from each other.
- 45. Share of thavazhies on partition how determined.
- 46. Partition of thavazhi properties.
- 47. Division between wife and children *per capita*.

CHAPTER VIII—IMPARTIBLE TARWADS.

- 48. Tarwad made impartible.
- 49. Notice of impartibility.
- 50. Diwan Peishkar to consider the question.
- 51. Impartible tarwad made partible.
- 52. Order of Diwan Peishkar cancelling impartibility.
- 53. Diwan Peishkar to maintain registers.
- 54. Diwan Peishkar's proceedings to be final.
- 55. Partition ceases impartibility.

CHAPTER IX—ADOPTION.

- 56. Adoption when and how to be made.
- 57. Rights and duties of the adoptees.

CHAPTER X—MISCELLANEOUS.

- 58. Marriages dissolved before this Act comes into force not affected by it.
- 59. Application of Chapters II, III and IV to persons subject to personal law marrying or have married Marumakkathayee females.

Proviso.

THE COCHIN MARUMAKKATHAYAM ACT.

(XXXIII of 1113.)

Passed by His Highness the Maharaja of Cochin on the 28th day of Karkadagam 1113, corresponding to the 12th day of August 1938.

Preamble.

Whereas it is expedient to define, regulate and amend the law of marriage, inheritance, succession, family management, partition and adoption of communities following Marumakkathayam, it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and application.

1. This Act may be called the 'Cochin Marumakkathayam Act, XXXIII of 1113'. It shall apply to all Marumakkathayees domiciled in Cochin, who are not now governed by any statute law and to such non-Marumakkathayees whether or not so domiciled as have or shall have marital relation with these Marumakkathayees domiciled in Cochin. It shall come into force at once.

Definitions.

2. In this Act unless there is something repugnant in the subject or context:—

'Marumakkathayam' means the system of inheritance in which descent is traced in the female line;

'Tarawad' means and includes all the members of a joint family with community of property governed by the Marumakkathayam law of inheritance;

'Thavazhi of a female' means a group of persons consisting of that female and her issue how-low-so-ever in the female line or such of that group as are alive;

'Thavazhi of a male' means the thavazhi of his mother;

'Collateral Thavazhies' are thavazhies of females who though descended from a common ancestress, do

not stand in the direct line of ascent or descent from one another ;

‘Karanavan’ means the senior major male member of a tarawad and in the absence of such member the senior major female member thereof unless there is a family usage by which the senior female member is recognised as Karanavan ;

‘Anandaravans’ mean all members of a tarawad other than the Karanavan ;

‘Senior Anandaravan’ means the major male anandaravan next in age to the Karanavan and in the absence of such anandaravan the senior major female among the anandaravans and where, by family usage, the senior female member is the Karanavan, ‘Senior Anandaravan’ means the major female member next in age to the Karanavan and in the absence of major female members the senior major male among the anandaravans ;

‘Minor’ means a person who has not completed 18 years of age.

CHAPTER II.

MARRIAGE AND ITS DISSOLUTION.

3.—(1) Subject to the restrictions of consanguinity and affinity recognised by the communities concerned the conjugal union of a marumakkathayee female with a marumakkathayee or non-marumakkathayee male with whom conjugal union is permitted according to social custom and usage, openly solemnised by the presentation of cloth to the female by the male or in any other customary manner before the date on which this Act comes into force and subsisting on such date or so solemnised by the presentation of cloth after this Act comes into force shall be deemed to be a legal marriage:

Conjugal union of marumakkathayees to be valid marriages.

Provided that no conjugal union between minors or between a major and a minor so solemnised after the date on which this Act comes into force shall be deemed to be legal unless it takes place with the consent of the guardian or guardians of such minor or minors.

(2) In the case of conjugal unions commenced before the date of this Act and subsisting on that date the Court shall presume that such unions were solemnised in the customary manner.

4. The marriage of a male during the continuance of a prior marriage and performed after the coming into force of this Act shall be void.

Subsequent marriage of a male during the continuance of prior marriage void.

5. A polyandrous marriage whether performed before or after this Act shall be void.

Polyandrous marriage whenever performed is void.

6. No one having a personal law of his own allowing polygamy shall marry a marumakkathayee female while already married to a caste wife or marry a caste wife while having a marumakkathayee wife already.

Prohibition of polygamy even in case of those having a personal law allowing it.

7. A marriage is dissolved by the death of either party or by either party renouncing Hinduism or becoming an out-caste. It may also be dissolved in one of the following ways and those only, that is to say:—

Dissolution of marriage.

(a) by mutual consent evidenced by a registered document;

(b) by a formal order of dissolution as hereinafter provided.

8. A husband or wife may present a petition for dissolution of the marriage in the Principal Civil Court of original jurisdiction within the local limits of whose jurisdiction the marriage was performed or the respondent resides or carries on business or personally works

Petition for dissolution of marriage.

for gain; and when the petitioner is the husband he shall offer in the petition and be liable to pay reasonable compensation to the respondent.

Nothing in this section shall enable any person to present a petition for dissolution of marriage as the next friend or guardian of a minor.

9. What is reasonable compensation shall, in case of dispute, be determined by the court after an enquiry into the position and means of the parties but without going into the grounds of the proposed dissolution and it shall, in no case, exceed Rs. 3,000.

Reasonable compensation how determined.

10. When the marriage is dissolved on account of the husband renouncing Hinduism or becoming an out-caste, he shall be liable to pay reasonable compensation to his wife within one year from the date on which she has knowledge of such dissolution, she may present a petition claiming such compensation to the Principal Civil Court of original jurisdiction within the local limits of which she or the respondent resides. The court shall fix a day for the hearing of the petition and after giving notice thereof to the respondent, proceed to determine and award the amount of compensation.

Compensation payable by husband renouncing Hinduism.

11. A copy of such petition as aforesaid shall be served by the court on the respondent at the expense of the petitioner, and in the manner provided for the service of summons on a defendant in the Code of Civil Procedure.

Notice to be given to respondent.

12. Six months after the service of the copy as aforesaid, if the petition is not withdrawn in the meantime, the court shall declare in writing the marriage dissolved and then proceed to determine and decree the amount of compensation. The dissolution shall take effect from the date of the order declaring it.

Order of dissolution when and how passed.

The order decreeing compensation shall be tantamount to a decree and shall be executable as such, and shall, subject to the payment of court fee on the amount in dispute, be appealable under the Code of

Decree awarding compensation executable and appealable.

of Civil Procedure.

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Restitution
of conjugal
rights.

13. No court shall entertain a suit for restitution of conjugal rights or for judicial separation between parties marrying under this Act.

CHAPTER III.

MAINTENANCE AND GUARDIANSHIP.

Maintenance
of wife and
children.

14. The wife and minor children as also unmarried major daughters shall be entitled to be maintained by the husband or father as the case may be.

They shall, at the same time, not forfeit their rights to be maintained by their tarawad: Provided that the wife shall not be entitled to maintenance if she refuses to live with the husband without just cause, or has renounced Hinduism, or has become an out-caste. Such maintenance shall be awarded by courts with reference to the position and means of the person against whom the maintenance is claimed, and with due regard to the reasonable wants of the persons claiming maintenance.

Husband or
father when
guardian.

15. The husband shall be the legal guardian of his minor wife and the father the legal guardian of his minor children in respect of their person and property:

Provided that such guardianship shall not extend to the right and interest of his wife or children in any property to which they may be entitled other than that given by him to such wife or children:

Guardian-
ship of
minor
children by
husband
deceased or
divorced.

16. When the wife has minor children by a former husband, deceased or divorced, she shall be the legal guardian in respect of their person as also of the separate properties appertaining to them.

Saving of the
operation
of the
Guardians
and Wards
Act, XVII
of 1095

17. Nothing contained in sections 15 and 16 shall be deemed to affect the operation of the Cochin Guardians and Wards Act, XVII of 1095.

CHAPTER IV.

INTESTATE SUCCESSION AND INHERITANCE.

18. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Property as to which a person is considered to have died intestate.

Illustrations.

(i) *A* has left no will. He has died intestate in respect of the whole of his property.

(ii) *A* has left a will whereby he has appointed *B* his executor but the will contains no other provisions. *A* has died intestate in respect of the distribution of his property.

(iii) *A* has bequeathed his whole property for an illegal purpose. *A* has died intestate in respect of the distribution of his property,

(iv) *A* bequeathed Rs. 1,000 to *B* and Rs. 1,000 to the eldest son of *C* and made no other bequest and died leaving Rs. 2,000. *C* died before *A* without ever having a son. *A* has died intestate in respect of the distribution of Rs. 1,000.

19. On the death of a Marumakkathayee male, leaving him surviving a widow or children or both, she or they shall, if he has undivided Marumakkathayam heirs, be entitled to one half share of his self acquired and separate property left undisposed of at his death, and if there are no such heirs such widow or children or both shall be entitled to the whole of such property.

Wife and children entitled to a half-share in self-acquired and separate property.

20. On the death of a non-Marumakkathayee male, leaving him surviving a Marumakkathayee widow or children or both she, or they shall, if he has undivided heirs according to the law by which he is governed, be entitled to one half share of his self-acquired and separate property left undisposed of at his death, and if there are no such undivided heirs, such widow or children or both shall be entitled to the whole of such property.

Devolution of a non-Marumakkathayee husband's self acquired and separate property

Devolution
of a Maru-
makkathayee
husband's
self acqui-
sition.

21. On the death of a Marumakkathayee male, if he has left him surviving a widow or children or both as also undivided Marumakkathayam heirs, the remaining half of his self-acquired and separate property shall devolve on his own thavazhi failing which on the thavazhi of his grand-mother and so on in order on the thavazhies of his female ascendants, the nearer excluding the more remote.

Possession
of self-
acquired
property left
undisposed
of on death.

22. The self-acquired and separate property left undisposed of by a Marumakkathayee male at his death leaving him surviving a widow or children or both as also undivided Marumakkathayam heirs shall be in the possession of the widow or, in her absence, of the senior major male or, in the absence of any such, of the senior major female member among such children and in the absence of any such, of the legal guardian of the minor children until a division is effected.

Devolution
of a Maru-
makkathayee
male's
self-
acquisitions
when he
leaves no
widow and
children.

23. On the death of a Marumakkathayee male, if he has left neither widow nor children, the whole of his self-acquired and separate property left undisposed of, shall devolve on his own thavazhi, and, in the absence of members in such thavazhi, on the thavazhi of his grand-mother and so on in order on the thavazhies of his female ascendants, the nearer and the undivided excluding the more remote and the divided.

Devolution
of a Maru-
makkathayee
woman's
self-
acquisition.

24. On the death of a Marumakkathayee female, her separate and self-acquired property shall devolve on her own thavazhi. In the absence of any member of such thavazhi, one half of such property shall devolve on her husband, and the other half on her collateral heirs, the nearer and the undivided excluding the more remote and the divided. In the absence of any collateral heirs, the whole of such property shall devolve on her husband and in the absence of the husband it shall devolve on the collateral heirs, the nearer and the undivided excluding the more remote and the divided.

CHAPTER V.

TESTAMENTARY SUCCESSION.

25. A Marumakkathayee may dispose of by will, in writing, the whole of his or her self-acquired and separate property and may appoint an executor or exectors to administer the will.

Extent of testamentary power.

26. When an executor is appointed by the will such executor on accepting the nomination shall, by virtue of his office, come into possession of all properties comprised in the will, and shall administer the will as directed by the testator.

Possession of properties by the executor.

27. If the executor appointed by the will refuses to accept the office or if no such executor is appointed by the will, the possession of the property comprised in the will shall pass on the death of the testator, to the widow and in her absence to the senior male and in the absence of such to the senior female among his children who shall administer the will.

Possession where there is no executor or he does not accept the position.

CHAPTER VI.

TARAWAD AND ITS MANAGEMENT.

28. Every member of a tarawad has a proprietary interest in its properties. The Karanavan shall have the right of management and of possession on behalf of the tarawad, of such properties, as also the guardianship of minors generally, subject to provisions of sections 15 and 16.

All members of the tarawad are co-proprietors and the Karanavan the manager and the guardian of minors.

29. No Karanavan shall delegate his powers to any one other than a member of the tarawad and that only under a registered instrument.

Delegation of powers by Karanavan.

30. The Karanavan or the Manager for the time being of a tarawad shall keep a true and correct account of the income and expenditure of the tarawad. The original or an attested copy of the account of each year shall be available for the inspection in the tarawad house by the major anandaravans twice a year, on or before the 30th of Chingam and Kumbham respectively.

Karanavan to keep accounts of management.

Karanavan to maintain inventory of all movables and immovables.

31. The Karanavan or the Manager for the time being shall maintain a true and correct inventory of all movables and immovables of a tarawad and it shall be open to inspection by the anandaravans thereof once a year on joint notice of one month given previously by a majority of the anandaravans.

Emoluments of the Karanavan.

32. The Karanavan or the Manager for the time being shall be entitled at the end of the year to appropriate besides his maintenance an amount not exceeding 25 per cent of the net realised income of the tarawad up to a maximum of Rs. 900. So far as this amount is concerned it shall be deemed to be his self-acquisition.

Explanation.—For the purpose of this section the term “net realised income” means the surplus income left, if any, after meeting all the tarawad expenses including interest on tarawad debts.

Consent of major members necessary to validate alienation of tarawad properties

33. Except with the written consent of all the major members of the tarawad, whenever possible, no karanavan or the manager for the time being shall sell, mortgage or pledge tarawad properties movable or immovable, or lease it for a period of more than 6 years or grant renewals of kanam for a period of more than 12 years or give discharges of mortgages or pledges. For the purposes of this section, movables include ornaments, vessels and other valuables and do not include usufructs and grains realised in the shape of pattam.

Mortgages, alienations and debts when binding.

34. No sale, mortgage, pledge or other alienation of tarawad property or debt shall bind the tarawad unless it is executed or made or contracted for tarawad necessity or it is executed or made or contracted by or with the written consent of all the major members of the tarawad where there are only major members in the tarawad.

Burden of proving tarawad necessity.

35. The burden of proving tarawad necessity shall be on the purchaser, mortgagee, pledgee or other alienee or creditor, as the case may be. But the court

may presume such necessity where the transaction is in accordance with the provisions of section 33.

36. In a suit against the tarawad, all the major members thereof should be made parties; but the omission to implead any member other than the karanavan as such shall not, by itself, invalidate a decree obtained against the tarawad, if it is otherwise shown to be one properly binding on it.

What decree shall bind the tarawad.

37. Every member of a tarawad whether living in the tarawad house or not, is entitled to maintenance consistent with the income and circumstances of the tarawad.

Maintenance of members of the tarawad.

Explanation.—‘Maintenance’ means and includes food, raiment, expenses of education and of medical treatment and such other expenses of an anandaravan as come under the category of *menchilavu*.

38. Except in cases of family usage every major male member and, in the absence of such, every major female member of a tarawad has a right to succeed to the karanavanship in the order of seniority on the death, retirement, renunciation or removal of the karanavan.

Right of succession to Karanavanship.

Where there is no major male, or major female member in a tarawad, the Principal Civil Court of original jurisdiction within whose limits the tarawad is situated, shall, on the application of any interested in the tarawad or its members appoint a manager upon such terms as it deems fit, after giving public notice of the application and hearing all those who are interested in opposing or supporting such application, and the manager so appointed shall be accountable to the court under rules framed for the purpose.

39. Every member of a tarawad has the right to see that the tarawad estate is properly administered by

Anandaravan's right to see tarawad

property
safe.

the karanavan and is duly conserved for the use of the tarawad and that his or her right to succeed to the kraanavanship is in no way impaired.

Right to seek
removal of
karanavan.

40. Every member of a tarawad has the right to seek the removal of the karanavan by a decree of court, if it can be shown that he is physically, mentally or morally incapable of transacting its affairs or that he habitually mismanages the concerns of the tarawad or that he is guilty of conduct of a kind tending to defeat the very purpose for which the tarawad exists.

Renunciation
of right in
tarawad.

41. Any member of a tarawad shall be at liberty to give up his rights in the tarawad and every karanavan his right of management as karanavan after it becomes vested in him, by the execution of a registered deed of renunciation.

Thavazhi
management.

42. The provisions of this chapter shall apply to all thavazhies in a tarawad possessing separate thavazhi properties.

CHAPTER VII.

PARTITION.

No member
entitled to
divide from
his thavazhi.

43. (a) No member of a tarawad shall claim, or be compelled, to divide from any other member or members of his or her own thavazhi.

(b) No member shall claim, or be compelled, to divide from any other member or members of the thavazhi of any of his, or her, lineal ascendants in the female line during the lifetime of such ascendant.

Collateral
thavazhies
entitled to
divide from
each other.

44. (a) After the death of the lineal ascendant referred to in clause (b) of section 43 or with her consent, each collateral thavazhi represented by a majority of the major members thereof, may claim an outright

partition of all properties common to all thavazhies over which the tarawad has a power of disposal.

The male children, and the female children without issue, of such ascendant, that do not come under any of such thavazhies, may obtain their share and separate.

(b) The lineal ascendant referred to in section 43 may also, in such a case, obtain her share and separate.

45. Each of such thavazhies shall be entitled, as a whole, to so much of the common properties as would fall to the shares of the members of that thavazhi if a division *per capita* were made among all the living members of all the thavazhies. Share of thavazhies on partition how determined.

46. The provisions of sections 43, 44 and 45 shall apply to all thavazhies in a tarawad possessing separate thavazhi properties. Partition of thavazhi properties.

47. Property obtained from the husband, or father, by the wife or widow, and child, or children, by gift, inheritance or bequest, or purchased for their benefit shall, unless in the case of gift, bequest or purchase, a contrary intention appears from the instrument of gift or will or purchase deed, belong to the wife or widow and each of the children in equal shares, they holding it as tenants-in-common with right to individual partition. Division between wife and children *per capita*.

CHAPTER VIII.

IMPARTIBLE TARAWADS.

48. Any tarawad wishing to exclude itself from the operation of the sections as to partition in this Act, may, within six months from the passing of this Act, notify its intention of impartibility, by registering its name as an impartible tarawad in the Office of the Diwan Peishkar. Tarawad made impartible

Notice of
impartibility.

49. Notice of such intention as specified by section 48 shall be given by not less than $\frac{2}{3}$ of the major members of the tarawad concerned.

Diwan
Peishkar to
consider the
question.

50. On receipt of such notice the Diwan Peishkar shall if he is satisfied that the said notice is agreed to and signed by the majority as provided for by section 49, register the tarawad as an impartible tarawad and if he is not so satisfied reject such notice.

Impartible
tarawad made
partible.

51. It shall be competent to a tarawad registered as impartible to exempt itself from the provisions of this chapter by a further notice stating its desire to cancel the registration previously made provided that such notice shall be agreed to and signed by not less than $\frac{2}{3}$ of the major members of the said tarawad.

Order of
Diwan Peish-
kar cancell-
ing impart-
ibility.

52. On the receipt of the notice contemplated in section 51 the Diwan Peishkar shall, if he is satisfied that it is agreed to and signed by the majority mentioned above, cancel the registration of impartibility.

Diwan Peish-
kar to main-
tain regis-
ters.

53. The Diwan Peishkar shall keep a register of all such applications and orders as are provided for in this chapter and such register shall be open to the public who shall be allowed copies of such registers.

Diwan Peish-
kar's pro-
ceedings to
be final.

54. All proceedings taken by the Diwan Peishkar under this chapter shall be deemed to be judicial proceedings and his orders shall be final.

Partition
ceases im-
partibility.

55. If a partition takes place in any tarawad mentioned in section 50 the provisions of this chapter shall *ipso facto* cease to apply to the thavazhies into which it is divided.

CHAPTER IX.

ADOPTION.

56. Where a tarawad consists of only male members, or of only female members past the period of child bearing, or of both, the karanavan may, with the consent in writing of all the other members of the tarawad, make an adoption for the purpose of perpetuating the family.

Adoption when and how to be made.

Such adoption may be of one or more females with or without males.

57. The adoptees shall have in the adopted family all rights and duties as appertain to the members born therein and shall be liable to take the customary Theeturam from His Highness the Maharaja after payment of the customary dues which shall be recovered as arrears of land revenue.

Rights and duties of the adoptees.

CHAPTER X.

MISCELLANEOUS

58. Nothing in this Act shall—

(a) confer any rights on the parties to, or off-spring of, a marriage dissolved before this Act comes into force; or

Marriages dissolved before this Act comes into force not affected by it.

(b) affect the existing rules of Marumakkathayam law, custom or usage except to the extent hereinbefore expressly provided for.

59. The provisions of Chapters II, III and IV of this Act shall apply also to such non-Marumakkathayee or Marumakkathayee males as have married or may marry Marumakkathayee females, though they may not otherwise be governed by this Act.

Application of Chapters II, III and IV to persons subject to personal law marrying or have married Marumakkathayee females.

Proviso.

In the case of those non-Marumakkathayees who have already married Marumakkathayee females before the passing of this Act, both the husband and wife shall have the right to make a declaration before the District Court within whose jurisdiction he or she lives, after giving due notice to the one or the other, as the case may be, within 6 months from the date of the coming into operation of this Act, that they or either of them wish to be exempted from the provisions of Chapter IV of this Act and they shall then be exempt from such provisions. The husband and wife may, at any time, cancel such declaration by means of a joint verified petition to that effect to be presented to the District Court within whose jurisdiction either of them lives, but they shall not be permitted to make a second declaration.

Part II.

PART II

AMENDING ACTS

THE CIVIL PROCEDURE CODE (AMENDMENT) ACT XXII of 1113.

*Passed by His Highness the Maharaja of Cochin on the
3rd day of Mithunam 1113, corresponding to the
17th day of June 1938.*

Whereas it is expedient to amend the Cochin Code of Civil Procedure, Act XXIX of 1111, it is hereby enacted as follows :— Preamble.

1. This Act may be called the Civil Procedure (Amendment) Act, XXII of 1113, and shall come into force at once. Short title and commencement.

2. In section 64 of the Cochin Code of Civil Procedure, hereinafter referred to as the Code, substitute the words "Secretary to the Government" for the word "Diwan". Amendment to section 64.

3. In section 65 of the Code, substitute the words "Secretary to the Government" for the word "Diwan" where it occurs in the first two places, insert the word "him" between the words "to" and "or" and also substitute the words "Huzur Secretariat" for the words "Office of the Diwan." Amendment to section 65.

Amendment to section 67 (1). 4. In sub-section (1) of section 67 of the Code, substitute the words "Secretary to the Government" for the word "Diwan".

Amendment to section 68. 5. Substitute the following for section 68 of the Code:—

Suits by or against any member of the Ruling Family other than His Highness or of the Cranganur Chief. "68.—(1) Members of the Ruling Family other than His Highness the Maharaja, the Cranganur Chief and the members of his family may sue and shall be sued in the name of an agent declared as such by notification in the Cochin Government Gazette and such agents shall have power to sign and verify plaints and written statements on their behalf:

Provided that in the absence of such notification suits may be filed against such members or Chief other than Her Highness the Senior Rani and the Elaya Raja.

(2) If no such notification is issued by Her Highness the Senior Rani or the Elaya Raja the Government pleaders of the several courts shall be deemed to be their agents in all suits in which His Highness the Maharaja or the Government is not a party."

Amendments to sections 76 and 77. 6. In sections 76 and 77 of the Code, substitute the word "Government" for the word "Diwan" wherever it occurs.

Amendment to section 104. 7. Substitute the following for section 104 of the Code:—

Procedure in suits and appeals in which a member of the Ruling Family or that of the Cranganur Chief is a party. "104. The members of the Ruling Family and those of the Cranganur Chief shall be exempt from personal attendance in Courts.

The agent of such member declared as such by notification in the Cochin Government Gazette shall be deemed to be a recognised agent under Sched

Order III, and shall have power to sign and verify plaints and written statements on behalf of the said member according to the provisions contained in this Code.

If no such notification has been issued by Her Highness the Senior Rani or by the Elaya Raja, the Government pleaders of the several courts shall be deemed to be the recognised agents, under Schedule I, Order III, of Her Highness the Senior Rani or the Elaya Raja, in all suits in which His Highness the Maharaja or the Government is not a party and in which Her Highness the Senior Rani or the Elaya Raja is a party.

In the absence of such a notification, suits may be filed against such members other than Her Highness the Senior Rani and the Elaya Raja.

Her Highness the Senior Rani, the Elaya Raja and such members who have by notification appointed an agent may sue by and shall be sued in the name of the agent.

THE COCHIN DEBT CONCILIATION
(AMENDMENT) ACT
XXIII of 1113.

Passed by His Highness the Maharaja of Cochin on the 11th day of Mithunam 1113, corresponding to the 25th day of June 1938.

Whereas it is expedient to further amend the Cochin Debt Conciliation Act, XXVI of 1112; it is hereby enacted as follows:— Preamble.

1. This Act may be called the Cochin Debt Conciliation (Amendment) Act, XXIII of 1113, and shall come into force at once. Short title and commencement

2. Substitute the following for section 17 of the Cochin Debt Conciliation Act, XXVI of 1112:— Amendment to section 17.

Power of board to dismiss application

“ 17.—(1) If no amicable settlement is arrived at under sub-section (1) of section 14 within twelve months from the date of the application under section 4, the Board shall, unless it extends the period under sub-section (2) of this section, dismiss the application.

(2) The Board may in its discretion, instead of dismissing the application at the end of twelve months, extend the time by a period which in no case shall exceed three months if it is satisfied that there is reasonable chance of a settlement being effected if the period is so extended. If a settlement is not effected within the period the Board shall dismiss the application.

(3) The dismissal of an application under sub-section (1) or sub-section (2) shall be a bar to the presentation of any further application under section 4”.

— — —
 THE COCHIN LAND CONSERVANCY (AMENDMENT) ACT
 XXIV of 1113.

Passed by His Highness the Maharaja of Cochin on the 17th day of Mithunam 1113, corresponding to the 1st day of July 1938.

Preamble.

Whereas it is expedient to amend the Cochin Land Conservancy Act, IV of 1096, hereinafter referred to as the said Act, it is hereby enacted as follows:—

Short title and commencement.

1. This Act may be called the Cochin Land Conservancy (Amendment) Act, XXIV of 1113 and it shall come into force at once.

Amendment of the preamble to Act IV of 1096.

2. In the preamble to the said Act the words ‘and interference with’ shall be inserted between the ‘of’ and ‘Government.’

Insertion of section 6A in Act IV of 1096.

3. After section 6 of the said Act the following section shall be inserted:—

Penalty for digging, etc., on lands

“6A. (1) Any person who, without the permission of the Diwan Peishkar previously obtained,

without such precautions as the Diwan Peishkar might direct him to take in that behalf, digs, deepens or does any other similar act upon any property belonging to him or in his possession and within one Dhannu (9·24 feet) on either side of the public roads situate in Cochin-Kanayannur Taluk and Cranganur Taluk, which causes damage or threatens to cause damage to such public roads, or, diminishes or threatens to diminish or in any other manner impairs or threatens to impair their utility, shall be guilty of unauthorisedly and illegally using such property and shall be liable to pay a fine, not exceeding Rs. 50 as may be fixed by the Diwan Peishkar. Such fine shall be imposed only in the event of such person failing to comply with the requisition lawfully made by the Diwan Peishkar or any person authorised by him to discontinue such act and to restore such damaged road to its original condition.

adjoining
public roads
without
permission.

(2) The Chief Engineer or the Director of Public Health and Panchayats or any person authorised by any one of them shall have the power to enter upon any land which belongs to, or in the possession of, the offenders and do such acts as are necessary to protect the public road or to restore it to its original condition.

(3) An appeal shall lie to the Diwan from an order passed by the Diwan Peishkar under clause (1)."

4. After section 8 of the said Act the following section shall be inserted:—

Insertion of
section 8A
in Act IV
of 1896.

"8A. (1) Any person who is or continues to be in unauthorised occupation of any land which is the property of Government, after the expiry of the period mentioned in the notice issued under section 8 and whether before or after an order of forfeiture passed under that section shall be liable to pay a daily fine not exceeding ten rupees as the Diwan Peishkar may direct, until the land is vacated.

Penalty for
continued
unauthorised
occupation
after notice
to vacate.

(2) When an order of eviction is in force it shall be lawful for the Diwan Peishkar or other officer authorised by him in that behalf to cause such works to

be executed, such measures taken or such things done as may, in the opinion of the Diwan Peishkar or such other officer as aforesaid, be deemed necessary to remove the encroachment and to restore the land to its original condition.

(3) In all cases in which an order of forfeiture has been passed under section 8, the whole or such part of any structure erected, any building constructed or any other improvement made on the adjoining land as it may be found necessary to pull down, cut away, remove or otherwise interfere with, shall, for the purpose of this section and of section 8, be deemed to have been erected, constructed or made on the land unauthorisedly occupied.

(4) All expenses incurred and all fines imposed under this section shall be recoverable in the manner prescribed in section 11 from all or any of the persons who may have been in unauthorised occupation of the land.

(5) No suit for damages or otherwise shall lie against any officer or any person acting under his orders for anything lawfully and in good faith done under this section."

Amendment
of section 11
of Act IV
of 1096.

5. In section 11 of the said Act between the words 'encroachment' and 'shall' the words 'and all fines imposed under section 6A (1)' shall be inserted and to the same section the following explanation shall be added:—

Explanation.—Removal of encroachment includes restoration of the land to its original condition

THE COCHIN VILLAGE PANCHAYAT (AMENDMENT)
ACT XXV of 1113.

Passed by His Highness the Maharaja of Cochin on the 17th day of Mithunam 1113, corresponding to the 1st day of July 1938.

Whereas it is expedient further to amend the Cochin Village Panchayat Act, V of 1089, it is hereby enacted as follows:—

Preamble

1. (1) This Act may be called the Cochin Village Panchayat (Amendment) Act, XXV of 1113.

Short title, extent and commencement.

(2) It extends to the whole of Cochin State and shall come into force at once.

2. Add the following as section 83 of the Cochin Village Panchayat Act, V of 1089:—

Addition of section 83.

“83. (1) Decrees passed by the Village Panchayat Courts before the coming into force of Act, XLIV of 1112 and remaining unsatisfied may be executed within 12 years of the date of passing of the decree, or any order of Civil Court modifying or confirming it, subject to the provisions of the Limitation Act in respect to the execution of decrees.

Period for the execution of decrees passed prior to Act, XLIV of 1112.

(2) Where an application for the execution of a decree has been dismissed or withdrawn, because it was presented after the expiration of three years from the time when the right to make the application first accrued and on the ground that the Court had no jurisdiction to execute the decree on account of the proviso to section 27 which was in existence until it was repealed by the Cochin Village Panchayat (Amendment) Act, XLIV of 1112, it may be restored on an application in writing to the Court by which it was dismissed or from which it was withdrawn, provided that the application is made within six months from the date of coming into force of this section.”

Application for execution dismissed or withdrawn under proviso to section 27 to be restored on application.

THE COCHIN DEBT CONCILIATION (AMENDMENT)
ACT XXVIII of 1113.

*Passed by His Highness the Maharaja of Cochin on the
19th day of Mithunam 1113, corresponding to the
13th day of July 1938.*

Preamble. Whereas it is expedient further to amend the
Cochin Debt Conciliation Act, XXVI of 1112, it is
hereby enacted as follows:—

Short title,
extent and
commence-
ment. 1. (1) This Act may be called the Cochin Debt
Conciliation (Amendment) Act, XXVIII of 1113.

(2) It extends to the whole of Cochin State and
shall come into force at once.

Insertion of
a proviso to
section 25. 2. Add the following as proviso to section 25:—

“Provided that in such cases the Civil Court may,
at any time, on application, appoint a receiver or
receivers of any property whether before or after decree
in accordance with the provisions contained in Order
XXXIX of the Cochin Code of Civil Procedure, Act
XXIX of 1111”.

THE COCHIN INCOME-TAX (AMENDMENT) ACT
XXXII of 1113.

*Passed by His Highness the Maharaja of Cochin on the
28th day of Karkadagam 1113, corresponding to the
12th day of August 1938.*

Preamble. Whereas it is expedient to impose a super-tax on
incomes and to further amend the Cochin Income-tax
Act, VIII of 1108, it is hereby enacted as follows:

Short title
and com-
mencement. 1. This Act may be called the Cochin Incon
(Amendment) Act, XXXII of 1113, and it shall
into force on the first day of Chingam 1114.

Amendment
to section 3. 2. In section 3 of the Cochin Income-tax Act,
of 1108, hereinafter referred to as the Act, subs
the words “Schedule I” for the words “the Sched

3. In section 18 of the Act—

- (a) delete sub-section (1);
- (b) in sub-section (2) insert the words “but not super-tax” between the words “income-tax” and “on”;
- (c) in sub-section (3) insert the words “but not super-tax” between the words “income-tax” and “on”;
- (d) after the proviso to sub-section (3) add the following:—

“(3A) Where the Income-tax Officer has reason to believe that the total income of any person residing out of Cochin State to whom any interest not being ‘Interest on Securities’ is payable, will in any year exceed the maximum amount which is not chargeable with super-tax under the law for the time being in force, he may, by order in writing, require the person responsible for paying such interest to such person to deduct at the time of payment income-tax and super-tax at the rates determined by the Income-tax Officer to be applicable to the total income of such person in that year.

(3B) Where the person responsible for paying any interest not being ‘Interest on Securities’ to any person pays to that person in any year an amount of such interest exceeding in the aggregate the maximum amount which is not chargeable with super-tax under the law for the time being in force, the person responsible for paying such interest shall, if he has not reason to believe that the recipient is resident in Cochin State, and no order under sub-section (3A) has been received in respect of such recipient, deduct at the time of payment income-tax on the total amount of such interest at the rate appropriate to such total, and super-tax on the amount by which such total exceeds the maximum amount not chargeable with super-tax at the rate applicable to such excess.

(3C) Where the Income-tax Officer has reason to believe that any person, who is a share-holder in a

company, is resident out of Cochin State and that the total income of such person will in any year exceed the maximum amount which is not chargeable to super-tax under the law for the time being in force, he may, by order in writing, require the principal officer of the company to deduct at the time of payment of any dividend from the company to the share-holder in that year super-tax at such rate as the Income-tax Officer may determine as being the rate applicable in respect of the income of the share-holder in that year.

(3D) If in any year the amount of any dividend or the aggregate amount of any dividends paid to any share-holder by a company (together with the amount of any income-tax payable by the company in respect thereof) exceeds the maximum amount of the total income of a person which is not chargeable to super-tax under the law for the time being in force, and the principal officer of the company has not reason to believe that the share-holder is resident in Cochin State and no order under sub-section (3C) has been received in respect of such share-holder by the principal officer from the Income-tax Officer the principal officer shall at the time of payment deduct super-tax on the amount of such excess at the rate which would be applicable under the law for the time being in force if the amount of such dividend or dividends (together with the amount of such income-tax as aforesaid) constituted the whole total income of the share-holder.”;

(e) in sub-section (5) substitute the words “a payment of income-tax or super-tax” for the words “payment of income-tax” occurring between the words “as” and “on”;

(f) substitute the following for sub-section (3):

“Every person deducting income-tax or super-tax in accordance with the provisions of sub-section (3), (3A), (3B), (3C) or (3D) shall at the time of payment of interest, furnish to the person to whom the interest is paid a certificate to the effect that the interest tax or super-tax has been deducted, and spe

amount so deducted, the rate at which tax has been deducted, and such other particulars as may be prescribed.

4. In section 19 of the Act—

Amendment
to section 19.

(a) substitute the words “any head other than ‘Salaries’ or ‘Interest on Securities’ ”, for the words “any other head than those mentioned in sub-section (1) of section 18” occurring between the words “under” and “and”; and

(b) substitute the word and figure ‘section 18’ for the words ‘that section.’

5. In section 21 of the Act, delete the words “assessable to income-tax” occurring between the words “company” and “shall”.

Amendment
to section 21.

6. In sub-section (3) of section 26 of the Act, substitute the word ‘on’ for the word ‘or’ occurring between the words “in the case of a firm” and “any person who was a member of such firm”.

Amendment
to section 26.

7. In sub-section (1) of section 28-A of the Act, insert the words “or super-tax” after the words “income-tax” and before the full stop.

Amendment
to section 28-A.

8. In sub-section (5) of section 30 of the Act, add the words, figure and brackets “or sub-section (2)” between the words “sub-section (1)” and “shall”.

Amendment
to section 30.

9. Substitute the following for sub-section (3) of section 33 of the Act:—

Amendment
to section 33.

“(3) In disposing of an appeal the Deputy Commissioner may, in the case of an order of assessment,

(a) confirm, reduce, enhance or annul the assessment; or

(b) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the Deputy Commissioner may direct, and

the Income-tax Officer shall thereupon proceed to make such fresh assessment;

or in the case of an order, refusing to register a firm under section 28-A or to make a fresh assessment under section 29,

(c) confirm such order or cancel it, and direct the Income-tax Officer to register the firm or to make a fresh assessment as the case may be ;

or in the case of an order under sub-section (2) of section 26 or section 30,

(d) confirm, cancel, or vary such order:

Provided that the Deputy Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement”.

Amendment
to section
51-B.

10. In sub-section (2), clause (a), of section 51-B of the Act, insert the words “and super-tax” between the words “Income-tax” and “charged”.

Amendment
to section
56-E.

11. In section 56-E of the Act, add the words “and super-tax” after the word “income-tax” and before the full stop.

Amendment
to section
56-G.

12. In section 56-G—

(a) add the words “and super-tax” after the word “income-tax” in the marginal note;

(b) re-number the existing sub-sections (1) and (2) as sub-sections (2) and (3) and before sub-section (2) so amended insert the following sub-section:—

“(1) Where the accumulated balance due to an employee participating in a recognised Provident Fund becomes payable, such accumulated balance shall be exempt from payment of super-tax.”

(c) in sub-section (3), so amended, the figure and brackets, “(2)” for the figure and brackets “(1)” between the words “sub-section” and “Income-tax Officer”,

13. In section 56-H of the Act substitute the words and figures "sub-section (3) of section 56-G, and any income-tax and super-tax" for the words and figures "sub-section (2) of section 56-G and any income-tax" occurring between the words "under" and "payable".

Amendment
to section
56-H.

14. In sub-section (2) of section 56-J of the Act, insert the words "and super-tax" between the expressions "to income-tax" and "in accordance with".

Amendment
to section
56-J.

15. In clause (d) of sub-section (2) of section 56-L of the Act, insert the words "and super-tax" between the words "income-tax" and "may".

Amendment
to section
56-L.

16. After section 56-M of the Act, add the following:—

Insertion of
a new
Chapter
IX—B.

"CHAPTER IX—B.

SUPER-TAX.

56-N. In addition to the Income-tax charged for any year there shall be charged, levied and paid for that year in respect of the total income of the previous year of any individual, Hindu undivided family, Marumakkathayam Tarwad, Company, Unregistered firm or other association of individuals, not being a registered firm an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates specified in Schedule II to this Act:

Charge of
super-tax.

Provided that where the profits and gains of an unregistered firm have been assessed to super-tax, super-tax shall not be payable by an individual having a share in the firm in respect of the amount of such profits and gains which is proportionate to his share.

Subject to the provisions of this Chapter, the total income of any individual, Hindu undivided family, Marumakkathayam Tarwad, Company, Unregistered firm or other association of individuals, shall for the purposes of super-tax, be the total income as

Total income
for purposes
of super-tax.

assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purpose of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

Non-resident
partners and
share-
holders.

56-P. (1) In the case of any person residing out of Cochin State who is a member of a registered firm, and whose share of profits from such firm is liable to super-tax, the remaining members of such firm who are resident in Cochin State shall be jointly and severally liable to pay the super-tax due from the non-resident member in respect of such share.

(2) Where any person pays any tax under the provisions of this section on account of another person who is residing out of Cochin State, credit shall be given therefor in determining the amount of the tax to be payable by any agent of such non-resident person under the provisions of sections 44 and 45.

Application
of Act to
super-tax.

56-Q. (1) All the provisions of this Act relating to the charge, assessment, collection and recovery of income-tax except those contained in section 3, the proviso to sub-section (1) of section 7, the second proviso to section 8, sub-section (2) of section 14, and sections 15, 17, 19, 21, 22, 51, 56-F, and sub-sections (2) and (3) of section 56-G shall apply so far as may be to the charge, assessment, collection and recovery of super-tax.

(2) Save as provided in sub-sections (3A), (3B), (3C) and (3D) of section 18, section 56-P and section 56-H, super-tax shall be payable by the assessee direct."

Addition of
Schedule II.

17. Number the existing Schedule to the Act as "Schedule I" and after the said Schedule, add the following:—

"SCHEDULE II.

RATES OF SUPER-TAX.

(Section 56-N).

In respect of the excess over Rs. 50,000 of total income—

1. In the case of every company, for every rupee of such excess ... One anna in the rupee.

2. In the case of every individual, Hindu undivided family, Marumakkathayam Tarwad, Unregistered firm and other association of individuals not being a registered firm or company—
 - (i) in respect of the first 25,000 rupees of such excess ... Nil.
 - (ii) for every rupee of the next 25,000 rupees of such excess ... One anna in the rupee.
 - (iii) for every rupee of the next 50,000 rupees of such excess ... One anna three pies in the rupee.
 - (iv) for every rupee of the next 50,000 rupees of such excess ... One anna six pies in the rupee.
 - for every rupee of the next 50,000 rupees of such excess ... One anna nine pies in the rupee.
 - (vi) for every rupee of the next 50,000 rupees of such excess ... Two annas in the rupee.
 - (vii) for every rupee of the next 50,000 rupees of such excess ... Two annas three pies in the rupee.
 - (viii) for every rupee of the next 50,000 rupees of such excess ... Two annas six pies in the rupee.

- | | | | |
|-------|--|-----|--|
| (ix) | for every rupee of the next 50,000 rupees of such excess | ... | Two annas
nine pies in
the rupee. |
| (x) | for every rupee of the next 50,000 rupees of such excess | ... | Three annas
in the rupee. |
| (xi) | for every rupee of the next 50,000 rupees of such excess | ... | Three annas
three pies in
the rupee. |
| (xii) | for every rupee of the remainder of such excess | ... | Three annas
six pies in
the rupee". |

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THE COCHIN DANGEROUS DRUGS (AMENDMENT)
ACT XXXIV OF 1113.

Promulgated under the prerogative powers of His Highness the Maharaja of Cochin on the 28th day of Karkadagam 1113, corresponding to the 12th day of August 1938.

Preamble.

Whereas it is expedient to amend the Cochin Dangerous Drugs Act, XLIX of 1112, for the purpose hereinafter appearing; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Cochin Dangerous Drugs (Amendment) Act, XXXIV of 1113.

Amendment of section 2, of Act, XLIX of 1112.

2. To clause (i) of section 2 of the Cochin Dangerous Drugs Act, XLIX of 1112, the following shall be added, namely:—

“and includes the bringing into any port in the Cochin State of a dangerous drug into which it be taken out of the State without being removed from the ship or conveyance in which it is being carried.”

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